

RS 17:48-1

October 9, 1973

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LEGISLATIVE HISTORY OF R.S.17:48-1
Hospital Services Corporations. definitions

✓ L.1938 - Chap.366 §1 - S375 Powell.

June 6 - Committee Substitute passed Senate.

June 8 - Passed Assembly.

June 14 - Approved.

Bill with Statement, Committee Substitute enclosed

No Report was found.

No Governor's correspondence.

L.1954 - Chap.257 - A365 Vanderbilt.

June 10 - Passed Assembly.

June 17 - Passed Senate.

Nov. 15 - Governor Conditional Veto

Nov. 22 - Passed Assembly, amended.

Dec. 6 - Passed Senate.

Dec. 17 - Approved.

Bill with Statement; Governor's Message; Assembly Amendment enclosed.

No report was found

L.1971 - Chap.136 §25 - S2088 Dumont, et al.

Apr. 5 - Passed Senate, amended.

Apr. 29 - Passed Assembly.

May 10 - Approved.

Bill with Statement, Senate Committee Amendment, Senate Amendment to OCR enclosed.

HP/EH
Encl.

SENATE, No. 375

(Title 15, Revised Statutes.)

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1938

By Mr. POWELL

Referred to Committee on Corporations

AN ACT regulating the incorporation of nonprofit hospital service plans, and supplementing Title 15 of the Revised Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State of New
2 Jersey:

1 1. Any corporation heretofore or hereafter organized under Title 15 of
2 the Revised Statutes for the purpose of establishing, maintaining and oper-
3 ating a nonprofit hospital service plan whereby hospital care may be pro-
4 vided by the said corporation or by a hospital with which it has a contract
5 for such care and which is maintained by the State or any of its political sub-
6 divisions or maintained by a corporation organized for hospital purposes
7 under the laws of this State, or such other hospitals as shall be designated
8 by the State Department of Institutions and Agencies, to such of the public
9 who become subscribers to said plan under a contract which entitles each
10 subscriber to said hospital care, shall be governed by this act and shall be
11 exempt from all other provisions of the insurance laws of this State, unless
12 specifically designated herein.

1 2. Persons desiring to form a nonprofit hospital service corporation
2 shall incorporate under the provisions of Title 15 of the Revised Statutes.
3 At least a majority of the directors of such corporation must be at all times
4 directors or trustees of hospitals designated in section one hereof which

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5 have contracted or may contract with such corporation to render to its sub-
6 scribers hospital service.

1 3. Every certificate of incorporation of a nonprofit hospital service cor-
2 poration filed pursuant to the provisions of the laws of this State shall have
3 endorsed thereon or annexed thereto the approval of the Commissioner of
4 Banking and Insurance and of the Commissioner of Institutions and
5 Agencies. No certificate shall be filed by the Secretary of State until both
6 of the approvals aforementioned have been secured.

1 4. No corporation organized as hereinabove set forth shall solicit or
2 transact any business in this State until it shall have secured from the Com-
3-4 missioner of Banking and Insurance a certificate of authority to transact
5 business. Such certificate shall issue when the certificate of incorporation
6 has been finally approved and shall be renewed annually thereafter upon
7 receipt of the statement required of the corporation in section eight of this
8 act, if in the judgment of the Commissioner of Banking and Insurance the
9 financial condition of the corporation warrants its continuance. This cer-
10 tificate may be revoked at any time if it shall appear that the corporation:

11 (a) has violated any provision of this act,

12 (b) is financially unsound,

13 (c) is conducting its business in an unfair, unlawful or inequitable
14 manner,

15 (d) is making contracts that are oppressive or calculated to mislead
16 the public, or

17 (e) has failed to file reports required hereunder.

1 5. Any incorporation, subject to the provisions of this act, may enter
2 into contracts for the rendering of hospital service to any of its subscribers
3 only with hospitals maintained by the State or any of its political subdivi-
4 sions or maintained by a corporation organized for hospital purposes under
5 the laws of this State or such other hospitals as shall be on the approved
6 list of the State Department of Institutions and Agencies for such pur-
7 pose.

1 6. The rates charged by such corporation to the subscribers for hospital
2 care shall at all times be subject to the approval of the Commissioner of
3 Banking and Insurance.

1 7. All rates of payments to hospitals made by such corporation pur-
2 suant to the contracts provided for in section five hereof shall be ap-
3 proved prior to payment by the Commissioner of Institutions and Agen-
4 cies.

1 8. Every such corporation shall annually, on or before the first day of
2 March, file in the office of the Department of Banking and Insurance a
3 statement verified by at least two of the principal officers of said corpora-
4 tion showing its financial condition on the thirty-first day of December then
5 next preceding, which shall be in such form and shall contain such informa-
6 tion as the Commissioner of Banking and Insurance shall prescribe.

