

1 **SENATE FLOOR VERSION**

2 February 26, 2014

3 **AS AMENDED**

4 SENATE BILL NO. 1319

5 By: Sparks and Brown of the
6 Senate

7 and

8 Kirby of the House

9 [insurance - market conduct annual statements -
10 annual financial reports - authorization of insurers
11 - multiple employer welfare arrangements - Oklahoma
12 Producer Licensing Act - administration of deposits -
13 mutual benefit associations - limited stock life,
14 accident and health insurers - not-for-profit
15 hospital service, medical or indemnity corporations -
16 nonprofit optometric service and indemnity
17 corporations - not-for-profit dental service
18 corporations - nonprofit chiropractic service
19 corporations - nonforfeiture law - Prepaid Dental
20 Plan Act - Health Maintenance Organization Act of
21 2001 - codification - effective date]

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

23 SECTION 1. AMENDATORY 36 O.S. 2011, Section 311.4, is
24 amended to read as follows:

25 Section 311.4 A. Insurers authorized to do business under the
26 provisions of the Oklahoma Insurance Code shall, annually, ~~on or~~
27 ~~before the last day of June,~~ file with the Insurance Commissioner
28 market conduct annual statements reporting market conduct data of
29 insurers on the thirty-first day of December of the previous year.
30 The statements shall report on the lines of insurance and be in such

1 general form and context as approved by the National Association of
2 Insurance Commissioners, and as supplemented for additional
3 information required by the Insurance Commissioner by rule. The
4 statements shall be prepared in accordance with NAIC instructions,
5 including any supplemental filings described in the NAIC
6 instructions. If no forms or instructions are available from the
7 National Association of Insurance Commissioners, the statements
8 shall be in the form and pursuant to instructions as provided by the
9 Insurance Commissioner. Insurers not authorized by the Insurance
10 Commissioner to provide the lines of insurance approved by the
11 National Association or the Insurance Commissioner shall not be
12 required to file market conduct annual statements. For good cause
13 shown, the Insurance Commissioner may extend the time within which
14 market conduct annual statements may be filed. The Insurance
15 Commissioner may provide copies of market conduct annual statements,
16 amendments, and addendums to such statements and market conduct data
17 taken from such statements to the National Association of Insurance
18 Commissioners only if, prior to sharing of the market conduct annual
19 statements, amendments, addendums to such statements or market
20 conduct data taken from such statements, the National Association of
21 Insurance Commissioners enters into a written agreement with the
22 Insurance Commissioner to maintain the confidentiality of the shared
23 information.

24

1 B. The Insurance Commissioner may adopt rules implementing this
2 section including rules that:

3 1. Add lines of insurance to be reported in market conduct
4 annual statements; and

5 2. Require the filing of market conduct annual statements and
6 any amendments and addendums to such statements with the National
7 Association of Insurance Commissioners, and the payment of
8 applicable filing fees required by the NAIC.

9 C. Insurers shall pay a filing fee of Two Hundred Dollars
10 (\$200.00) to the Insurance Commissioner for the filing of the market
11 conduct annual statement.

12 D. No waiver of an applicable privilege or claim of
13 confidentiality in the documents, materials, or other information
14 shall occur as a result of disclosure to the Insurance Commissioner
15 or the Commissioner's designee under this section or as a result of
16 sharing the documents, materials or other information as provided in
17 this section.

18 E. Market conduct annual statements and any amendments and
19 addendums to such statements, filed with the Insurance Commissioner
20 pursuant to this section in electronic format or otherwise, shall be
21 treated as working papers and documents as set out in subsection F
22 of Section 309.4 of ~~Title 36 of the Oklahoma Statutes~~ this title.

23 F. The Insurance Commissioner may use market conduct annual
24 statements or amendments or addendums to such statements to assist

1 in determining whether a market conduct examination or investigation
2 of an insurer should be conducted. For purposes of completing a
3 market conduct examination of any company under Sections 309.1
4 through 309.7 of ~~Title 36 of the Oklahoma Statutes~~ this title, the
5 Insurance Commissioner may, in the sole discretion of the Insurance
6 Commissioner, use market conduct annual statements or amendments or
7 addendums to such statements to assist in determining compliance
8 with the laws of this state and rules adopted by the Insurance
9 Commissioner.

10 SECTION 2. AMENDATORY 36 O.S. 2011, Section 321, is
11 amended to read as follows:

12 Section 321. A. The Insurance Commissioner shall collect in
13 advance the following fees ~~and licenses~~:

14 1. For filing charter documents:

15 Original charter documents,
16 articles of incorporation, bylaws,
17 or record of organization of alien
18 or foreign insurers, or certified
19 copies thereof.....\$50.00

20 2. Certificate of Authority or Certificate of Approval:

21 (a) Issuance:

22 ~~Fraternal benefit societies,~~
23 ~~alien or foreign.....\$150.00~~

24

1 ~~Hospital service and medical~~
2 ~~indemnity corporations, alien~~
3 ~~or foreign.....\$150.00~~

4 ~~All other alien or foreign~~
5 ~~insurers.....\$150.00~~

6 (b) Renewal:

7 ~~Fraternal benefit societies,~~
8 ~~alien or foreign.....\$150.00~~

9 ~~Hospital service and medical~~
10 ~~indemnity corporations, alien~~
11 ~~or foreign.....\$150.00~~

12 ~~All other alien or foreign~~
13 ~~insurers.....\$150.00~~

14 3. For filing appointment of Insurance
15 Commissioner as agent for service
16 of process.....\$10.00

17 4. Miscellaneous:

18 (a) Copies of records, per page.....\$0.40

19 (b) Amended charter documents,
20 articles of incorporation or
21 bylaws of domestic, alien or
22 foreign insurers or health
23 maintenance organizations.....\$50.00

24

- 1 (c) Certificate of Commissioner,
2 under seal.....\$5.00
- 3 (d) For filing Merger and
4 Acquisition Forms (Domestic
5 Insurers).....\$1,000.00
- 6 (e) For filing Variable Product
7 Forms.....\$200.00
- 8 (f) For filing a Life, Accident
9 and Health Policy and Health
10 Maintenance Organization
11 contract.....\$50.00
- 12 (g) For filing an advertisement or
13 rider application to a Life,
14 Accident and Health Policy and
15 Health Maintenance
16 Organization contract.....\$25.00
- 17 (h) Pending Company Review.....\$1,000.00
- 18 (i) For filing a Viatical
19 Settlement Contract or Life
20 Settlement.....\$50.00
- 21 (j) For filing an advertisement
22 for Viatical Settlement or
23 Life Settlement.....\$25.00
- 24

