

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 800

STATE OF NEW JERSEY

ADOPTED MARCH 25, 1996

Sponsored by Assemblywoman FARRAGHER and  
Assemblyman GARRETT

1 AN ACT concerning certain health benefits programs and amending  
2 and supplementing Title 17B of the New Jersey Statutes.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. (New section) a. There is created the New Jersey Health  
8 Coverage Reform Board, which shall be in, but not of, the New Jersey  
9 Department of Insurance.

10 b. The Board of Directors of the New Jersey Individual Health  
11 Coverage Program established pursuant to section 9 of P.L.1992,  
12 c.161 (17B:27A-10) and the Board of Directors of the New Jersey  
13 Small Employer Health Benefits Program established pursuant to  
14 section 12 of P.L.1992, c.162 (C.17B:27A-28) shall cease to exist on  
15 the effective date of this act, at which time the New Jersey Health  
16 Coverage Reform Board, created pursuant to subsection a. of this  
17 section shall assume all the powers, functions and duties of the  
18 respective boards of directors of the New Jersey Individual Health  
19 Coverage Program and the New Jersey Small Employer Health  
20 Benefits Program and shall administer these programs under the  
21 respective powers and authorities set forth in P.L.1992, c.161  
22 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.).  
23 Where in any law, rule, regulation, judicial or administrative  
24 proceeding, contract or otherwise, reference is made to either the New  
25 Jersey Individual Health Coverage Program Board or New Jersey  
26 Small Employer Health Benefits Program Board, the same shall mean  
27 the New Jersey Health Coverage Reform Board.

28 c. The New Jersey Health Coverage Reform Board shall have the  
29 additional authority to: collect, hold, place in escrow, invest, refund,  
30 reimburse, and otherwise spend or dispose of funds raised through  
31 assessments of member carriers, in accordance with the purposes of

**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 P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992 (C.17B:27A-17  
2 et seq.) and their respective plans of operations; and to compensate  
3 public board members appointed by the Governor for attendance at  
4 board and committee meetings, not to exceed \$200 per meeting, over  
5 and above travel expenses, to be paid from the board's administrative  
6 assessment funds. The costs of effectuating the provisions of this act  
7 shall be treated as an assessable expense pursuant to subsection a. of  
8 section 10 of P.L.1992, c.161 (C.17B:27A-11).

9 d. The organizational meeting of the New Jersey Health Coverage  
10 Reform Board shall occur on the day of the first scheduled monthly  
11 meeting of the New Jersey Small Employer Health Benefits Program  
12 Board following the effective date of this act. Initially, the board shall  
13 consist of all the members of the boards of directors of the New Jersey  
14 Individual Health Coverage Program and the New Jersey Small  
15 Employer Health Benefits Program, duly appointed or elected pursuant  
16 to subsection b. of section 9 of P.L.1992, c.161 (C.17B:27A-10) or  
17 subsection a. of section 13 of P.L.1992, c.162 (C.17B:27A-29), who  
18 shall serve out the remainder of their terms. Board members whose  
19 terms have expired and whose seats have not been filled as of the  
20 effective date of this act shall cease to serve on the board. After the  
21 effective date of this act the New Jersey Health Coverage Reform  
22 Board shall seek recommendations, subject to the commissioner's  
23 approval, for new board members from the following organizations to  
24 replace existing board members, as the terms of comparable board  
25 members, as determined by the commissioner, expire. The new  
26 membership of the board shall be comprised of nineteen members as  
27 follows:

28 (1) three representatives of small employers, at least one of whom  
29 represents minority small employers, who shall be recommended by  
30 business or trade organizations, subject to the approval of the  
31 commissioner;

32 (2) one representative of a hospital, who shall be recommended by  
33 a hospital association, subject to the approval of the commissioner;

34 (3) one representative of organized labor who shall be  
35 recommended by a labor organization, subject to the approval of the  
36 commissioner;

37 (4) one licensed health insurance producer, who shall be  
38 nominated by the Governor and confirmed by the Senate;

39 (5) one physician licensed to practice medicine and surgery in this  
40 State who shall be nominated by the Governor and confirmed by the  
41 Senate;

42 (6) one member of the public, who is covered by an individual or  
43 small employer health benefits plan who shall be nominated by the  
44 Governor and confirmed by the Senate;

45 (7) nine representatives of carriers, one of whom shall be a  
46 representative of an authorized insurance company offering individual