1 9. The Commissioner of Banking and Insurance or any other person
2 whom he shall designate for such purpose shall have the power of visitation
3 and examination into the affairs of any such corporation and free access
4 to all of the books, papers and documents that relate to the business of the
5 corporation and may summon and qualify witnesses under oath to examine
6 its officers, agents, or employees or other persons in relation to the affairs,
7 transactions and condition of the corporation.

1 10. All costs in connection with the solicitation of subscribers to such
2 hospital service plans shall at all times be subject to the approval of the Com-
3 missioner of Banking and Insurance.

1 11. The funds of any such corporation subject to the provisions of this
2 act shall be invested only in those securities permitted by the laws of this
3 State for investment by insurance companies.

1 12. Any dispute arising between a corporation subject to the provisions
2 of this act and any hospital with whom such corporation has a contract for
3 hospital service as provided for in section five hereof may be submitted to
4 the Commissioner of Institutions and Agencies for his decision with respect
5 thereto.

1 13. All decisions and findings of the Commissioner of Banking and In-
2 surance and of the Commissioner of Institutions and Agencies made under
3 the provisions of this act may be reviewed by proper proceedings in a court
4 of competent jurisdiction.

1 14. Any dissolution or liquidation of a corporation subject to the provi-
2 sions of this act shall be in accord with the statutes of this State relating
3 to the dissolution and liquidation of insurance companies.

1 15. Every corporation subject to the provisions of this article is hereby
2 declared to be a charitable and benevolent institution and all of its funds
3 shall be exempt from every State, county, district, municipal and school
4 tax other than taxes on real estate and equipment.

1 16. If the certificate of incorporation specifies among its purposes the
2 establishment, maintenance, and operation of a hospital service plan, the
3 Secretary of State shall refer the same to the State Department of Bank-
4 ing and Insurance and to the State Department of Institutions and
5 Agencies and shall not file such a certificate containing such provision un-
6 til the approval of the Commissioner of each of the aforesaid departments
7 shall be endorsed thereon or annexed thereto.

1 17. This act shall take effect immediately.

STATEMENT

The purpose of this statute is to provide a means whereby the incorpora-
tion and subsequent operation of nonprofit hospital service plans may be regu-
lated under the joint supervision of the Department of Banking and Insurance
and the Department of Institutions and Agencies. The very nature of such
a plan makes it imperative that the operation thereof should come under the
jurisdiction of the respective State departments aforementioned so that the in-
vestment of the subscribers thereto may be given the same protection afforded
persons having investments in other forms of financial enterprises coming with-
in the jurisdiction of the Department of Banking and Insurance. This statute
has been approved by the Commissioner of Banking and Insurance.

COMMITTEE SUBSTITUTE FOR
SENATE, No. 375

STATE OF NEW JERSEY

ADOPTED MAY 16, 1938

AN ACT concerning hospital service corporations and regulating the establishment, maintenance and operation of hospital service plans, and supplementing Title 17 of the Revised Statutes by adding thereto a new chapter entitled "Hospital Service Corporations."

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. A hospital service corporation is hereby declared to be any corpora-
2 tion organized, without capital stock and not for profit, for the purpose of
3 establishing, maintaining and operating a nonprofit hospital service plan. A
4 hospital service plan is hereby defined as a plan whereby hospital service is
5 provided by a hospital service corporation or by a hospital with which the
6 corporation has a contract for such hospital service to persons who become
7 subscribers under contracts with the corporation. Hospital service provided
8 by a hospital service corporation shall consist of hospital care provided
9 through a hospital which is maintained by the State or any of its political
10 subdivisions or maintained by a corporation organized for hospital purposes
11 under the laws of this State, or such other hospitals as shall be designated
12 by the Department of Institutions and Agencies and hospitals of other States
13 subject to the supervision of such other States.

1 2. No hospital service corporation shall be converted into a corporation
2 organized for pecuniary profit. Every such corporation shall be operated
3 for the benefit of the subscribers with whom it has contracted to provide hos-
4 pital service. No person, firm, association or corporation, other than a hos-

5 pital service corporation, or an insurance company authorized to transact
6 the kinds of insurance specified in subdivisions c or d of section 17:17-1 of
7 the Revised Statutes shall establish, maintain or operate a hospital service
8 plan or otherwise contract in this State with persons to furnish hospital
9 service. No hospital service corporation shall solicit subscribers or enter
10 into any contract with any subscriber until it has received from the Com-
11 missioner of Banking and Insurance a certificate of authority to do so.