- 1 (k) For filing application for
- 2 Viatical Settlement or Life
- 3 Settlement Contract.....\$25.00
- 4 (l) Miscellaneous form filing.....\$25.00

5 B. There shall be assessed an annual fee of Five Hundred
 6 Dollars (\$500.00) payable by each insurer, health maintenance
 7 organization, fraternal benefit society, hospital service and
 8 medical indemnity corporation, charitable and benevolent
 9 corporation, or United States surplus lines insurance companies
 10 licensed to do business in this state, to pay for the filing,
 11 processing, and reviewing of annual and quarterly financial
 12 statements by personnel of the Office of the State Insurance
 13 Commissioner.

14 SECTION 3. AMENDATORY 36 O.S. 2011, Section 348.1, is
 15 amended to read as follows:

16 Section 348.1 A. The Insurance Commissioner shall collect the
 17 following fees and licenses for the Property and Casualty Division:

18 1. Rating organizations, statistical agents and advisory
 19 organizations:

- 20 a. Application fee for issuance of
- 21 license.....\$200.00
- 22 b. License fee.....\$500.00

23 2. Miscellaneous:

24

1 a. Certificate of Insurance Commissioner,
2 under seal.....\$ 20.00

3 b. Upon each transaction of filing of
4 documents required pursuant to ~~the~~
5 ~~provisions of Sections~~ Section 3610 and
6 ~~6601~~ of this title and the Service
7 Warranty Act, as contained in Sections
8 141.1 through 141.32 of Title 15 of the
9 Oklahoma Statutes:

10 (1) For an individual insurer.....\$ 50.00

11 (2) For an approved joint underwriting
12 association, or rating or advisory
13 organization:

14 (a) Basic fee.....\$ 50.00

15 (b) Additional fee for each member
16 or subscriber insurer.....\$ 10.00,
17 not to exceed.....\$500.00.

18 3. For each rate, loss cost and rule filing request pursuant to
19 the provisions of Sections 6821 and 981 et seq. of this title:

20 a. For an individual insurer.....\$100.00

21 b. For an approved joint underwriting
22 association, rating or advisory
23 organization:

24 (1) Basic fee.....\$100.00

1 (2) Additional fee for each member
2 or subscriber insurer.....\$ 10.00,
3 not to exceed.....\$500.00.

4 B. The fees, licenses, and taxes imposed by the Commissioner
5 upon persons, firms, associations, or corporations licensed pursuant
6 to this section shall be payment in full with respect thereto of and
7 in lieu of all demands for any and all state, county, district, and
8 municipal license fees, license taxes, business privilege taxes,
9 business privilege fees, and charges of every kind now or hereafter
10 imposed upon all such persons, firms, associations, or corporations.
11 This subsection shall not affect other fees, licenses and taxes
12 imposed by the Insurance Code.

13 C. Any costs incurred by the Commissioner in the process of
14 review and analysis of a filing shall be assessed against the
15 company or organization making the filing.

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 350 of Title 36, unless there is
18 created a duplication in numbering, reads as follows:

19 Notwithstanding any other provision of law that requires a
20 particular form and associated payment to be filed with the
21 Insurance Department in paper form, or to be mailed or hand-
22 delivered to the Insurance Department, the Insurance Commissioner
23 may, by appropriate order, require that all filings of that specific
24 type be filed or delivered in an electronic format.

1 SECTION 5. AMENDATORY 36 O.S. 2011, Section 613, is
2 amended to read as follows:

3 Section 613. A. Except as provided in subsection C of this
4 section, any insurer that incorporates or is authorized initially to
5 transact the business of insurance in Oklahoma after ~~the effective~~
6 ~~date of this act~~ October 1, 1980, shall not be issued a certificate
7 of authority by the Insurance Commissioner unless it has deposited
8 in trust with the ~~State Treasurer through the Insurance~~
9 ~~Commissioner's office~~ Commissioner cash or securities eligible for
10 the investment of capital funds of domestic insurers under this Code
11 in an amount not less than Three Hundred Thousand Dollars
12 (\$300,000.00). The ~~Insurance~~ Commissioner may require a greater
13 amount to be deposited in trust if the Insurance Commissioner finds
14 that a greater amount is warranted for the protection of the
15 policyholders of the insurer pursuant to rules promulgated by the
16 ~~Insurance~~ Commissioner. Any amount over Three Hundred Thousand
17 Dollars (\$300,000.00) must be documented and reasons stated by the
18 Commissioner in writing for the excess deposit amount. The
19 Commissioner will annually review those insurers with deposits above
20 Three Hundred Thousand Dollars (\$300,000.00) to determine whether
21 such additional deposits remain justified.

22 B. The ~~Insurance~~ Commissioner shall not issue a certificate of
23 authority to any insurer that incorporated or was initially
24 authorized to transact the business of insurance in Oklahoma prior

1 to ~~the effective date of this act~~ October 1, 1980, unless it has
2 deposited in trust with the ~~State Treasurer through the Insurance~~
3 ~~Commissioner's office~~ Commissioner cash or securities eligible for
4 the investment of capital funds of domestic insurers under this Code
5 in an amount not less than the surplus in regard to policyholders,
6 or net admitted assets (if a Lloyd's association) required pursuant
7 to this Code to be maintained for authority to transact the kinds of
8 insurance to be transacted, except that in the case of life and/or
9 accident and health insurers the deposit shall be in the amount of
10 One Hundred Thousand Dollars (\$100,000.00).

11 C. 1. As to domestic title insurers, the deposit shall be as
12 required by Article 50 (Title Insurers).

13 2. As to foreign insurers, in lieu of such deposit or part
14 thereof in this state, the ~~Insurance~~ Commissioner may accept the
15 current certificate in proper form of the public official having
16 supervision over insurers in any other state to the effect that a
17 like deposit or part thereof by such insurer is being maintained in
18 public custody in such state in trust for the purpose, among other
19 reasonable purposes, of protection of all the insurer's
20 policyholders or of all its policyholders and creditors.

