

SENATE, No. 2

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED JULY 4, 2017

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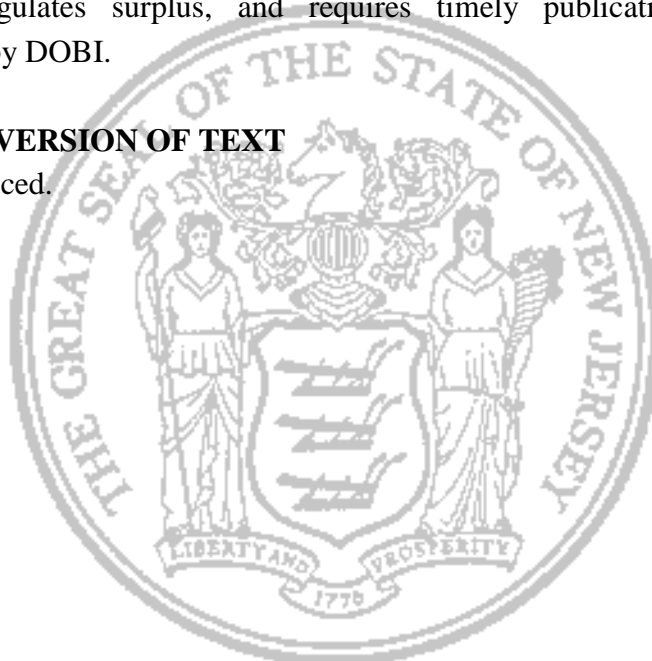
District 28 (Essex)

SYNOPSIS

Clarifies role of health service corporations, revises membership of board of directors, regulates surplus, and requires timely publication of certain information by DOBI.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2017)

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

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. Section 3 of P.L.1985, c.236 (C.17:48E-3) is amended to
10 read as follows:

11 3. a. **[No]** A health service corporation shall not be
12 established as a corporation organized for pecuniary profit. Every
13 health service corporation established pursuant to the provisions of
14 **[this act]** P.L.1985, c.236 (C.17:48E-1 et seq.) shall be operated for
15 the benefit of its subscribers. The mission of the health service
16 corporation shall be to:

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

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

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

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

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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

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

19 e. No health service corporation shall have the power to
20 underwrite life insurance as defined in Title 17B of the New Jersey
21 Statutes directly, but a health service corporation may, at such time
22 as the aggregate special contingent surplus is greater than 0%, own
23 stock in, control, or otherwise become affiliated with a life, health
24 or accident insurance company organized pursuant to Title 17B of
25 the New Jersey Statutes or under the laws of any other state,
26 provided that the company is admitted in this State.

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

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

46 h. A health service corporation shall, on an annual basis, and in
47 a form and manner prescribed by the Department of Banking and
48 Insurance, file with the department information relating to the

1 health service corporation's operations, including but not limited to
2 the following: the health service corporation's mission, activities,
3 revenues, expenses, assets, liabilities, and total compensation
4 provided to officers, directors, trustees and the five other highest
5 compensated employees who are not an officer, director or trustee,
6 which information shall be posted on the department's website.

7 i. On or before June 30, 2019, and annually thereafter, the
8 commissioner shall report to the Governor, and to the Legislature
9 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the
10 compliance of a health service corporation with the provisions of
11 P.L. , c. (C.) (pending before the Legislature as this bill).
12 (cf: P.L.1992, c.161, s.18)

13
14 2. Section 6 of P.L.1985, c.236 (C.17:48E-6) shall be amended
15 to read as follows:

16 6. The board of a health service corporation which is formed as
17 the result of a merger between a medical service corporation and a
18 hospital service corporation shall be composed of not more than
19 **[15]** 17 members as provided in this section. Initially, after the
20 merger has been effected, the board shall be constituted of 15
21 members as follows:

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

36 b. Of the initial members of the board, as provided for in
37 subsection a. of this section, one public member and three members
38 selected by the board of the health service corporation shall serve
39 for a term of one year; one public member and three members
40 selected by the board of the health service corporation shall serve
41 for a term of two years; and two public members and five members
42 selected by the board of the health service corporation shall serve
43 for a term of three years. Thereafter, all members of the board shall
44 serve for a term of three years, and shall hold office until their
45 successors are appointed or elected and qualified.