1 3. The Commissioner of Banking and Insurance may issue such certifi-
2 cate of authority to any such hospital service corporation of this State when
3 it shall have filed in the Department of Banking and Insurance a certified
4 copy of its charter or certificate of incorporation, a copy of its constitution
5 or by-laws, a statement of its financial condition in such form and detail as
6 the Commissioner of Banking and Insurance shall require, signed and sworn
7 to by its president and secretary or other proper officers, and the Commis-
8 sioner of Banking and Insurance is satisfied, on the basis of examination or
9 otherwise, that the corporation has complied with the requirements of this
10 chapter and that its condition or methods of operation are not such as would
11 render its operations hazardous to the public or to its subscribers. No change
12 in, amendment to, alteration in, addition to, or substitution for any document,
13 instrument or other paper so filed shall become operative or effective until
14 the same shall also have been filed in a similar manner. No such certificate
15 of authority shall be issued to any hospital service corporation not incor-
16 porated under the laws of this State.

1 4. No certificate of authority shall be issued to any hospital service cor-
2 poration except on receipt of evidence by the Commissioner of Banking and
3 Insurance that the corporation is in receipt of not less than five hundred
4 dollars (\$500.00) on bona fide applications for hospital service contracts
5 from not less than two hundred persons, which applications shall contain
6 provisions to the effect that any amounts collected with such applications
7 will be returned to such persons if the certificate of authority applied for
8 is not received by the corporation within one year from the date of the first

9 of such applications. The commissioner may refuse to issue any certificate
10 of authority applied for if, in his judgment, the issue thereof is contrary to
11 the public interest.

1 5. A copy of a certificate of incorporation of a hospital service corpo-
2 ration may be filed in the Department of Banking and Insurance as afore-
3 said only when there shall be endorsed on or appended to the original
4 thereof the approval of the Commissioner of Institutions and Agencies, who
5 is hereby authorized to grant such approval if, in his judgment, the opera-
6 tion of a nonprofit hospital service plan by such corporation is in the pub-
7 lic interest. No certificate of authority shall be issued to any such corpo-
8 ration unless the by-laws provide that at least a majority of the directors of
9 such corporation must be at all times directors or trustees of hospitals des-
10 ignated in section one hereof. Any outstanding certificate of authority shall
11 immediately become void if such by-law provision be removed or if there is
12 any failure of compliance therewith.

1 6. Every contract made by a corporation subject to the provisions of
2 this chapter to furnish services to a subscriber shall provide for the fur-
3 nishing of services for a period of twelve months, and no contract shall be
4 made providing for the inception of such services at a date later than one
5 year after the actual date of the making of such contract. Any such con-
6 tract may provide that it shall be automatically renewed from year to year
7 unless there shall have been one month's prior written notice of termination
8 by either the subscriber or the corporation.

9 No contract between any such corporation and a subscriber shall entitle
10 more than one person to services, except that a contract issued and marked
11 as a "family contract" may provide that services will be furnished to a hus-
12 band and wife, or husband, wife and their child or children not over eighteen
13 years of age.

14 Every contract entered into by any such corporation with any subscriber
15 thereto shall be in writing and a certificate stating the terms and conditions
16 thereof shall be furnished to the subscriber to be kept by him. No such cer-

17 tificate form shall be made, issued or delivered in this State unless it con-
18 tains the following provisions:

19 (a) A statement of the amount payable to the corporation by the sub-
20 scriber and the times at which and manner in which such amount is to be
21 paid;

22 (b) A statement of the nature of the services to be furnished and the
23 period during which they will be furnished; and if there are any serv-
24 ices to be excepted, a detailed statement of such exceptions printed as
25 hereinafter specified;

26 (c) A statement of the terms and conditions, if any, upon which the
27 contract may be cancelled or otherwise terminated at the option of either
28 party;

29 (d) A statement that the contract includes the endorsements thereon
30 and attached papers, if any, and contains the entire contract for serv-
31 ices;

32 (e) A statement that no statement by the subscriber in his application
33 for a contract shall avoid the contract or be used in any legal proceed-
34 ing thereunder, unless such application or an exact copy thereof is in-
35 cluded in or attached to such contract, and that no agent or representa-
36 tive of such corporation, other than an officer or officers designated there-
37 in, is authorized to change the contract or waive any of its provisions;

38 (f) A statement that if the subscriber defaults in making any pay-
39 ment under the contract, the subsequent acceptance of a payment by the
40 corporation or by one of its duly authorized agents shall reinstate the
41 contract, but with respect to sickness and injury, only to cover such sick-
42 ness as may be first manifested more than ten days after the date of such
43 acceptance;

44 (g) A statement of the period of grace which will be allowed the sub-
45 scriber for making any payment due under the contract. Such period
46 shall be not less than ten days.

47 In every such contract made, issued or delivered in this State:

48 (a) All printed portions shall be plainly printed in type of which the
49 face is not smaller than ten point;

50 (b) There shall be a brief description of the contract on its first page
51 and on its filing back in type of which the face is not smaller than four-
52 teen point;

53 (c) The exceptions of the contract shall appear with the same promi-
54 nence as the benefits to which they apply; and

55 (d) If the contract contains any provision purporting to make any
56 portion of the articles, constitution or by-laws of the corporation a part
57 of the contract, such portion shall be set forth in full.