21 3. As to alien insurers, other than title insurers, in lieu of
22 such deposit or part thereof in this state, the ~~Insurance~~
23 Commissioner may accept the certificate of the official having
24 supervision over insurance of another state in the United States,

1 given under his or her hand and seal, that the insurer maintains
2 within the United States by way of deposits with public
3 depositaries, or in trust institutions within the United States
4 approved by such official, assets available for discharge of its
5 United States insurance obligations, which assets shall be in amount
6 not less than the outstanding liabilities of the insurer arising out
7 of its insurance transactions in the United States, together with
8 the largest deposit required by this Code to be made in this state
9 by any type of domestic insurer transacting like kinds of insurance.

10 D. Any securities deposited by insurers shall be issued to the
11 ~~Insurance~~ Commissioner and the insurer and shall not be released by
12 any company holding such security without the signatures of the
13 ~~Insurance~~ Commissioner and the authorized insurer's personnel.
14 Failure of any company holding such security to comply with this
15 subsection may result, after hearing by the proper licensing
16 authority, in a fine of not more than Twenty-five Thousand Dollars
17 (\$25,000.00) per occurrence.

18 SECTION 6. AMENDATORY 36 O.S. 2011, Section 635, is
19 amended to read as follows:

20 Section 635. A. To meet the requirements for issuance of a
21 license and to maintain a MEWA, a MEWA either must be:

- 22 1. a. nonprofit,
- 23 b. (1) established by a trade association, industry
24 association or professional association of

1 employers or professionals that has a
2 constitution or bylaws and that has been
3 organized and maintained in good faith for a
4 continuous period of five (5) years for purposes
5 other than that of obtaining or providing
6 insurance, or

7 (2) requires membership in an association described
8 in division (1) of this subparagraph in order to
9 obtain the insurance offered by the MEWA,

10 c. operated pursuant to a trust agreement by a board of
11 trustees that has complete fiscal control over the
12 MEWA and that is responsible for all operations of the
13 MEWA. Except as provided in this paragraph, the
14 trustees must:

15 (1) be owners, shareholders, partners, officers,
16 directors, or employees of one or more employers
17 in the MEWA. With the ~~Insurance~~ Commissioner's
18 approval, a person who is not such an owner,
19 shareholder, partner, officer, director, or
20 employee may serve as a trustee if that person
21 possesses the expertise required for such
22 service. A trustee may not be an owner,
23 shareholder, partner, officer or employee of the
24 administrator or service company of the MEWA,

1 (2) have the authority to approve applications of
2 association members for participation in the
3 MEWA, and

4 (3) have the authority to contract with an authorized
5 administrator or service company to administer
6 the operations of the MEWA,

7 d. neither offered nor advertised to the public
8 generally,

9 e. operated in accordance with sound actuarial
10 principles, and

11 f. offered only after Two Hundred Thousand Dollars
12 (\$200,000.00) of cash or federally guaranteed

13 obligations of less than five-year maturity that have
14 a fixed or recoverable principal amount or such other
15 investments as the Commissioner may authorize by rule
16 is titled in such a manner that it may not be traded,
17 sold or otherwise expended without the consent of the

18 ~~Insurance~~ Commissioner; provided, ~~said~~ the funds shall
19 be taken into account in determining whether the MEWA
20 is actuarially sound, and evidence of ~~said~~ the
21 investment shall be filed with the ~~State Treasurer~~
22 Commissioner; or

23 2. a. operated pursuant to a trust agreement for a trust
24 which has its situs in this state, is operated

1 pursuant to a trust agreement by a board of trustees
2 that has complete fiscal control over the MEWA, is
3 responsible for all operations of the MEWA, and which
4 has as one of its trustees a financial institution
5 which is independent of the entity which established
6 the MEWA. Except as provided in this paragraph, the
7 board of trustees must have owners, shareholders,
8 partners, officers, directors or employees of one or
9 more employers in the MEWA. With the ~~Insurance~~
10 Commissioner's approval, a person who is not such an
11 owner, shareholder, partner, officer, director or
12 employee may serve as a trustee if that person
13 possesses the expertise required for such service. A
14 trustee shall not be an owner, shareholder, partner,
15 officer, director or employee of the administrator or
16 service company of the MEWA,

17 b. operated and administered in a manner that causes all
18 assets of the MEWA to be held in trust until paid
19 either:

20 (1) for the benefit of individuals who receive
21 medical, dental or similar benefits from the
22 MEWA, or

23 (2) for the expenses of the MEWA, such as the fees of
24 the trustee, licensed agents, administrator,

1 service company, and all expenses of complying
2 with the provisions of this act,

3 c. offered only to employers for the benefit of their
4 employees,

5 d. operated in accordance with sound actuarial
6 principles, and

7 e. offered only after Two Hundred Thousand Dollars
8 (\$200,000.00) of cash or federally guaranteed
9 obligations of less than five-year maturity that have
10 a fixed or recoverable principal amount or such other
11 investments as the Commissioner may authorize by rule
12 is titled in such a manner that it may not be traded,
13 sold or otherwise expended without the consent of the
14 Insurance Commissioner; provided, ~~said~~ the funds shall
15 be taken into account in determining whether the MEWA
16 is actuarially sound, and evidence of ~~said~~ the
17 investment shall be filed with the ~~State Treasurer~~
18 Commissioner.

19 B. 1. The MEWA shall issue to each covered employee a policy,
20 contract, certificate, summary plan description, or other evidence
21 of the benefits and coverages provided. The policy, contract,
22 certificate, summary plan description, or other evidence of the
23 benefits, coverages provided, premium rates to be charged and any
24 contracts between the MEWA and any administrator or service company,

1 including any changes to those documents, must be filed with the
2 Oklahoma Insurance Department. The evidence of benefits and
3 coverages provided shall contain, in boldface type on the face page
4 of the policy and the certificate, the following statement: "THE
5 BENEFITS AND COVERAGES DESCRIBED HEREIN ARE PROVIDED THROUGH A TRUST
6 FUND ESTABLISHED BY A GROUP OF EMPLOYERS (name of MEWA). THE TRUST
7 FUND IS NOT SUBJECT TO ANY INSURANCE GUARANTY ASSOCIATION. OTHER
8 RELATED FINANCIAL INFORMATION IS AVAILABLE FROM YOUR EMPLOYER OR
9 FROM THE (name of MEWA). EXCESS INSURANCE IS PROVIDED BY A LICENSED
10 INSURANCE COMPANY TO COVER CERTAIN CLAIMS WHICH EXCEED CERTAIN
11 AMOUNTS. THIS IS THE ONLY SOURCE OF FUNDING FOR THESE BENEFITS AND
12 COVERAGES."

