

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 631
HOUSE BILL 683

AN ACT TO IMPROVE THE SOLVENCY PROTECTION OF HEALTH
MAINTENANCE ORGANIZATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 57B-2 is amended by adding the following:

"(i) 'Net worth' means the excess of total assets over the total liabilities and may include borrowed funds that are repayable only from the net earned income of the health maintenance organization and repayable only with the advance permission of the Commissioner. In determining net worth only tangible assets shall be considered.

(j) 'Working capital' means the excess of current assets over current liabilities; provided that the only borrowed funds that may be included in working capital must be those borrowed funds that are repayable only from net earned income and must be repayable only with the advance permission of the Commissioner."

Sec. 2. G.S. 57B-4(a) is amended by deleting the final paragraph of that subsection beginning with "The Commissioner may require" and ending with "accrual."

Sec. 3. General Statute Chapter 57B is amended by adding a new section to read:

"§ 57B-4.1. **Deposits.**—(a) The Commissioner shall require a minimum deposit of five hundred thousand dollars (\$500,000) for all full service medical health maintenance organizations or such higher amount as he deems necessary for the protection of enrollees. The minimum deposit for a full service medical health maintenance organization authorized to operate on the effective date of this section and having a deposit of less than five hundred thousand dollars (\$500,000) shall be as follows:

(1) \$250,000 by December 31, 1987

(2) \$500,000 by December 31, 1988

Any health maintenance organization not authorized to do business on the effective date of this section must comply with the minimum initial deposit of five hundred thousand dollars (\$500,000).

(b) The Commissioner shall require a minimum deposit of twenty-five thousand dollars (\$25,000) for all single service health maintenance organizations or such higher amount as he deems necessary for the protection of enrollees.

(c) All deposits required by this section shall be administered in accordance with the provisions of G.S. 58-7.5.

Sec. 4. G.S. 57B-4(a)(4) is amended by adding at the end the following:

"Such working capital shall initially be a minimum of one million five hundred thousand dollars (\$1,500,000) for any full service medical health maintenance

organization. Initial working capital for a single service health maintenance organization shall be a minimum of one hundred thousand dollars (\$100,000) or such higher amount as the Commissioner shall determine to be adequate."

Sec. 5. General Statute Chapter 57B is amended by adding the following sections:

"§ 57B-15.1. Hazardous financial condition.—(a) Whenever the financial condition of any health maintenance organization indicates a condition such that the continued operation of the health maintenance organization might be hazardous to its enrollees, creditors, or the general public, then the Commissioner may order the health maintenance organization to take such action as may be reasonably necessary to rectify the existing condition, including but not limited to one or more of the following steps:

- (1) to reduce the total amount of present and potential liability for benefits by reinsurance;
- (2) to reduce the volume of new business being accepted;
- (3) to reduce the expenses by specified methods;
- (4) to suspend or limit the writing of new business for a period of time; or
- (5) to require an increase to the health maintenance organization's net worth by contribution.

(b) The Commissioner may adopt rules to set uniform standards and criteria for the early warning that the continued operation of any health maintenance organization might be hazardous to its enrollees, creditors, or the general public, and to set standards for evaluating the financial condition of any health maintenance organization, which standards shall be consistent with the purposes expressed in subsection (a) of this section.

"§ 57B-15.2. Protection against insolvency.—(a) The Commissioner shall require deposits in accordance with the provisions of G.S. 57B-4.1.

(b) Each full service medical health maintenance organization shall maintain a minimum net worth of not less than seven hundred fifty thousand dollars (\$750,000), which shall be increased by the amount of the contingency reserves calculated annually in accordance with the provisions of G.S. 57B-6. If a health maintenance organization fails to comply with the net worth requirement of this subsection or subsections (c) or (d) of this section, the Commissioner is authorized to take appropriate action to assure that the continued operation of the health maintenance organization will not be hazardous to its enrollees.