1 7. Any hospital service corporation may enter into contracts for the
2 rendering of hospital service to any of its subscribers only with hospitals
3 maintained by the State or any of its political subdivisions, or maintained
4 by a corporation organized for hospital purposes, or with such other hos-
5 pitals as shall have been approved by the Department of Institutions and
6 Agencies for such purpose, or subject to the approval of the Commissioner
7 of Banking and Insurance, with hospital service plans of other States and
8 hospitals of other States subject to the supervision of such other States.

9 All rates of payments to hospitals made by such corporation pursuant to
10 such contracts shall prior to payment be approved by the Department of
11 Institutions and Agencies.

1 8. No hospital service corporation shall enter into any contract with a
2 subscriber unless and until it shall have filed with the Commissioner of
3 Banking and Insurance a copy of the contract or certificate and of all appli-
4 cations, riders and endorsements for use in connection with the issuance or
5 renewal thereof. If the commissioner shall at any time notify the corpora-
6 tion filing the same of his disapproval of any such form, as contrary to law,
7 or as being oppressive or calculated to mislead the public, specifying par-
8 ticulars, it shall be unlawful for such corporation thereafter to issue such
9 form so disapproved. Such disapproval of the commissioner may be re-
10 viewed by a writ of certiorari.

47 In every such contract made, issued or delivered in this State:

48 (a) All printed portions shall be plainly printed in type of which the
49 face is not smaller than ten point;

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57 of the contract, such portion shall be set forth in full.

1 7. Any hospital service corporation may enter into contracts for the
2 rendering of hospital service to any of its subscribers only with hospitals
3 maintained by the State or any of its political subdivisions, or maintained
4 by a corporation organized for hospital purposes, or with such other hos-
5 pitals as shall have been approved by the Department of Institutions and
6 Agencies for such purpose, or subject to the approval of the Commissioner
7 of Banking and Insurance, with hospital service plans of other States and
8 hospitals of other States subject to the supervision of such other States.

9 All rates of payments to hospitals made by such corporation pursuant to
10 such contracts shall prior to payment be approved by the Department of
11 Institutions and Agencies.

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2 subscriber unless and until it shall have filed with the Commissioner of
3 Banking and Insurance a copy of the contract or certificate and of all appli-
4 cations, riders and endorsements for use in connection with the issuance or
5 renewal thereof. If the commissioner shall at any time notify the corpora-
6 tion filing the same of his disapproval of any such form, as contrary to law,
7 or as being oppressive or calculated to mislead the public, specifying par-
8 ticulars, it shall be unlawful for such corporation thereafter to issue such
9 form so disapproved. Such disapproval of the commissioner may be re-
10 viewed by a writ of certiorari.

1 9. No corporation subject to the provisions of this chapter shall enter
2 into any contract with a subscriber unless and until it shall have filed with
3 the Commissioner of Banking and Insurance a full schedule of the rates to
4 be paid by the subscribers to such contracts. The commissioner may disap-
5 prove such schedule at any time if he finds that such rates are excessive, in-
6 adequate or discriminatory. It shall be unlawful for any corporation to ef-
7 fect any contract according to such rates thereafter. Such disapproval of
8 the commissioner may be reviewed by a writ of certiorari.

1 10. No corporation subject to the provisions of this chapter shall dur-
2 ing any one year disburse more than ten per centum (10%) of the aggre-
3 gate amount of the payments received from subscribers during that year as
4 expenditures for the soliciting of subscribers, except that during the first
5 year after the issuance of a certificate of authority such corporation may so
6 disburse not more than twenty per centum (20%) of such amount and dur-
7 ing the second year not more than fifteen per centum (15%).

8 No such corporation shall, during any one year, disburse a sum greater
9 than twenty per centum (20%) of the payments received from subscribers
10 during that year as administrative expenses. The term, "administrative
11 expenses," as used in this section, shall include all expenditures for non-
12 professional services and in general all expenses not directly connected with
13 the furnishing of hospital services, but not including expenses of soliciting
14 subscribers.

15 The funds of any hospital service corporation may be invested only in
16 accordance with the requirements now or hereafter provided by law for the
17 investment of funds of life insurance companies. Every hospital service
18 corporation after the first full calendar year of doing business after the ef-
19 fective date of this chapter, shall accumulate and maintain a special con-
20 tingent surplus over and above its reserves and liabilities at the rate of two
21 per centum (2%) annually of its net premium income until such surplus shall
22 be not less than one hundred thousand dollars (\$100,000.00) except that no
23 such corporation shall be required to maintain a special contingent surplus

24 exceeding fifty-five per centum (55%) of its average annual premiums for the
25 previous five years.