46 c. After the constitution of the initial board as provided in
47 subsection b. of this section, and as the initial terms expire as

1 provided for in that section, the board shall be constituted of 17
2 members as follows:

3 (1) Four members shall be public members of the board
4 appointed by the Governor with the advice and consent of the
5 Senate; **【and】**

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

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

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

17 (cf: P.L.1991, c.208, s.20)

18

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

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

31 (cf: P.L.1991, c.208, s.21)

32

33 4. (New section) a. The commissioner shall, on an annual
34 basis, examine a health service corporation's annual regulatory
35 filings to determine whether the health service corporation's risk-
36 based capital ratio is within 550% to 725%. If at any time the
37 commissioner determines that a health service corporation surplus
38 results in a ratio that exceeds this range, the department shall notify
39 the health service corporation and the health service corporation
40 shall, within 30 days of notice from the commissioner, file a report
41 with the commissioner to reduce the surplus to be within the range.
42 The report shall include a plan to benefit subscribers, which may
43 include but not be limited to proposals to lessen potential rate
44 increases in the future. The commissioner shall review the plan to
45 affirm that it meets the requirements of P.L. ,

46 c. (C.)(pending before the Legislature as this bill).

47 b. The department shall annually audit the financial statements
48 and surplus of the health service corporation to verify risk-based

1 capital. In order to implement the provisions of this section, the
2 department may engage independent actuaries, as necessary, at the
3 expense of the health service corporation.
4

5 5. (New section) The Department of Banking and Insurance
6 shall, for each carrier in the State, publish on the department's
7 website the annual financial statement, in the format adopted by the
8 National Association of Insurance Commissioners (NAIC) and in
9 use at the time the statement is due, within 30 days of the receipt of
10 that statement.
11

12 6. This act shall take effect immediately, except section 4 shall
13 take effect for the next annual regulatory filings with the
14 Department of Banking and Insurance after January 1, 2018.
15

16
17 STATEMENT
18

19 This bill makes various revisions to the regulation of health
20 service corporations. The bill clarifies the role of health service
21 corporations, revises the membership of the board of directors of
22 health service corporations, regulates surplus, and directs the
23 reduction of surplus that is in excess of an established range.

24 Specifically, the bill provides that a health service corporation
25 shall have a mission to:

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

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

30 Additionally, a health service corporation is directed to develop
31 goals, objectives, and strategies for carrying out, in accordance with
32 this bill, its statutory mission.

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

43 The bill directs, on or before June 30, 2019, and annually
44 thereafter, the commissioner to report to the Governor, and to the
45 Legislature on the compliance of a health service corporation with
46 the provisions of the bill.

47 With regard to the board of directors of a health service
48 corporation, the bill adds one public member to be appointed by the

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

4 The bill also regulates the surplus of a health service corporation.
5 Specifically, the bill directs the commissioner to, on an annual
6 basis, examine a health service corporation's annual regulatory
7 filings to determine whether the health service corporation's surplus
8 is within 550% to 725% of risk based-capital. If at any time the
9 commissioner determines that a health service corporation surplus
10 exceeds this range, the department is to notify the health service
11 corporation and the health service corporation shall, within 30 days
12 of notice from the commissioner, file a report with the
13 commissioner to reduce the surplus to be within the range. The
14 report shall include a plan to benefit subscribers, which may include
15 but not be limited to proposals to lessen potential rate increases in
16 the future. The commissioner shall review the plan to affirm that it
17 meets the requirements of the bill.

18 The department is also directed to annually audit the financial
19 statements and surplus of the health service corporation to verify
20 risk-based capital. In order to implement the provisions of this
21 provision of the bill, the department may engage and retain
22 independent actuaries, as necessary, at the expense of the health
23 service corporation.

24 Finally, the bill also supplements the "Health Care Quality Act"
25 to require the Department of Banking and Insurance to publish on
26 its website the annual financial statement of each carrier, in the
27 format adopted by the National Association of Insurance
28 Commissioners (NAIC) and in use at the time the statement is due,
29 within 30 days of the receipt of that statement.

30 The bill takes effect immediately, except the provisions
31 regulating the health service corporation surplus take effect for the
32 next annual regulatory filings with the Department of Banking and
33 Insurance after January 1, 2018.