(c) The minimum net worth for a health maintenance organization authorized to operate on the effective date of subsection (b) of this section and having a net worth of less than seven hundred fifty thousand dollars (\$750,000) shall be as follows:

- (1) \$150,000 by December 31, 1987
- (2) \$300,000 by December 31, 1988
- (3) \$450,000 by December 31, 1989
- (4) \$600,000 by December 31, 1990
- (5) \$750,000 by December 31, 1991

The net worth amounts required by this section shall be in addition to the contingency reserves required by G.S. 57B-6.

(d) Notwithstanding any other provision of this Chapter, a health maintenance organization authorized to offer only a single health care service plan providing a single health care service must have a minimum net worth of fifty thousand dollars (\$50,000). The minimum net worth for such plan authorized to operate on the effective date of this subsection and having a net worth of less than fifty thousand dollars (\$50,000) shall be as follows:

- (1) Twenty-five thousand dollars (\$25,000) by December 31, 1987; and
- (2) Fifty thousand dollars (\$50,000) by December 31, 1988;

The net worth amounts required by this section shall be in addition to the contingency reserves required by G.S. 57B-6.

(e) Every full service medical health maintenance organization shall have and maintain at all times an adequate plan for protection against insolvency acceptable to the Commissioner. In determining the adequacy of such a plan, the Commissioner may consider:

- (1) A reinsurance agreement preapproved by the Commissioner covering excess loss, stop-loss, or catastrophes. The agreement must provide that the Commissioner will be notified no less than 60 days prior to cancellation or reduction of coverage.
- (2) A conversion policy or policies that will be offered by an insurer to the enrollees in the event of the health maintenance organization's insolvency.
- (3) Any other arrangements offering protection against insolvency that the Commissioner may require."

Sec. 6. G.S. 57B-3(d)(1) is rewritten to read:

"(1) A health maintenance organization shall file a notice describing any modification of the operation set out in the information required by subsection (c) of this section. Such notice shall be filed with the Commissioner prior to the modification. If the Commissioner does not disapprove within 90 days after the filing, such modification shall be deemed to be approved. A request for expansion of service area is a modification subject to the terms of this section."

Sec. 7. G.S. 57B-3(c)(9) is amended by rewriting the second sentence to read:

"The three-year projection shall be prepared by the applicant's staff actuary or by a recognized actuarial consultant;"

Sec. 8. G.S. 57B-4(b) is amended in the second line by substituting "shall" for "may".

Sec. 9. G.S. 57B-8 is amended by adding the following subsection:

"(e) Effective on January 1, 1989, every health maintenance organization shall provide at least minimum cost and utilization information for group contracts of 100 or more subscribers on an annual basis when requested by the group. Such information shall be compiled in accordance with the Data Collection Form developed by the Standardized HMO Data Form Task Force as endorsed by the Washington Business Group on Health and the Group Health Association of American on November 19, 1986, and any subsequent amendments."

Sec. 10. General Statute Chapter 57B is amended by adding the following section:

"§ 57B-4.3. **Management and exclusive contracts.**—(a) No health maintenance organization shall enter into an exclusive agency contract or management contract unless the contract is first filed with the Commissioner and approved under this section within 45 days after filing or such reasonable extended period as the Commissioner shall specify by notice that is given within the 45 day period.

(b) The Commissioner shall disapprove a contract submitted under subsection (a) of this section if he finds that:

- (1) it subjects the health maintenance organization to excessive charges;
- (2) the contract extends for an unreasonable period of time;
- (3) the contract does not contain fair and adequate standards of performance;
- (4) the persons empowered under the contract to manage the health maintenance organization are not sufficiently trustworthy, competent, experienced, and free from conflict of interest to manage the health maintenance organization with due regard for the interests of its enrollees, creditors, or the public; or
- (5) the contract contains provisions that impair the interests of the organization's enrollees, creditors, or the public."

Sec. 11. This act is effective upon ratification; provided that Section 3 of this act shall apply only to health maintenance organizations licensed after the effective date of this act.

In the General Assembly read three times and ratified this the 17th day of July, 1987.