13 2. If applicable, the same documents shall contain in boldface
14 type on the face page of the policy and the certificate: "THE
15 BENEFITS AND COVERAGE DESCRIBED HEREIN ARE FUNDED BY CONTRIBUTIONS
16 FROM EMPLOYERS, EMPLOYEES, AND OTHER INDIVIDUALS ELIGIBLE FOR
17 COVERAGE."

18 3. Any statement required by this subsection is not required on
19 identification cards issued to covered employees or other insureds.

20 C. The Commissioner shall not grant or continue a license to
21 any MEWA if the Commissioner reasonably deems that:

22 1. Any trust, manager or administrator is incompetent,
23 untrustworthy, or so lacking in insurance expertise as to make the
24

1 operations of the MEWA hazardous to the potential and existing
2 insureds;

3 2. Any trustee, manager or administrator has been found guilty
4 of or has pled guilty or no contest to a felony, a crime involving
5 moral turpitude, or a crime punishable by imprisonment of one (1)
6 year or more under the law of any state or country, whether or not a
7 judgment or conviction has been entered; or

8 3. Any trustee, manager or administrator has had any type of
9 insurance license justifiably revoked in this or any other state.

10 D. To qualify for and retain a license, a MEWA shall file all
11 contracts with administrators or service companies with the
12 ~~Insurance~~ Commissioner, and report any changes in such contracts to
13 the Commissioner in advance of their implementation. The
14 Commissioner shall have the authority to cause any contract with an
15 administrator or service company to be renegotiated if the
16 Commissioner reasonably determines that the charges under any such
17 contract are excessively high in light of the services being
18 delivered under the contract.

19 E. An initial filing fee of One Thousand Dollars (\$1,000.00) is
20 required for licensure. Each subsequent year the MEWA is in
21 operation, an annual fee of Two Hundred Fifty Dollars (\$250.00)
22 shall be required.

23

24

1 F. Failure to maintain compliance with the eligibility
2 requirements established by this section is a ground for denial,
3 suspension or revocation of the license of a MEWA.

4 SECTION 7. AMENDATORY 36 O.S. 2011, Section 1435.15, is
5 amended to read as follows:

6 Section 1435.15 A. An insurance producer shall not act as an
7 agent of an insurer unless the insurance producer becomes an
8 appointed agent of that insurer. An insurance producer who is not
9 acting as an agent of an insurer is not required to become
10 appointed.

11 B. To appoint a producer as its agent, the appointing insurer,
12 or an authorized representative of the insurer, shall file, in a
13 format approved by the Insurance Commissioner, a notice of
14 appointment within fifteen (15) days from the date the agency
15 contract is executed or the first insurance application is
16 submitted. For purposes of this section, an "authorized
17 representative of the insurer" means a person or entity licensed by
18 the ~~Insurance~~ Commissioner pursuant to the laws of this state who is
19 authorized in writing by the appointing insurer to file appointments
20 for the appointing insurer. An insurer or authorized representative
21 of an insurer may also elect to appoint a producer to all or some
22 insurers within the insurer's holding company system or group by the
23 filing of a single appointment request.

24

1 C. Upon receipt of the notice of appointment, the Insurance
2 Commissioner shall verify within a reasonable time not to exceed
3 thirty (30) days that the insurance producer is eligible for
4 appointment. If the insurance producer is determined to be
5 ineligible for appointment, the ~~Insurance~~ Commissioner shall notify
6 the insurer and the authorized representative of the insurer within
7 five (5) days of its determination.

8 D. An insurer or authorized representative of an insurer shall
9 pay ~~a biennial~~ an appointment fee, in the amount and method of
10 payment set forth in Section 1435.23 of this title, for each
11 insurance producer appointed by the insurer for each insurer for
12 which the insurance producer is appointed.

13 E. It shall be unlawful for any insurer to discriminate among
14 or between the insurance producers it has appointed. Any person or
15 company convicted of violating the provisions of this section shall
16 be guilty of a misdemeanor and shall be punished by the imposition
17 of a fine of not more than Five Hundred Dollars (\$500.00) or
18 imprisonment in the county jail for not less than six (6) months nor
19 more than one (1) year, or be punished by both ~~said~~ fine and
20 imprisonment.

21 SECTION 8. AMENDATORY 36 O.S. 2011, Section 1701, is
22 amended to read as follows:

23 Section 1701. The ~~State Treasurer~~ Insurance Commissioner of
24 Oklahoma shall accept and hold in trust, ~~when made through the~~

1 ~~Insurance Commissioner,~~ deposits of securities or funds by insurers
2 as follows:

3 1. Deposits required for authority to transact insurance in
4 Oklahoma-;

5 2. Deposits of domestic, foreign, or alien insurers when made
6 pursuant to the laws of other states, provinces, and countries as
7 prerequisite for authority to transact insurance in such state,
8 province, or country-; and

9 3. Deposits in such additional amounts as are permitted to be
10 made by Section 1706 of this ~~article~~ title.

11 SECTION 9. AMENDATORY 36 O.S. 2011, Section 1704, is
12 amended to read as follows:

13 Section 1704. A. Upon request of the insurer, the ~~State~~
14 ~~Treasurer~~ Insurance Commissioner may designate any solvent trust
15 company or other solvent financial institution having trust powers
16 domiciled in this State as the ~~treasurer's~~ Commissioner's depository
17 to receive and hold any such deposit. Any such deposit so held
18 shall be at the expense of the insurer.

19 B. The State of Oklahoma shall be responsible for the
20 safekeeping and return of all funds and securities deposited
21 pursuant to this Code with the ~~State Treasurer~~ Commissioner or in
22 any depository so designated by ~~him~~ the Commissioner.