1 health benefits plans in New Jersey, who shall be elected by the  
2 carriers offering individual health benefits plans; one of whom shall be  
3 a representative of an approved health maintenance organization  
4 offering individual health benefits plans, who shall be elected by the  
5 carriers offering individual health benefits plans; one of whom shall be  
6 a representative of an approved health maintenance organization  
7 offering small employer health benefits plans, who shall be elected by  
8 those carriers offering small employer health benefits plans; five of  
9 whom shall be representatives of authorized insurance companies  
10 offering small employer health benefits plans, and one of whom shall  
11 be a representative of a mutual health insurer of this State subject to  
12 the provisions of Subtitle 3 of Title 17B of the New Jersey Statutes,  
13 all five of whom shall be elected by those carriers offering small  
14 employer health benefits plans; and one of whom shall be a  
15 representative of a health service corporation incorporated in New  
16 Jersey or a domestic mutual insurer which converted from a health  
17 service corporation in accordance with the provisions of sections 2  
18 through 4 of P.L.1995, c.196 (C.17:48E-46 through C.17:48E-48),  
19 who shall be elected by those carriers offering small employer health  
20 benefits plans; and

21 (8) the commissioner and the Commissioner of Health, or their  
22 designees, who shall serve ex officio.

23 In the event that one or more representatives of the carrier  
24 designations pursuant to paragraph (7) of this subsection d. are not  
25 available to serve as members, the commissioner shall appoint a  
26 representative to serve as a board member until such time that a  
27 representative of that carrier designation becomes available to serve.

28 e. Within 90 days of the initial meeting of the New Jersey Health  
29 Coverage Reform Board, the board shall submit to the commissioner  
30 a plan of operation establishing the administration of the New Jersey  
31 Individual Health Coverage Program and the New Jersey Small  
32 Employer Health Benefits Program under the New Jersey Health  
33 Coverage Reform Board pursuant to the provisions of this act. The  
34 plan of operation and any subsequent amendments thereto shall be  
35 submitted to the commissioner who shall, after notice and hearing,  
36 approve the plan if the commissioner finds that it is reasonable and  
37 equitable and sufficiently carries out the provisions of this section.  
38 The plan of operation shall become effective after the commissioner  
39 has approved it in writing. The plan or any subsequent amendments  
40 thereto shall be deemed approved if not expressly disapproved by the  
41 commissioner in writing within 90 days of receipt by the  
42 commissioner.

43 The plan of operation shall include, but not be limited to, the  
44 following:

45 (1) A method of handling and accounting for assets and moneys  
46 of the program and an annual fiscal reporting to the commissioner;

1 (2) A means of providing for the filling of vacancies on the board,  
2 subject to the approval of the commissioner; and

3 (3) Any additional matters which are appropriate to effectuate the  
4 provisions of this section.

5 Until such time as a new plan of operation is adopted by the New  
6 Jersey Health Coverage Reform Board and approved by the  
7 commissioner, the New Jersey Health Coverage Reform Board shall  
8 operate under the plans of operation of the New Jersey Individual  
9 Health Coverage Program and the New Jersey Small Employer Health  
10 Benefits Program, as applicable, adopted pursuant to section 9 of  
11 P.L.1992, c.161 (C.17B:27A-10) and section 15 of P.L.1992, c.162  
12 (C.17B:27A-31), respectively.

13

14 2. (New section) a. The Legislature finds and declares that:

15 (1) Health benefits coverage, while providing important protection  
16 for individuals, is costly for individuals and businesses which insure  
17 their employees.

18 (2) Mandated health benefits have social, financial and medical  
19 implications for patients, providers and health benefits plans.

20 (3) It is therefore, in the public interest to require the review of  
21 proposed mandated health benefits by an expert body to provide the  
22 Legislature with adequate, and independent documentation defining  
23 the social and financial impact and medical efficacy of the proposed  
24 mandate.

25 b. In addition to the respective powers, functions, and duties  
26 assumed by or granted to the New Jersey Health Coverage Reform  
27 Board pursuant to subsections b. and c. of section 1 of this act, the  
28 New Jersey Health Coverage Reform Board shall review bills  
29 introduced in either House of the Legislature which require an insurer  
30 to offer or provide a mandated health benefit and shall report their  
31 findings to the Legislature pursuant to the provisions of this section  
32 and section 3 of this act.

