

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 3280

By: Mulready

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to insurance; authorizing the
9 creation of nonprofit health maintenance organization
10 corporations; exempting certain corporations from
11 insurance laws unless specifically made applicable;
12 authorizing certain organizations to convert to
13 certain corporations; granting certain powers and
14 authority to nonprofit health maintenance
15 organization corporations; providing for application
16 for certificate of authority process; providing
17 requirements for certification; requiring deposit;
18 authorizing certain certified corporations to enter
19 into certain contracts and investments; requiring
20 certain form and rate approval by the Insurance
21 Commissioner; providing for hearing upon disapproval;
22 authorizing certain converted corporations to utilize
23 certain forms and rates; requiring certain director
24 membership; providing for certain ownership
requirements; providing for applicability of certain
act; limiting liability; providing for applicability;
declaring certain corporations to be nonprofit,
charitable and benevolent institutions; providing for
codification; providing an effective date; and
declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6952 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Nonprofit charitable and benevolent health maintenance
5 organization corporations may hereafter be organized under the laws
6 of the State of Oklahoma for the purpose of establishing,
7 maintaining and operating a nonprofit health maintenance
8 organization by complying with the provisions of this act, and shall
9 be exempt from all other provisions of the insurance laws and the
10 general corporation laws of this state, except where such other laws
11 are specifically made applicable by the provisions of this act.

12 B. Existing Oklahoma licensed domestic health maintenance
13 organizations may amend their corporate organizational documents to
14 become nonprofit health maintenance organization corporations
15 pursuant to the provisions of this act, which shall entitle them to
16 all rights, obligations and provisions of this act. Existing
17 Oklahoma licensed domestic health maintenance organizations that
18 amend their corporate organizational documents to become nonprofit
19 health maintenance organization corporations shall continue to exist
20 without interruption in business, licenses, certifications or other
21 continuity.

22 C. The Oklahoma Insurance Commissioner may first approve the
23 amended Certificate of Incorporation and the amended Business Plan
24

1 of an existing Oklahoma licensed domestic health maintenance
2 organization subject to Section 3 of this act.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6953 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A nonprofit health maintenance organization corporation may
7 issue contracts to its subscribers only when the Insurance
8 Commissioner has, by certificate of authority, authorized it to do
9 so. Application for such certificate of authority shall be made on
10 forms supplied or approved by the Commissioner, containing such
11 information as the Commissioner shall deem necessary. Each
12 application for a certificate of authority shall be accompanied by
13 copies of the documents required by Section 6903 of Title 36 of the
14 Oklahoma Statutes.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6954 of Title 36, unless there
17 is created a duplication in numbering, reads as follows:

18 The Insurance Commissioner may certify nonprofit health
19 maintenance organization corporations by issuing a certificate of
20 authority, authorizing the applicant to issue contracts to its
21 subscribers, when it is shown to the satisfaction of the
22 Commissioner that:

23 1. The applicant is established as a bona fide nonprofit health
24 maintenance organization corporation;

1 2. The contracts between the applicant and the participating
2 physicians or other providers of health services obligate each
3 provider executing the same to render service to which each
4 subscriber may be entitled under the terms of the contract to be
5 issued to the subscribers;

6 3. The amount of required working capital of the corporation is
7 paid into the corporation and, if subject to repayment, can be
8 repaid only out of operating income, without endangering the
9 solvency or financial strength of the nonprofit health maintenance
10 organization corporation; and

11 4. The nonprofit corporation has met, or will be able to meet,
12 the requirements set forth in the Health Maintenance Organization
13 Act of 2003 and the risk-based capital for the Health Maintenance
14 Organization Act of 2003.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6955 of Title 36, unless there
17 is created a duplication in numbering, reads as follows:

18 A. Each corporation governed by this act shall at all times
19 have on deposit with the Commissioner's office the sum of Three
20 Hundred Thousand Dollars (\$300,000.00) as required by Section 613 of
21 Title 36 of the Oklahoma Statutes, for the protection of all
22 subscribers.

23 B. The deposit prescribed by this section shall be subject to
24 withdrawal in whole or in part on the order of and as directed by

1 the Insurance Commissioner and may be invested in bonds of the
2 United States or of the State of Oklahoma, or any political
3 subdivision thereof, or certificates of deposit issued by state or
4 national banks. Interest on securities so deposited shall be
5 payable to the corporation depositing same. The securities may,
6 with the approval of the Commissioner, be exchanged for similar
7 securities or cash of equal amount.

8 C. Upon the liquidation or dissolution of such corporation and
9 the satisfaction of all its liabilities, any balance remaining in
10 the deposit in the hands of the Commissioner and any other assets of
11 the nonprofit health maintenance organization corporation shall be
12 distributed in the manner directed by the directors of the nonprofit
13 health maintenance organization corporation.

14 SECTION 5. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 6956 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 A. A certified nonprofit health maintenance organization
18 corporation, in addition to contracting with the licensed physicians
19 of the state, may contract for its subscribers the use of hospital
20 facilities located in the state.

21 B. A certified nonprofit health maintenance organization
22 corporation may contract with any other person who is licensed and
23 qualified for the purpose of providing health services to or for the
24 subscribers.

1 C. A certified nonprofit health maintenance organization
2 corporation may contract with any other person for the cooperative
3 administration or underwriting with regard to the performance of the
4 obligations created upon it under the contracts it issues to the
5 subscribers and to participating physicians or facilities.