23 SECTION 10. AMENDATORY 36 O.S. 2011, Section 2406, is
24 amended to read as follows:

1 Section 2406. Before any mutual benefit association shall do
2 business in this state, under this article, it shall file in the
3 office of the Insurance Commissioner, a bond of the official
4 custodian of its fund executed by a surety company authorized to do
5 business in this state, to be approved by the ~~Insurance~~
6 Commissioner, in the sum of Ten Thousand Dollars (\$10,000.00), to be
7 conditioned for the prompt and full accounting and payment to the
8 association of all of its funds entrusted to ~~said~~ the officer and
9 that are in his or her hands, and that he or she will faithfully
10 comply with and perform all and singular the duties and obligations
11 imposed upon him or her by the laws of this state. If any such
12 association shall fail or refuse to make payment of any benefit or
13 claim against the association, after final judgment has been
14 obtained therefor, the ~~Insurance~~ Commissioner shall notify the
15 association not to issue any new certificates or solicit new
16 business until such indebtedness is fully paid, and no officer or
17 agent of such association shall make, sign or issue any certificate
18 of insurance while such notice is in force. Any such mutual benefit
19 association hereafter organized under the laws of this state shall,
20 before it completes its organization and receives a certificate of
21 authority to do business in this state, produce and maintain an
22 emergency or reserve fund of at least Ten Thousand Dollars
23 (\$10,000.00), and such reserve or emergency fund produced and
24 maintained as herein provided shall be invested in such securities

1 as may be approved by the ~~Insurance~~ Commissioner, as required by law
2 for the investment of such funds, and they shall be deposited with
3 the ~~State Treasurer of the State of Oklahoma~~ Commissioner and be
4 held by him or her in trust as an emergency fund for the benefit and
5 protection of, and as security for, the certificate holders of such
6 associations, their legal representatives or beneficiaries, and they
7 shall have a lien to the extent of any valid claim arising out of a
8 valid certificate, after such claim has been allowed by the
9 association or established by a final judgment of a court of
10 competent jurisdiction. Such securities as are deposited with the
11 ~~State Treasurer~~ Commissioner, pursuant to this article, shall be
12 part of the admitted assets of the association depositing the same.
13 Two or more such associations authorized to do business in this
14 state where one or all of them have been authorized under the laws
15 of this state, may merge, unite or consolidate, or may cause the
16 business and property, in whole or in part of one or more of ~~said~~
17 the associations to be transferred to one of such associations, or
18 to any insurance association, company or corporation licensed to do
19 business in this state, or to any person or persons: provided,
20 however, before doing so, they shall submit to the ~~Insurance~~
21 Commissioner their agreement relating thereto, and, thereupon, he or
22 she shall approve the same if he or she is satisfied that such
23 merger, consolidation or transfer will not be prejudicial to the
24 rights of the members and that such association can comply with the

1 terms and conditions prescribed by law for the conduct and operation
2 thereof.

3 SECTION 11. AMENDATORY 36 O.S. 2011, Section 2503, is
4 amended to read as follows:

5 Section 2503. No such corporation, company or association shall
6 commence the business of insurance until the Insurance Commissioner
7 shall have certified that it has complied with the provisions of
8 this article, and is authorized to transact the business of
9 insurance; provided, however, that every corporation incorporating
10 or reincorporating under the provisions of this article shall
11 deposit with the ~~State Treasurer~~ Commissioner securities in which
12 insurance companies are allowed by law to invest, subject to the
13 approval of the Insurance Commissioner, a sum not less than Twenty
14 Thousand Dollars (\$20,000.00), before it shall commence business.
15 ~~Said~~ The sum shall be a part of the insurance fund and an asset of
16 the corporation. The securities deposited with the ~~State Treasurer~~
17 Commissioner pursuant to this section shall be held in trust as an
18 emergency fund for the benefit and protection of and as security for
19 the policyholders of such corporation, their legal representatives
20 and beneficiaries.

21 SECTION 12. AMENDATORY 36 O.S. 2011, Section 2604, is
22 amended to read as follows:

23
24

1 Section 2604. A. Corporations governed by this article shall
2 at all times have on deposit with the ~~State Treasurer~~ Insurance
3 Commissioner sums as follows:

4 1. If newly formed under this article, the sum of Fifteen
5 Thousand Dollars (\$15,000.00) ~~;~~ or

6 2. If formed under prior law, such sum as was so required under
7 such prior law.

8 Every such corporation shall deposit with the ~~State Treasurer~~
9 Commissioner, not later than the first day of each February, an
10 amount equal to two percent (2%) of the gross subscriptions
11 collected during the preceding calendar year, until the deposit of
12 such corporation reaches a total of Twenty-five Thousand Dollars
13 (\$25,000.00). All such deposits shall be held by the ~~State~~
14 ~~Treasurer~~ Commissioner in trust for the benefit and protection of
15 the subscribers of the corporation making the deposit.

16 B. The deposit prescribed by this section shall be subject to
17 withdrawal in whole or in part on the order of and as directed by
18 the Insurance Commissioner, but may, with the approval of the
19 Commissioner, be invested in bonds of the United States or of the
20 State of Oklahoma, or any political subdivision thereof, or state
21 warrants, which shall be assigned to the ~~State Treasurer~~
22 Commissioner and held by ~~him~~ the Commissioner as provided for
23 original deposits. The securities may, with the approval of the
24 Commissioner, be exchanged for similar securities or cash of equal

1 amount. Interest on securities so deposited shall be payable to the
2 corporation depositing the same.

3 C. An unsettled final judgment, arising upon a certificate of
4 participation against such a corporation, shall be a lien on the
5 deposit prescribed by this section, subject to execution after
6 thirty (30) days from the entry of final judgment. If the deposit
7 is reduced thereby, it shall be replenished within ninety (90) days.

8 D. 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 ~~State Treasurer~~ Commissioner and any
11 other assets of the insurer shall be distributed to the holders of
12 certificates of participation in good standing at the time
13 proceedings for the liquidation or dissolution of the corporation
14 were commenced, prorated according to the gross amount of
15 subscriptions which have been paid on such certificates up to the
16 time such proceedings were commenced.