33 c. Whenever a bill containing a mandated health benefit is  
34 introduced in the Legislature, the chairman of the standing reference  
35 committee to which the bill or resolution has been referred in the  
36 House in which it was introduced shall request the New Jersey Health  
37 Coverage Reform Board to prepare a written report that assesses the  
38 social and financial effects and the medical efficacy of a proposed  
39 mandated health benefit.

40 d. Not later than the 120th day after the request for review is  
41 received, the board shall complete its review and provide the written  
42 report to the members of the standing reference committee to which  
43 the bill has been referred. If the board requests an extension prior to  
44 the 120th day after the date of the request for review, the chairman of  
45 the standing reference committee to which the bill had been referred  
46 may grant an extension for the board to complete its review of the bill.

1 The standing reference committee shall not consider or vote upon the  
2 bill until: the board completes its review and provides its written  
3 report to the members of the committee; the 121st day after the date  
4 the request for that review was received; or the designated day in the  
5 case of an extension.

6 e. If the standing reference committee of the House in which the  
7 bill was introduced determines that a bill proposing a mandated health  
8 benefit is of such an urgent nature that it would seriously impair the  
9 public health to wait for the board to issue its report, then it may vote  
10 to release the bill.

11 f. If the presiding officer of the House in which the bill was  
12 introduced determines that the bill is of such an urgent nature that it  
13 would seriously impair the public health to wait for the board to issue  
14 its report, the presiding officer shall so notify in writing the chairman  
15 of the standing reference committee to which the bill has been referred  
16 and the board of that determination, and the House may consider and  
17 vote upon the bill.

18 g. No bill requiring an insurer to offer or provide a mandated  
19 health benefit shall be reported by the standing reference committee to  
20 which it has been referred unless the written report of the board has  
21 been provided to the members of the standing reference committee,  
22 except as provided in subsections d., e. and f. of this section.

23 h. The board, at the request of a sponsor of the bill or any member  
24 of that standing reference committee, may amend or revise its report  
25 with respect to any bill which is amended by either House after having  
26 been reported by the standing reference committee to which it was  
27 referred in the House in which it was introduced. If a report has been  
28 issued by the board on a proposed mandated benefit within the  
29 previous three years, the board shall not be required to produce a new  
30 report on the same proposed mandated benefit unless requested to do  
31 so by the chairman of the standing reference committee to which the  
32 bill has been referred. In the case where there are several mandated  
33 health benefits bills to be reviewed by the board, the presiding officer  
34 of the House in which the bill was introduced, or his designee, shall  
35 consult with the board to determine the order of priority for review of  
36 the mandated health benefits bills.

37 i. For the purposes of this section and section 3 of this act:

38 "Mandated health benefit" or "mandate" means a benefit or  
39 coverage which is required by law to be offered or provided by an  
40 insurer including: coverage for specific health care services,  
41 treatments or practices; direct reimbursement to specific health care  
42 providers; or the offering of specific health care services, treatments  
43 or practices.

44 "Urgent nature" means a health condition where an individual's life  
45 would be in imminent danger without expeditious consideration of the  
46 mandated health benefit.

1           3. The review of proposed mandated health benefits by the New  
2 Jersey Health Coverage Reform Board required pursuant to section 2  
3 of this act shall include, at a minimum and to the extent that  
4 information is practicable and available, the following:

5           a. The social impact of mandating the health benefit which shall  
6 include:

7           (1) The extent to which the proposed mandated health benefit and  
8 the services it would provide are needed by, available to and utilized  
9 by the population of New Jersey;

10          (2) The extent to which insurance coverage for the proposed  
11 mandated health benefit already exists, or if no coverage exists, the  
12 extent to which the lack of coverage results in inadequate health care  
13 or financial hardship for the affected population of New Jersey.

14          (3) The demand for the proposed mandated health benefit from the  
15 public and the source and extent of opposition to mandating the health  
16 benefit;

17          (4) Relevant findings bearing on the social impact of the lack of  
18 the proposed mandated health benefit; and

19          (5) Such other information with respect to the social impact as the  
20 board deems appropriate.

