

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3280

By: Mulready

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6 AS INTRODUCED

7 An Act relating to insurance; authorizing the
8 creation of nonprofit health maintenance organization
9 corporations; exempting certain corporations from
10 insurance laws unless specifically made applicable;
11 granting certain powers and authority to nonprofit
12 health maintenance organization corporations;
13 providing for application for certificate of
14 authority process; providing requirements for
15 certification; requiring deposit; authorizing certain
16 certified corporations to enter into certain
17 contracts and investments; requiring certain form and
18 rate approval by the Insurance Commissioner;
19 providing for hearing upon disapproval; requiring
20 certain director membership; providing for certain
21 ownership requirements; providing for applicability
22 of certain act; limiting liability; providing for
23 applicability; providing certain exemptions; amending
24 36 O.S. 2011, Section 624, which relates to payment
of fees and taxes; exempting certain corporations
from certain fees and taxes; providing for
codification; providing an effective date; and
declaring an emergency.

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

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:

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

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

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

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

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

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

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

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

18 4. The nonprofit corporation has met, or will be able to meet,
19 the requirements set forth in the Health Maintenance Organization
20 Act of 2003.

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

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

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

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

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

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

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

8 C. A certified corporation may contract with any other person
9 for the cooperative administration or underwriting with regard to
10 the performance of the obligations created upon it under the
11 contracts it issues to the subscribers and to participating
12 physicians or facilities.

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

21 E. A certified corporation may join with, contract with or
22 serve in any capacity with any agency of the United States of
23 America, the State of Oklahoma or any county, city or town, in
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1 connection with any program or undertaking sponsored by one or more
2 of the above.

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

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

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

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 shall be applicable to
16 nonprofit health maintenance organization corporations except that
17 such corporations shall not be subject to any taxation and shall use
18 their income and profit to further facilitate the providing of
19 health care services to the public after paying expenses of
20 operation and ownership.

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

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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 and to be exempt
11 from federal, state, county, district, municipal and school taxes,
12 including the taxes prescribed by the Oklahoma Insurance Code or any
13 fee imposed upon insurers or health care plans under the federal
14 Affordable Care Act, except for fees prescribed by Section 321 of
15 Title 36 of the Oklahoma Statutes, and taxes on real and tangible
16 personal property situated within this state.

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

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

1 SECTION 14. AMENDATORY 36 O.S. 2011, Section 624, is
2 amended to read as follows:

3 Section 624. A. Every insurance company, copartnership,
4 insurance association, interinsurance exchange, person, insurer,
5 nonprofit hospital service and medical indemnity corporation, or
6 health maintenance organization except as provided in subsection D
7 of this section, doing business in this state in the execution or
8 exchange of contracts of insurance, indemnity or health maintenance
9 services, or as an insurance company of any nature or character
10 whatsoever, hereinafter referred to in this article as an insurance
11 company, or company, shall, annually, on or before the first day of
12 March, report under oath of the president or secretary or other
13 chief officer of such company to the Insurance Commissioner, the
14 total amount of direct written premiums, membership, application,
15 policy and/or registration fees charged during the preceding
16 calendar year, or since the last return of such direct written
17 premiums, membership, application, policy and/or registration fees
18 was made by such company, from insurance of every kind upon persons
19 or on the lives of persons resident in this state, or upon real and
20 personal property located within this state, and/or upon any other
21 risks insured within this state, provided, that with respect to the
22 tax payable annually, considerations received for annuity contracts
23 and payments received by a health maintenance organization from the
24 Secretary of Health and Human Services pursuant to a contract issued

1 under the provisions of 42 U.S.C., Section 1395mm(g) shall no longer
2 be deemed to be premiums for insurance and shall no longer be
3 subject to the tax imposed by this section. Every such company
4 shall, at the same time, pay to the Insurance Commissioner:

5 1. An annual license fee as prescribed by Section 321 of this
6 title; and

7 2. An annual tax on all of the direct written premiums after
8 all returned premiums are deducted, and on all membership,
9 application, policy and/or registration fees, installment and/or
10 finance fees or charges collected thereby, for the privileges of
11 having written, continued and/or serviced insurance on lives,
12 property and/or other risks in this state and of having made and
13 serviced investments therein during the then expiring license year
14 except premiums or fees paid by any county, city, town or school
15 district funds or by their duly constituted authorities performing a
16 public service organized pursuant to Sections 1001 through 1008 of
17 Title 74 of the Oklahoma Statutes, or Sections 176 through 180.4 of
18 Title 60 of the Oklahoma Statutes. Provided, no deduction shall be
19 made from premiums for dividends paid to policyholders. The rate of
20 taxation for all entities subject to the tax shall be two and
21 twenty-five one-hundredths percent (2.25%). If any insurance
22 company or other entity liable for the taxes levied pursuant to the
23 provisions of this section fails to remit such taxes in a timely
24 manner, it shall remain liable therefor together with interest

1 thereon at an annual rate equal to the average United States
2 Treasury Bill rate of the preceding calendar year as certified by
3 the State Treasurer on the first regular business day in January of
4 each year, plus four percentage points.

5 B. For all insurance companies or other entities taxed pursuant
6 to this section, the annual license fee and tax and all required
7 membership, application, policy, registration, and agent appointment
8 fees shall be in lieu of all other state taxes or fees, except those
9 taxes and fees provided for in the Insurance Code, and the taxes and
10 fees of any subdivision or municipality of the state, except ad
11 valorem taxes and the tax required to be paid pursuant to Section
12 50001 of Title 68 of the Oklahoma Statutes. Provided, such license
13 fee, tax and membership, application, policy, registration, and
14 appointment fees shall be in lieu of any and all ad valorem taxes
15 levied on intangible personal property. Any company, except health
16 maintenance organizations, failing to make such returns and payments
17 promptly and correctly shall forfeit and pay to the Insurance
18 Commissioner, in addition to the amount of the taxes and fees and
19 interest, the sum of Five Hundred Dollars (\$500.00) or an amount
20 equal to one percent (1%) of the unpaid amount, whichever is
21 greater; and the company so failing or neglecting for sixty (60)
22 days shall thereafter be debarred from transacting any business of
23 insurance in this state until the taxes, fees and penalties are
24 fully paid, and the Insurance Commissioner shall revoke the license

1 or certificate of authority granted to the agent or agents of that
2 company to transact business in this state. Provided, that when any
3 such insurance company, copartnership, insurance association,
4 interinsurance exchange, person, insurer, or nonprofit hospital
5 service and indemnity corporation, applies for the first time for a
6 license to do business in Oklahoma, it shall, at the time of making
7 such application, pay a license fee as prescribed by Section 1425 of
8 this title, and, on or before the first day of March, following, pay
9 the premium tax, membership, application, policy, registration, and
10 agent appointment fees, as hereinbefore provided. Such license fee,
11 tax and membership, application, policy, registration, and
12 appointment fees shall be in lieu of all other state taxes or fees,
13 except those taxes and fees provided for in the Insurance Code, and
14 the taxes and fees of any subdivision or municipality of the state,
15 except ad valorem taxes and the tax required to be paid pursuant to
16 Section 50001 of Title 68 of the Oklahoma Statutes.

17 C. Any health maintenance organization, except as provided in
18 subsection D of this section, failing to file premium tax returns
19 and payments promptly and correctly shall forfeit and pay to the
20 Insurance Commissioner, in addition to the amount of the taxes, the
21 sum of Five Hundred Dollars (\$500.00) or an amount equal to one
22 percent (1%) of the unpaid amount, whichever is greater. Any health
23 maintenance organization failing or neglecting to pay the tax and
24 penalty shall be debarred from operating in this state and the

1 Insurance Commissioner shall revoke the license of the health
2 maintenance organization, until such taxes and penalties are fully
3 paid.

4 D. Nonprofit health maintenance organization corporations
5 organized pursuant to Sections 1 through 13 of this act shall not be
6 subject to the tax or fees imposed or required by this section.

7 SECTION 15. This act shall become effective July 1, 2014.

8 SECTION 16. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

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