17 SECTION 13. AMENDATORY 36 O.S. 2011, Section 2654, is
18 amended to read as follows:

19 Section 2654. A. Corporations governed by this article shall
20 at all times have on deposit with the ~~State Treasurer~~ Insurance
21 Commissioner the sum of Five Thousand Dollars (\$5,000.00).

22 Every such corporation shall deposit with the ~~State Treasurer~~
23 Commissioner, not later than ~~the 1st day of~~ each February 1, an
24 amount equal to two percent (2%) of the gross subscriptions

1 collected during the preceding calendar year, until the deposit of
2 such corporation reaches a total of Ten Thousand Dollars
3 (\$10,000.00). All such deposits shall be held by the ~~State~~
4 ~~Treasurer~~ Commissioner in trust for the benefit and protection of
5 the subscribers of the corporation making the deposit.

6 B. The deposit prescribed by this section shall be subject to
7 withdrawal in whole or in part on the order of and as directed by
8 the ~~Insurance~~ Commissioner, but may, with the approval of the
9 Commissioner, be invested in bonds of the United States or of the
10 State of Oklahoma, or any political subdivision thereof, or state
11 warrants, which shall be assigned to the ~~State Treasurer~~
12 Commissioner and held by ~~him~~ the Commissioner as provided for
13 original deposits. The securities may, with the approval of the
14 Commissioner, be exchanged for similar securities or cash of equal
15 amount. Interest on securities so deposited shall be payable to the
16 corporation depositing the same.

17 C. An unsettled final judgment, arising upon a certificate of
18 participation against such a corporation, shall be a lien on the
19 deposit prescribed by this section, subject to execution after
20 thirty (30) days from the entry of final judgment. If the deposit
21 is reduced thereby, it shall be replenished within ninety (90) days.

22 D. Upon the liquidation or dissolution of such corporation and
23 the satisfaction of all its liabilities, any balance remaining in
24 the deposit in the hands of the ~~State Treasurer~~ Commissioner and any

1 other assets of the insurer shall be distributed to the holders of
2 certificates of participation in good standing at the time
3 proceedings for the liquidation or dissolution of the corporation
4 were commenced, prorated according to the gross amount of
5 subscriptions which have been paid on such certificates up to the
6 time such proceedings were commenced.

7 SECTION 14. AMENDATORY 36 O.S. 2011, Section 2674, is
8 amended to read as follows:

9 Section 2674. A. Each corporation governed by this Article
10 shall at all times have on deposit with the ~~State Treasurer~~
11 Insurance Commissioner the sum of Fifteen Thousand Dollars
12 (\$15,000.00). In addition every such corporation shall deposit with
13 the ~~State Treasurer~~ Commissioner, not later than ~~the first day of~~
14 each February 1, an amount equal to two percent (2%) of the gross
15 subscriptions collected during the preceding calendar year, until
16 the deposit of such corporation reaches a total of Twenty-five
17 Thousand Dollars (\$25,000.00). All such deposits shall be held by
18 the ~~State Treasurer~~ Commissioner in trust for the benefit and
19 protection of the subscribers of the corporation making the deposit.

20 B. The deposit prescribed by this section shall be subject to
21 withdrawal in whole or in part on the order of and as directed by
22 the ~~Insurance~~ Commissioner and may be invested in bonds of the
23 United States or of the State of Oklahoma, or any political
24 subdivision thereof, or state warrants, which shall be assigned to

1 the ~~State Treasurer~~ Commissioner and held by ~~him~~ the Commissioner as
2 provided for original deposits. The securities may, with the
3 approval of the Commissioner, be exchanged for similar securities or
4 cash of equal amount. Interest on securities so deposited shall be
5 payable to the corporation depositing the same.

6 C. An unsettled final judgment, arising upon a certificate of
7 participation against such a corporation, shall be a lien on the
8 deposit prescribed by this section, subject to execution after
9 thirty (30) days from the entry of final judgment. If the deposit
10 is reduced thereby, it shall be replenished within ninety (90) days.

11 D. Upon the liquidation or dissolution of such corporation and
12 the satisfaction of all its liabilities, any balance remaining in
13 the deposit in the hands of the ~~State Treasurer~~ Commissioner and any
14 other assets of the insurer shall be distributed in the manner
15 directed by the directors of the dental service corporation.

16 SECTION 15. AMENDATORY 36 O.S. 2011, Section 2680, is
17 amended to read as follows:

18 Section 2680. A. Each dental service corporation shall
19 annually, on or before the last day of March, file in the office of
20 the Insurance Commissioner a full, true and complete statement of
21 the condition of the corporation on December 31 of the preceding
22 year in such form as shall be prescribed by the ~~Insurance~~
23 Commissioner, and which shall be verified under oath by at least two
24 ~~(2)~~ of the principal officers of the corporation.

1 B. Whenever the Insurance Commissioner deems it pertinent or
2 necessary, and at least once in each period of ~~three (3)~~ five (5)
3 years, the ~~Insurance~~ Commissioner shall personally, or by ~~his~~
4 authorized representative, visit each corporation and thoroughly
5 inspect and examine its financial condition, its ability to fulfill
6 its obligations, whether it has complied with the provisions of the
7 law, and any other facts relative to its business methods,
8 management and the equity of its dealings with its members. The
9 ~~Insurance~~ Commissioner may summon and administer the oath to and
10 examine as witnesses the directors, officers, trustees, agents,
11 representatives and members of any corporation and any other person
12 or persons relative to its affairs, transactions and condition. Any
13 corporation so examined shall pay the proper charges for the per
14 diem, travel and other necessary expenses in connection therewith.

15 SECTION 16. AMENDATORY 36 O.S. 2011, Section 2691.4, is
16 amended to read as follows:

17 Section 2691.4 A. Each corporation governed by this article
18 shall at all times have on deposit with the ~~State Treasurer~~
19 Insurance Commissioner the sum of Fifteen Thousand Dollars
20 (\$15,000.00). In addition every such corporation shall deposit with
21 the ~~State Treasurer~~ Commissioner, not later than ~~the first day of~~
22 each February 1, an amount equal to two percent (2%) of the gross
23 subscriptions collected during the preceding calendar year, until
24 the deposit of such corporation reaches a total of Twenty-five

1 Thousand Dollars (\$25,000.00). All such deposits shall be held by
2 the ~~State Treasurer~~ Commissioner in trust for the benefit and
3 protection of the subscribers of the corporation making the deposit.

