HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 3280 By: Mulready

COMMITTEE SUBSTITUTE

An Act relating to insurance; authorizing the creation of nonprofit health maintenance organization corporations; exempting certain corporations from insurance laws unless specifically made applicable; authorizing certain organizations to convert to certain corporations; granting certain powers and authority to nonprofit health maintenance organization corporations; providing for application for certificate of authority process; providing requirements for certification; requiring deposit; authorizing certain certified corporations to enter into certain contracts and investments; requiring certain form and rate approval by the Insurance Commissioner; providing for hearing upon disapproval; authorizing certain converted corporations to utilize certain forms and rates; requiring certain director 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 03/03/2014 - DO PASS, As Amended.

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