21          b. The financial impact of mandating the health benefit which shall  
22 include:

23          (1) The extent to which the proposed mandated health benefit  
24 would increase or decrease the cost for treatment or service;

25          (2) The extent to which similar mandated health benefits in other  
26 states have affected charges, costs and payments for services;

27          (3) The extent to which the proposed mandated health benefit  
28 would increase the appropriate use of the treatment or service;

29          (4) The impact of the proposed mandated health benefit on total  
30 costs to health care insurers and on administrative costs;

31          (5) The impact of the proposed mandated health benefits on total  
32 costs to purchasers and on benefit costs;

33          (6) The impact of the proposed mandated health benefits on the  
34 total cost of health care within New Jersey; and

35          (7) Such other information with respect to the financial impact as  
36 the board deems appropriate.

37          c. The medical efficacy of mandating the health benefit which shall  
38 include:

39          (1) Where the proposed mandated health benefit would mandate  
40 coverage of a particular treatment or therapy, the recommendation of  
41 a clinical study or review article in a major peer-reviewed professional  
42 journal;

43          (2) Where the proposed benefit would mandate coverage of the  
44 services provided by an additional class of practitioners, the results of  
45 at least one professionally accepted, controlled trial comparing the  
46 medical results achieved by the additional class of practitioners and the

1 practitioners already covered by benefits;

2 (3) The results of other research;

3 (4) The impact of the proposed coverage on the general  
4 availability of health coverage in New Jersey; and

5 (5) Such other information with respect to the medical efficacy as  
6 the board deems appropriate.

7 d. The effects of balancing the social, economic and medical  
8 efficacy considerations which shall include, but not be limited to:

9 (1) The extent to which the need for coverage outweighs the costs  
10 of mandating the health benefit; and

11 (2) The extent to which the problem of coverage may be solved by  
12 mandating the availability of the coverage as an option under health  
13 coverage.

14 e. An analysis of information collected from various sources,  
15 including but not limited to:

16 (1) a State data collection system;

17 (2) the Departments of Health and Insurance;

18 (3) health planning organizations;

19 (4) proponents and opponents of the proposed health benefits  
20 mandate who shall be encouraged to provide appropriate  
21 documentation supporting their positions. The board shall examine  
22 such documentation to determine whether:

23 (a) the documentation is complete;

24 (b) the assumptions upon which the research is based are valid;

25 (c) the research cited in the documentation meets professional  
26 standards;

27 (d) all relevant research respecting the proposed mandated benefit  
28 has been cited in the documentation; and

29 (e) the conclusions and interpretations in the documentation are  
30 consistent with the data submitted; and

31 (5) such other data sources as the board deems appropriate.

32 In analyzing information from the various sources, the board shall  
33 give substantial weight to the documentation provided by the  
34 proponents and opponents of the mandate to the extent that such  
35 documentation is made available to them.

36

37 4. Section 9 of P.L.1992, c.161 (C.17B:27A-10) is amended to  
38 read as follows:

39 9. a. There is created the New Jersey Individual Health Coverage  
40 Program. All carriers subject to the provisions of this act shall be  
41 members of the program. The program shall be administered by the  
42 board established pursuant to this section until the effective date of  
43 P.L. , c. (C. ) (pending in the Legislature as this bill), at which  
44 time the New Jersey Health Coverage Reform Board established  
45 pursuant to section 1 of P.L. , c. (C. ) (pending in the  
46 Legislature as this bill) shall assume all powers, functions and duties

1 of the board.

2 b. Within 30 days of the effective date of this act, the  
3 commissioner shall give notice to all members of the time and place for  
4 the initial organizational meeting, which shall take place within 60 days  
5 of the effective date. The board shall consist of nine representatives.  
6 The commissioner or his designee shall serve as an ex officio member  
7 on the board. Four members of the board shall be appointed by the  
8 Governor, with the advice and consent of the Senate: one of whom  
9 shall be a representative of an employer, appointed upon the  
10 recommendation of a business trade association, who is a person with  
11 experience in the management or administration of an employee health  
12 benefit plan; one of whom shall be a representative of organized labor,  
13 appointed upon the recommendation of the A.F.L.-C.I.O., who is a  
14 person with experience in the management or administration of an  
15 employee health benefit plan; and two of whom shall be consumers of  
16 a health benefits plan who are reflective of the population in the State.  
17 Four board members who represent carriers shall be elected by the  
18 members, subject to the approval of the commissioner, as follows: to  
19 the extent there is one licensed in this State that is willing to have a  
20 representative serve on the board, a representative from each of the  
21 following entities shall be elected:

22 (1) until December 31, 1999, a health service corporation or a  
23 domestic mutual insurer which converted from a health service  
24 corporation in accordance with the provisions of sections 2 through 4  
25 of P.L.1995, c.196 (C.17:48E-46 through C.17:48E-48). After that  
26 date, a domestic mutual insurer which, either directly or through a  
27 subsidiary health maintenance organization, is primarily engaged in the  
28 business of issuing health benefits plans;

29 (2) a health maintenance organization;

30 (3) a mutual health insurer of this State subject to Subtitle 3 of  
31 Title 17B of the New Jersey Statutes; and

32 (4) a foreign health insurance company authorized to do business  
33 in this State.