4 B. The deposit prescribed by this section shall be subject to
5 withdrawal in whole or in part on the order of and as directed by
6 the ~~Insurance~~ Commissioner and may be invested in bonds of the
7 United States or of the State of Oklahoma, or any political
8 subdivision thereof, or state warrants, which shall be assigned to
9 the ~~State Treasurer~~ Commissioner and held by ~~him~~ the Commissioner as
10 provided for original deposits. The securities may, with the
11 approval of the Commissioner, be exchanged for similar securities or
12 cash of equal amount. Interest on securities so deposited shall be
13 payable to the corporation depositing the same.

14 C. An unsettled final judgment, arising upon a certificate of
15 participation against such a corporation, shall be a lien on the
16 deposit prescribed by this section, subject to execution after
17 thirty (30) days from the entry of final judgment. If the deposit
18 is reduced thereby, it shall be replenished within ninety (90) days.

19 D. Upon the liquidation or dissolution of such corporation and
20 the satisfaction of all its liabilities, any balance remaining in
21 the deposit in the hands of the ~~State Treasurer~~ Commissioner and any
22 other assets of the insurer shall be distributed in the manner
23 directed by the directors of the chiropractic service corporation.

24

1 SECTION 17. AMENDATORY 36 O.S. 2011, Section 4030.9, as
2 amended by Section 10, Chapter 269, O.S.L. 2013 (36 O.S. Supp. 2013,
3 Section 4030.9), is amended to read as follows:

4 Section 4030.9 For the purpose of determining the benefits
5 calculated under Sections 4030.7 and 4030.8 of this title for
6 annuity contracts issued on or after November 1, 2013, ~~in the case~~
7 ~~of annuity contracts under which an election may be made to have~~
8 ~~annuity payments commence at optional maturity dates,~~ the maturity
9 date shall be deemed to be the latest date for which election shall
10 be permitted by the contract, but shall not be deemed to be later
11 than the anniversary of the contract next following the annuitant's
12 seventieth birthday or the tenth anniversary of the contract,
13 whichever is later. ~~Except that~~ However, if surrender charge scales
14 are measured from the date of each premium payment, the maturity
15 date shall be deemed to be the latest date for which election shall
16 be permitted by the contract, but shall not be deemed to be later
17 than the anniversary of the contract next following the annuitant's
18 seventieth birthday or the tenth anniversary of the payment,
19 whichever is later.

20 SECTION 18. AMENDATORY 36 O.S. 2011, Section 6146, is
21 amended to read as follows:

22 Section 6146. A. A prepaid dental plan organization shall keep
23 on deposit with the ~~State Treasurer~~ Insurance Commissioner cash
24 certificates of deposit issued by solvent insured banks and trust

1 companies in Oklahoma, or a combination of cash certificates or
2 securities eligible for investment of capital funds, which have been
3 approved by the Commissioner in the following amounts:

4	Number of members	Deposit
5	5,000 or less	\$25,000.00
6	5,001 - 7,500	\$30,000.00
7	7,501 - 10,000	\$50,000.00
8	10,001 - 15,000	\$75,000.00
9	15,001 - 20,000	\$100,000.00
10	20,001 - 25,000	\$125,000.00
11	25,001 - 30,000	\$150,000.00
12	30,001 - 40,000	\$175,000.00
13	40,001 and above	\$200,000.00

14 B. The deposit required by the provisions of subsection A of
15 this section shall be held by the ~~State Treasurer~~ Commissioner in
16 trust for the benefit and protection of persons covered by a prepaid
17 dental plan and shall not be subject to attachment by any creditors
18 of the prepaid dental organization or plan.

19 C. Any securities required by the provisions of subsection A of
20 this section, with the approval of the Commissioner, may be
21 exchanged for similar securities or cash of equal amount. Interest
22 on securities deposited shall be payable to the prepaid dental plan
23 organization depositing such securities.

24

1 D. An unpaid final judgment arising upon a membership coverage
2 shall be a lien on the deposit held by the ~~State Treasurer~~
3 Commissioner, subject to execution after thirty (30) days from the
4 entry of final judgment, unless the judgment is satisfied. If the
5 deposit held by the ~~State Treasurer~~ Commissioner is reduced, ~~said~~
6 the deposit shall be replenished within ninety (90) days by the
7 prepaid dental plan organization.

8 E. The deposit prescribed by the provisions of subsection A of
9 this section shall not apply to a prepaid dental plan organization
10 which is funded by the state, a political subdivision of the state,
11 or the United States.

12 F. Upon liquidation or dissolution of a prepaid dental plan
13 organization and the satisfaction of all debts and liabilities of
14 the organization, any balance remaining of the cash or securities
15 deposit as prescribed in subsection A of this section together with
16 any other assets of the prepaid dental plan organization shall be
17 returned by the Commissioner to the prepaid dental plan
18 organization.

19 SECTION 19. AMENDATORY 36 O.S. 2011, Section 6913, is
20 amended to read as follows:

21 Section 6913. A. 1. Before issuing any certificate of
22 authority, the Insurance Commissioner shall require that the health
23 maintenance organization have an initial net worth of One Million
24 Five Hundred Thousand Dollars (\$1,500,000.00) and that the HMO shall

1 thereafter maintain the minimum net worth required under paragraph 2
2 of this subsection.

3 2. Except as provided in paragraphs 3 and 4 of this subsection,
4 every health maintenance organization shall maintain a minimum net
5 worth equal to the greater of:

6 a. One Million Five Hundred Thousand Dollars

7 (\$1,500,000.00),

8 b. two percent (2%) of annual premium revenues as

9 reported on the most recent annual financial statement

10 filed with the ~~Insurance~~ Commissioner on the first One

11 Hundred Fifty Million Dollars (\$150,000,000.00) of

12 premium and one percent (1%) of annual premium on the

13 premium in excess of One Hundred Fifty Million Dollars

14 (\$150,000,000.00),

15 c. an amount equal to the sum of three (3) months of

16 uncovered health care expenditures as reported on the

17 most recent financial statement filed with the

18 ~~Insurance~~ Commissioner, or

19 d. an amount equal to the sum of:

20 (1) eight percent (8%) of annual health care

21 expenditures, except those paid on a capitated

22 basis or managed hospital payment basis, as

23 reported on the most recent financial statement

24 filed with the ~~Insurance~~ Commissioner, and

1 (2) four percent (4%) of annual hospital expenditures
2 paid on a managed hospital payment basis, as
3 reported on the most recent financial statement
4 filed with the ~~Insurance~~ Commissioner.