6 D. A certified nonprofit health maintenance organization
7 corporation may join with, contract with or become a member of any
8 organization of other health care service or indemnity corporations,
9 nonprofit hospital or hospital service corporations or medical
10 service or indemnity corporations, either domestic or foreign to
11 create, establish or maintain an agency, group or entity to
12 facilitate the providing of health maintenance organization services
13 for its subscribers located within or outside the State of Oklahoma.

14 E. A certified nonprofit health maintenance organization
15 corporation may join with, contract with or serve in any capacity
16 with any agency of the United States of America, the State of
17 Oklahoma or any county, city or town, in connection with any program
18 or undertaking sponsored by one or more of the above.

19 F. A certified nonprofit health maintenance organization
20 corporation may invest in such real and personal property as is
21 reasonably necessary to conduct its business. No law relating to
22 insurance hereafter enacted shall apply to nonprofit health
23 maintenance organization corporations unless expressly designated
24 therein as applicable.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6957 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. On and after July 1, 2014, no contract providing for
5 nonprofit health maintenance organization corporation services shall
6 be issued or delivered to any person in this state, nor shall any
7 application, rider or endorsement be issued in connection therewith,
8 until a copy of the form thereof and the rates pertaining thereto
9 have been filed with and approved by the Insurance Commissioner. If
10 the Insurance Commissioner disapproves the contract, application,
11 rider or endorsement form, or rates, he or she shall make a written
12 decision stating the reason or reasons therefor and shall deliver a
13 copy thereof to the corporation and it shall be unlawful for any
14 such corporation to use any such form in this state. Any such
15 corporation shall have thirty (30) days from date of receipt of the
16 notice of disapproval in which to request a hearing on such
17 disapproval.

18 B. Any existing Oklahoma licensed domestic health maintenance
19 organization that amends its Certificate of Incorporation and is
20 approved as a nonprofit health maintenance organization corporation
21 by the Insurance Commissioner may utilize its existing contracts,
22 forms and rates already on file with the Commissioner.

23
24

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6958 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A nonprofit health maintenance organization corporation shall
5 have a minimum of three and a maximum of fifteen directors, all of
6 whom shall provide biographical affidavits to the Insurance
7 Commissioner pursuant to the requirements of Sections 1651 through
8 1662 of Title 36 of the Oklahoma Statutes, and specifically Section
9 1654 of Title 36 of the Oklahoma Statutes.

10 SECTION 8. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 6959 of Title 36, unless there
12 is created a duplication in numbering, reads as follows:

13 A nonprofit health maintenance organization corporation may be
14 privately or publicly owned. All of the requirements of the Health
15 Maintenance Organization Act of 2003, the risk-based capital for the
16 Health Maintenance Organization Act of 2003 and any rules
17 promulgated thereunder shall be applicable to nonprofit health
18 maintenance organization corporations except that such corporations
19 shall use their income and profit to further facilitate the
20 providing of health care services to the public after paying
21 expenses of operation and ownership.

22 SECTION 9. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 6960 of Title 36, unless there
24 is created a duplication in numbering, reads as follows:

1 A nonprofit health maintenance organization corporation shall
2 not be liable for injuries resulting from negligence or malpractice
3 on the part of any participating physician or supplier of services
4 to any subscriber. A participating physician or health care
5 provider shall not be liable for any wrongful or negligent conduct
6 by a nonprofit health maintenance organization corporation or any of
7 its officers, directors or agents.

8 SECTION 10. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 6961 of Title 36, unless there
10 is created a duplication in numbering, reads as follows:

11 Nothing in this act shall be deemed to alter the statutory
12 relationship of physician and patient which has heretofore been
13 established. Nothing in this act shall be deemed to abridge the
14 right of any physician to decline patients in accordance with the
15 standards of practices of such physician, and no nonprofit health
16 maintenance organization corporation shall be deemed to be engaged
17 in the corporate practice of medicine.

18 SECTION 11. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 6962 of Title 36, unless there
20 is created a duplication in numbering, reads as follows:

21 The provisions of this act shall govern and apply only to
22 nonprofit health maintenance organization corporations. Such
23 corporations shall be exempt from all other provisions of the
24 insurance laws of this state; provided, however, that Articles 1, 3,

1 12, 17 and 18 of Title 36 of the Oklahoma Statutes and Section 1606
2 of Title 36 of the Oklahoma Statutes shall apply to such
3 corporations to the extent that such provisions are not in conflict
4 with the provisions of this act.

5 SECTION 12. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 6963 of Title 36, unless there
7 is created a duplication in numbering, reads as follows:

8 Every nonprofit health maintenance organization corporation
9 doing business pursuant to this act is hereby declared to be a
10 nonprofit charitable and benevolent institution.

11 SECTION 13. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 6964 of Title 36, unless there
13 is created a duplication in numbering, reads as follows:

14 The private property of the subscribers, agents, officers,
15 directors, members and employees of any nonprofit health maintenance
16 organization corporation holding a certificate of authority under
17 this act shall be wholly exempt from any of the debts, obligations
18 and liabilities of the corporation.

19 SECTION 14. This act shall become effective July 1, 2014.

20 SECTION 15. It being immediately necessary for the preservation
21 of the public peace, health and safety, an emergency is hereby
22
23
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3

4 54-2-10483 AMM 02/27/14

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24