1 11. Every hospital service corporation transacting business in this State
2 shall annually on or before the first day of March file in the Department of
3 Banking and Insurance a statement, subscribed and sworn to by its presi-
4 dent and secretary, or in their absence, by two of its principal officers, show-
5 ing its financial condition at the close of business on the thirty-first day of
6 December of the year last preceding, and its business for that year, which
7 statement shall be in such form and contain such matters as the Commis-
8 sioner of Banking and Insurance shall prescribe; said commissioner may also
9 address inquiries to any such corporation or its officers in relation to its con-
10 dition or affairs, or any matter connected with its transactions, and it shall
11 be the duty of the officers of such corporation to promptly reply in writing
12 to all such inquiries; for good cause shown the commissioner may extend the
13 time within which any such statement may be filed.

14 Any hospital service corporation that neglects to make and file its an-
15 nual statement in the form and within the time provided by the last preced-
16 ing section or neglects to reply in writing to inquiries of the Commissioner
17 of Banking and Insurance within such reasonable time as may be specified
18 by him shall forfeit twenty-five dollars (\$25.00) for each day's neglect, and
19 upon notice by the Commissioner of Banking and Insurance to that effect
20 its authority to do new business in this State shall cease while such default
21 continues.

1 12. The Commissioner of Banking and Insurance shall have the power,
2 whenever he deems the same expedient, to make or cause to be made an exam-
3 ination of the assets and liabilities, method of conducting business and all
4 other affairs of every hospital service corporation authorized or which has
5 made application for authority to transact business under the provisions of
6 this chapter. For the purpose of such examination the commissioner may
7 commission and employ such persons to conduct the same or to assist therein
8 as he may deem advisable, which examination may be conducted in any

9 State in which the corporation examined has an office, agent or place of bus-
10 iness.

11 The reasonable expense of such examination shall be fixed and deter-
12 mined by the Commissioner of Banking and Insurance, and he shall collect
13 the same from the corporation examined, which shall pay same on presenta-
14 tion of a detailed account of such expense. In case any corporation, after
15 such examination, shall be declared by the Court of Chancery to be insolvent,
16 the expense of such examination, if unpaid, shall be taxed in the costs of
17 the proceedings in the Court of Chancery and paid out of the assets of the
18 corporation. No corporation shall, either directly or indirectly, pay, by way
19 of gift, credit or otherwise, any other or further sum to the commissioner or
20 to any person in the employ of the Department of Banking and Insurance,
21 for extra service or for purposes of legislation, or for any other purpose
22 whatsoever.

23 It shall be the duty of the officers, agents and employees of any such
24 corporation to exhibit all its books, records and accounts for the purpose
25 of such examination, and otherwise to facilitate the same so far as it may be
26 in their power to do so, and for that purpose the Commissioner of Banking
27 and Insurance, and his deputies, assistants and employees shall have the
28 power to examine, under oath, the officers, agents and employees of any such
29 corporation relative to its business and affairs.

1 13. Whenever any hospital service corporation shall become insolvent
2 or shall suspend its ordinary business for want of funds to carry on the
3 same, or whenever the Commissioner of Banking and Insurance shall ascer-
4 tain, as a result of examination as authorized by this chapter, or in any
5 other manner, that any such association is exceeding its powers or violat-
6 ing the law or that its condition or methods of business are such as to ren-
7 der the continuance of its operations hazardous to the public or its members
8 or that the assets of such corporation are less than its liabilities or that
9 the number of subscribers to its service has decreased to less than one hun-
10 dred persons, said commissioner shall have authority to apply to the Court

11 of Chancery for an injunction restraining such corporation from the transac-
12 tion of any further business, or the transfer or disposal of its property in
13 any manner whatsoever, and the court, being satisfied of the sufficiency of
14 the application, may order an injunction and appoint a receiver, with power
15 to sue for, collect, receive and take into his possession all the goods and chat-
16 tels, rights, and credits, moneys and effects, lands and tenement, books,
17 papers, choses in action, bills, notes and property of every description be-
18 longing to such corporation and sell and convey and assign the same, and
19 hold and dispose of the proceeds thereof under the directions of the Court
20 of Chancery. Any such corporation may be deemed insolvent whenever it
21 is presently or prospectively unable to fulfill its outstanding contracts and
22 to maintain the reserves required pursuant to this chapter.

1 14. Every corporation to which this chapter shall be applicable shall pay
2 the following fees to the Commissioner of Banking and Insurance for en-
3 forcement of the provisions of this chapter, viz.: for filing its application and
4 charter, ten dollars (\$10.00); for filing each annual statement, five dollars
5 (\$5.00); for each copy of any paper filed in the Department of Banking and
6 Insurance, twenty cents (\$.20) a sheet or folio of one hundred words and
7 one dollar (\$1.00) for certifying the same.