34 In approving the selection of the carrier representatives of the  
35 board, the commissioner shall assure that all members of the program  
36 are fairly represented.

37 Initially, two of the Governor's appointees and two of the carrier  
38 representatives shall serve for a term of three years; one of the  
39 Governor's appointees and one of the carrier representatives shall  
40 serve for a term of two years; and one of the Governor's appointees  
41 and one of the carrier representatives shall serve for a term of one  
42 year. Thereafter, all board members shall serve for a term of three  
43 years. Vacancies shall be filled in the same manner as the original  
44 appointments.

45 c. If the initial carrier representatives to the board are not elected  
46 at the organizational meeting, the commissioner shall appoint those

1 members to the initial board within 15 days of the organizational  
2 meeting.

3 d. Within 90 days after the appointment of the initial board, the  
4 board shall submit to the commissioner a plan of operation and  
5 thereafter, any amendments to the plan necessary or suitable to assure  
6 the fair, reasonable, and equitable administration of the program. The  
7 commissioner may disapprove the plan of operation, if the  
8 commissioner determines that it is not suitable to assure the fair,  
9 reasonable, and equitable administration of the program, and that it  
10 does not provide for the sharing of program losses on an equitable and  
11 proportionate basis in accordance with the provisions of section 11 of  
12 this act. The plan of operation or amendments thereto shall become  
13 effective unless disapproved in writing by the commissioner within 45  
14 days of receipt by the commissioner.

15 e. If the board fails to submit a suitable plan of operation within  
16 90 days after its appointment, the commissioner shall adopt a  
17 temporary plan of operation pursuant to section 9 of P.L.1993, c.164  
18 (C.17B:27A-16.2). The commissioner shall amend or rescind a  
19 temporary plan adopted under this subsection, at the time a plan of  
20 operation is submitted by the board.

21 f. The plan of operation shall establish procedures for:

22 (1) the handling and accounting of assets and moneys of the  
23 program, and an annual fiscal reporting to the commissioner;

24 (2) collecting assessments from members to provide for sharing  
25 program losses in accordance with the provisions of section 11 of this  
26 act and administrative expenses incurred or estimated to be incurred  
27 during the period for which the assessment is made;

28 (3) approving the coverage, benefit levels, and contract forms for  
29 individual health benefits plans in accordance with the provisions of  
30 section 3 of this act;

31 (4) the imposition of an interest penalty for late payment of an  
32 assessment pursuant to section 11 of this act; and

33 (5) any additional matters at the discretion of the board.

34 g. The board shall appoint an insurance producer licensed to sell  
35 health insurance pursuant to P.L.1987, c.293 (C.17:22A-1 et seq.) to  
36 advise the board on issues related to sales of individual health benefits  
37 plans issued pursuant to this act.

38 (cf: P.L.1995, c.196, s.6)

39

40 5. Section 12 of P.L.1992, c.162 (17B:27A-28) is amended to  
41 read as follows:

42 12. There is created a nonprofit entity to be known as the New  
43 Jersey Small Employer Health Benefits Program. All carriers issuing  
44 health benefits plan policies and contracts in this State shall be  
45 members of this program. The program shall be administered by the  
46 board of directors established pursuant to section 13 of P.L.1992,

1 c.162 (C.17B:27A-29) until the effective date of P.L. \_\_\_\_\_, c.  
2 (C. \_\_\_\_\_)(pending in the Legislature as this bill), at which time the New  
3 Jersey Health Coverage Reform Board shall assume all powers,  
4 functions and duties of the board pursuant to section 1 of P.L. \_\_\_\_\_,  
5 c. \_\_\_\_\_(C. \_\_\_\_\_)(pending in the Legislature as this bill).

6 (cf: P.L.1993, c.162, s.6)

7

8 6. This act shall take effect immediately.

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13 Consolidates individual and small employer health benefits programs  
14 under one board; expands duties of board to include review of  
15 proposed mandated health benefits.