5 3. Every health maintenance organization licensed before ~~the~~
6 ~~effective date of this act~~ November 1, 2003, shall maintain a
7 minimum net worth of the greater of Seven Hundred Fifty Thousand
8 Dollars (\$750,000.00) or:

- 9 a. twenty-five percent (25%) of the amount required by
10 paragraph 2 of this subsection by December 31, 2003,
11 b. fifty percent (50%) of the amount required by
12 paragraph 2 of this subsection by December 31, 2004,
13 c. seventy-five percent (75%) of the amount required by
14 paragraph 2 of this subsection by December 31, 2005,
15 and
16 d. one hundred percent (100%) of the amount required by
17 paragraph 2 of this subsection by December 31, 2006.

- 18 4. a. In determining net worth, no debt shall be considered
19 fully subordinated unless the subordination clause is
20 in a form acceptable to the ~~Insurance~~ Commissioner.
21 An interest obligation relating to the repayment of
22 any subordinated debt shall be similarly subordinated.
23
24

1 b. The interest expenses relating to the repayment of a
2 fully subordinated debt shall be considered covered
3 expenses.

4 c. A debt incurred by a note meeting the requirements of
5 this section, and otherwise acceptable to the
6 Insurance Commissioner, shall not be considered a
7 liability and shall be recorded as equity.

8 B. 1. Unless otherwise provided below, each health maintenance
9 organization shall deposit with the ~~Insurance~~ Commissioner or, at
10 the discretion of the ~~Insurance~~ Commissioner, with any organization
11 or trustee acceptable to the ~~Insurance~~ Commissioner through which a
12 custodial or controlled account is utilized, cash, securities, or
13 any combination of these or other measures that are acceptable to
14 the ~~Insurance~~ Commissioner, which at all times shall have a value of
15 not less than Five Hundred Thousand Dollars (\$500,000.00).

16 2. The deposit shall be an admitted asset of the health
17 maintenance organization in the determination of net worth.

18 3. All income from deposits shall be an asset of the
19 organization. A health maintenance organization that has made a
20 securities deposit may withdraw that deposit or any part thereof
21 after making a substitute deposit of cash, securities, or any
22 combination of these or other measures of equal amount and value.
23 Any securities shall be approved by the ~~Insurance~~ Commissioner
24 before being deposited or substituted.

1 4. The deposit shall be used to protect the interests of the
2 health maintenance organization's enrollees and to ensure
3 continuation of health care services to enrollees of a health
4 maintenance organization that is in rehabilitation or conservation.
5 The ~~Insurance~~ Commissioner may use the deposit for administrative
6 costs directly attributable to a receivership or liquidation. If a
7 health maintenance organization is placed in receivership or
8 liquidation, the deposit shall be an asset subject to the provisions
9 of the Uniform Insurers Liquidation Act.

10 5. The Insurance Commissioner may reduce or eliminate the
11 deposit requirement if a health maintenance organization deposits
12 with the ~~State Treasurer, Insurance Commissioner,~~ Commissioner or
13 other official body of the state or jurisdiction of domicile for the
14 protection of all subscribers and enrollees of the health
15 maintenance organization, wherever located, cash, acceptable
16 securities or surety, and delivers to the ~~Insurance~~ Commissioner a
17 certificate to that effect, duly authenticated by the appropriate
18 state official holding the deposit.

19 C. 1. Every health maintenance organization shall, when
20 determining liabilities, include an amount estimated in the
21 aggregate to provide for:

- 22 a. any unearned premium,
- 23 b. the payment of all claims for incurred health care
24 expenditures, whether reported or unreported, that are

1 unpaid and for which the organization is or may be
2 liable, and

3 c. the expense of adjustment or settlement of those
4 claims.

5 2. The liabilities shall be computed in accordance with rules
6 promulgated by the ~~Insurance~~ Commissioner upon reasonable
7 consideration of the ascertained experience and character of the
8 health maintenance organization.

9 D. 1. Every contract between a health maintenance organization
10 and a participating provider of health care services shall be in
11 writing and shall provide that, in the event the health maintenance
12 organization fails to pay for health care services as set forth in
13 the contract, a subscriber or an enrollee shall not be liable to the
14 provider for any sums owed by the health maintenance organization.

15 2. In the event that the participating provider contract has
16 not been reduced to writing as required by this subsection or that
17 the contract fails to contain the required prohibition, the
18 participating provider shall not collect or attempt to collect from
19 a subscriber or an enrollee sums owed by the health maintenance
20 organization.

21 3. No participating provider or the provider's agent, trustee
22 or assignee may maintain an action at law against a subscriber or
23 enrollee to collect sums owed by the health maintenance
24 organization.

1 E. The ~~Insurance~~ Commissioner shall require that each health
2 maintenance organization have a plan for handling insolvency that
3 allows for continuation of benefits for the duration of the contract
4 period for which premiums have been paid and continuation of
5 benefits to subscribers or enrollees who are confined on the date of
6 insolvency in an inpatient facility until their discharge or
7 expiration of benefits. In considering such a plan, the ~~Insurance~~
8 Commissioner may require:

9 1. Insurance to cover the expenses to be paid for continued
10 benefits after an insolvency;

11 2. Provisions in provider contracts that obligate the provider
12 to provide services for the duration of the period after the health
13 maintenance organization's insolvency for which premium payment has
14 been made and until the enrollees' discharge from inpatient
15 facilities;

16 3. Insolvency reserves;

17 4. Acceptable letters of credit; or

18 5. Any other arrangements to ensure continuation of benefits as
19 specified above.

20 F. An agreement to provide health care services between a
21 provider and a health maintenance organization shall require that if
22 the provider terminates the agreement, the provider shall give the
23 organization at least ninety (90) days' advance notice of such
24 termination.

1 SECTION 20. This act shall become effective November 1, 2014.

2 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
3 February 26, 2014 - DO PASS AS AMENDED
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