1 15. Any hospital service corporation of this or any other State, country
2 or province which shall have violated any of the provisions of or shall have
3 neglected, failed or refused to comply with any of the requirements of this
4 chapter, except the failure to file an annual statement, shall be liable to a
5 penalty of five hundred dollars (\$500.00), such penalty to be sued for and
6 collected by the Commissioner of Banking and Insurance in an action upon
7 contract in the nature of an action for debt in the name of the State; such
8 penalty when recovered shall be paid by the Commissioner of Banking and
9 Insurance into the State treasury for the use of the State. Any officer,
10 agent, employee or member of any such corporation doing business in this
11 State who shall issue, circulate or cause or permit to be circulated, any esti-
12 mate, illustration, circular of any sort misrepresenting the terms of any con-

13 tract issued by such corporation, or any other such corporation authorized to
14 transact business under this chapter, or misrepresent the benefits or advan-
15 tages promised thereby, or use any name or title of any contract or class of
16 contracts misrepresenting the true nature thereof, or who shall solicit, nego-
17 tiate or effect the issue of any contract of any hospital service corporation
18 which shall have neglected, failed or refused to procure a certificate of au-
19 thority as provided for by the provisions of this chapter or who shall accept
20 any premiums, dues, deposits, contributions, fees, assessments or thing of
21 value of any kind in consideration for such contract or certificate on behalf
22 of such corporation, shall be adjudged guilty of a misdemeanor.

1 16. Any dispute arising between a corporation subject to the provisions of
2 this chapter and any hospital with which such corporation has a contract for
3 hospital service may be submitted to the Commissioner of Institutions and
4 Agencies for his decision with respect thereto. All decisions and findings of
5 the Commissioner of Banking and Insurance made under the provisions of
6 this chapter may be reviewed by proper proceedings in a court of competent
7 jurisdiction.

1 17. The provisions of this chapter shall not apply to any corporation
2 carrying on the business of life, health or accident insurance, for profit or
3 gain, nor to fraternal beneficiary associations as defined in section 17:39-1
4 of the Revised Statutes. Any hospital service corporation authorized to
5 transact business pursuant to this chapter shall be exempt from all other pro-
6 visions of Title 17 of the Revised Statutes except as herein specified.

1 18. Every corporation subject to the provisions of this chapter is hereby
2 declared to be a charitable and benevolent institution and all of its funds
3 shall be exempt from every State, county, district, municipal and school tax
4 other than taxes on real estate and equipment.

1 19. This act shall take effect October first, one thousand nine hundred
2 and thirty-eight.

[SECOND OFFICIAL COPY REPRINT]

COMMITTEE SUBSTITUTE FOR

SENATE, No. 375

STATE OF NEW JERSEY

ADOPTED MAY 16, 1938

AN ACT concerning hospital service corporations and regulating the establishment, maintenance and operation of hospital service plans, and supplementing Title 17 of the Revised Statutes by adding thereto a new chapter entitled "Hospital Service Corporations."

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

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2 tion organized, without capital stock and not for profit, for the purpose of
3 establishing, maintaining and operating a non-profit hospital service plan. A
4 hospital service plan is hereby defined as a plan whereby hospital service is
5 provided by a hospital service corporation or by a hospital with which the
6 corporation has a contract for such hospital service to persons who become
7 subscribers under contracts with the corporation. Hospital service provided
8 by a hospital service corporation shall consist of hospital care provided
9 through a hospital which is maintained by the State or any of its political
10 subdivisions, or maintained by a non-profit corporation organized for hos-
11 pital purposes under the laws of this State, or such other non-profit hospitals
12 as shall be designated by the Department of Institutions and Agencies and
13 non-profit hospitals of other States subject to the supervision of such other
14 States, except in cases of emergency, in which such cases the hospital serv-
15 ice corporation may make payment to a hospital operated for profit.

1 2. No hospital service corporation shall be converted into a corporation
2 organized for pecuniary profit. Every such corporation shall be operated
3 for the benefit of the subscribers with whom it has contracted to provide hos-

4 pital service. No person, firm, association or corporation, other than a hos-
5 pital service corporation, or an insurance company authorized to transact
6 the kinds of insurance specified in subdivisions c or d of section 17:17-1 of
7 the Revised Statutes shall establish, maintain or operate a hospital service
8 plan or otherwise contract in this State with persons to furnish hospital
9 service. No hospital service corporation shall solicit subscribers or enter
10 into any contract with any subscriber until it has received from the Com-
11 missioner of Banking and Insurance a certificate of authority to do so.

1 3. The Commissioner of Banking and Insurance may issue such certifi-
2 cate of authority to any such hospital service corporation of this State when
3 it shall have filed in the Department of Banking and Insurance a certified
4 copy of its charter or certificate of incorporation, a copy of its constitution
5 or by-laws, a statement of its financial condition in such form and detail as
6 the Commissioner of Banking and Insurance shall require, signed and sworn
7 to by its president and secretary or other proper officers, and the Commis-
8 sioner of Banking and Insurance is satisfied, on the basis of examination or
9 otherwise, that the corporation has complied with the requirements of this
10 chapter and that its condition or methods of operation are not such as would
11 render its operations hazardous to the public or to its subscribers. No change
12 in, amendment to, alteration in, addition to, or substitution for any document,
13 instrument or other paper so filed shall become operative or effective until
14 the same shall also have been filed in a similar manner. No such certificate
15 of authority shall be issued to any hospital service corporation not incor-
16 porated under the laws of this State.

1 4. No certificate of authority shall be issued to any hospital service cor-
2 poration except on receipt of evidence by the Commissioner of Banking and
3 Insurance that the corporation is in receipt of not less than five hundred
4 dollars (\$500.00) on bona fide applications for hospital service contracts
5 from not less than two hundred persons, which applications shall contain
6 provisions to the effect that any amounts collected with such applications
7 will be returned to such persons if the certificate of authority applied for

8 is not received by the corporation within one year from the date of the first
9 of such applications. The commissioner may refuse to issue any certificate
10 of authority applied for if, in his judgment, the issue thereof is contrary to
11 the public interest.

1 5. A copy of a certificate of incorporation of a hospital service corpo-
2 ration may be filed in the Department of Banking and Insurance as afore-
3 said only when there shall be endorsed on or appended to the original
4 thereof the approval of the Commissioner of Institutions and Agencies, who
5 is hereby authorized to grant such approval if, in his judgment, the opera-
6 tion of a nonprofit hospital service plan by such corporation is in the pub-
7 lic interest. No certificate of authority shall be issued to any such corpo-
8 ration unless the by-laws provide that at least a majority of the directors of
9 such corporation must be at all times directors or trustees of hospitals des-
10 ignated in section one hereof. Any outstanding certificate of authority shall
11 immediately become void if such by-law provision be removed or if there is
12 any failure of compliance therewith.

1 6. Every contract made by a corporation subject to the provisions of
2 this chapter to furnish services to a subscriber shall provide for the fur-
3 nishing of services for a period of twelve months, and no contract shall be
4 made providing for the inception of such services at a date later than one
5 year after the actual date of the making of such contract. Any such con-
6 tract may provide that it shall be automatically renewed from year to year
7 unless there shall have been one month's prior written notice of termination
8 by either the subscriber or the corporation.

9 No contract between any such corporation and a subscriber shall entitle
10 more than one person to services, except that a contract issued and marked
11 as a "family contract" may provide that services will be furnished to a hus-
12 band and wife, or husband, wife and their dependent child or children not
12½ over nineteen years of age, and adult dependents living in the same house
13 under the age of seventy years.

14 Every contract entered into by any such corporation with any subscriber
15 thereto shall be in writing and a certificate stating the terms and conditions

16 thereof shall be furnished to the subscriber to be kept by him. No such cer-
17 tificate form shall be made, issued or delivered in this State unless it con-
18 tains the following provisions:

19 (a) A statement of the amount payable to the corporation by the sub-
20 scriber and the times at which and manner in which such amount is to be
21 paid;

22 (b) A statement of the nature of the services to be furnished and the
23 period during which they will be furnished; and if there are any serv-
24 ices to be excepted, a detailed statement of such exceptions printed as
25 hereinafter specified;

26 (c) A statement of the terms and conditions, if any, upon which the
27 contract may be cancelled or otherwise terminated at the option of either
28 party;

29 (d) A statement that the contract includes the endorsements thereon
30 and attached papers, if any, and contains the entire contract for serv-
31 ices;

32 (e) A statement that no statement by the subscriber in his application
33 for a contract shall avoid the contract or be used in any legal proceed-
34 ing thereunder, unless such application or an exact copy thereof is in-
35 cluded in or attached to such contract, and that no agent or representa-
36 tive of such corporation, other than an officer or officers designated there-
37 in, is authorized to change the contract or waive any of its provisions;

38 (f) A statement that if the subscriber defaults in making any pay-
39 ment under the contract, the subsequent acceptance of a payment by the
40 corporation or by one of its duly authorized agents shall reinstate the
41 contract, but with respect to sickness and injury may cover such sick-
42 ness as may be first manifested more than ten days after the date of such
43 acceptance;

44 (g) A statement of the period of grace which will be allowed the sub-
45 scriber for making any payment due under the contract. Such period
46 shall be not less than ten days.

47 In every such contract made, issued or delivered in this State:

48 (a) All printed portions shall be plainly printed in type of which the
49 face is not smaller than ten point;

50 (b) There shall be a brief description of the contract on its first page
51 and on its filing back in type of which the face is not smaller than four-
52 teen point;

53 (c) The exceptions of the contract shall appear with the same promi-
54 nence as the benefits to which they apply; and

55 (d) If the contract contains any provision purporting to make any
56 portion of the articles, constitution or by-laws of the corporation a part
57 of the contract, such portion shall be set forth in full.

1 7. Any hospital service corporation may enter into contracts for the
2 rendering of hospital service to any of its subscribers only with hospitals
3 maintained by the State or any of its political subdivisions, or maintained
4 by a corporation organized for hospital purposes, or with such other hos-
5 pitals as shall have been approved by the Department of Institutions and
6 Agencies for such purpose, or subject to the approval of the Commissioner
7 of Banking and Insurance, with hospital service plans of other States and
7½ non-profit hospitals of other States subject to the supervision of such other
8 States, and shall have the right to reimburse any other non-profit hospital for
8½ service rendered to the subscriber at the per diem rate paid to hospitals under
9 contract.

9½ All rates of payments to hospitals made by such corporation pursuant to
10 such contracts shall prior to payment be approved by the Department of
11 Institutions and Agencies.

1 8. No hospital service corporation shall enter into any contract with a
2 subscriber unless and until it shall have filed with the Commissioner of
3 Banking and Insurance a copy of the contract or certificate and of all appli-
4 cations, riders and endorsements for use in connection with the issuance or
5 renewal thereof. If the commissioner shall at any time notify the corpora-
6 tion filing the same of his disapproval of any such form, as contrary to law,
7 or as being oppressive or calculated to mislead the public, specifying par-

8 ticulars, it shall be unlawful for such corporation thereafter to issue such
9 form so disapproved. Such disapproval of the commissioner may be re-
10 viewed by a writ of certiorari.

1 9. No corporation subject to the provisions of this chapter shall enter
2 into any contract with a subscriber unless and until it shall have filed with
3 the Commissioner of Banking and Insurance a full schedule of the rates to
4 be paid by the subscribers to such contracts. The commissioner may disap-
5 prove such schedule at any time if he finds that such rates are excessive, in-
6 adequate or discriminatory. It shall be unlawful for any corporation to ef-
7 fect any contract according to such rates thereafter. Such disapproval of
8 the commissioner may be reviewed by a writ of certiorari.

1 10. No corporation subject to the provisions of this chapter shall dur-
2 ing any one year disburse more than ten per centum (10%) of the aggre-
3 gate amount of the payments received from subscribers during that year as
4 expenditures for the soliciting of subscribers, except that during the first
5 year after the issuance of a certificate of authority such corporation may so
6 disburse not more than twenty per centum (20%) of such amount and dur-
7 ing the second year not more than fifteen per centum (15%).

8 No such corporation shall, during any one year, disburse a sum greater
9 than twenty per centum (20%) of the payments received from subscribers
10 during that year as administrative expenses. The term, "administrative
11 expenses," as used in this section, shall include all expenditures for non-
12 professional services and in general all expenses not directly connected with
13 the furnishing of hospital services, but not including expenses of soliciting
14 subscribers.

15 The funds of any hospital service corporation may be invested only in
16 accordance with the requirements now or hereafter provided by law for the
17 investment of funds of life insurance companies. Every hospital service
18 corporation after the first full calendar year of doing business after the ef-
19 fective date of this chapter, shall accumulate and maintain a special con-
20 tingent surplus over and above its reserves and liabilities at the rate of two
21 per centum (2%) annually of its net premium income until such surplus shall

22 be not less than one hundred thousand dollars (\$100,000.00) except that no
23 such corporation shall be required to maintain a special contingent surplus
24 exceeding fifty-five per centum (55%) of its average annual premiums for the
25 previous five years.

1 11. Every hospital service corporation transacting business in this State
2 shall annually on or before the first day of March file in the Department of
3 Banking and Insurance a statement, subscribed and sworn to by its presi-
4 dent and secretary, or in their absence, by two of its principal officers, show-
5 ing its financial condition at the close of business on the thirty-first day of
6 December of the year last preceding, and its business for that year, which
7 statement shall be in such form and contain such matters as the Commis-
8 sioner of Banking and Insurance shall prescribe; said commissioner may also
9 address inquiries to any such corporation or its officers in relation to its con-
10 dition or affairs, or any matter connected with its transactions, and it shall
11 be the duty of the officers of such corporation to promptly reply in writing
12 to all such inquiries; for good cause shown the commissioner may extend the
13 time within which any such statement may be filed.

14 Any hospital service corporation that neglects to make and file its an-
15 nual statement in the form and within the time provided by the last preced-
16 ing section or neglects to reply in writing to inquiries of the Commissioner
17 of Banking and Insurance within such reasonable time as may be specified
18 by him shall forfeit twenty-five dollars (\$25.00) for each day's neglect, and
19 upon notice by the Commissioner of Banking and Insurance to that effect
20 its authority to do new business in this State shall cease while such default
21 continues.

1 12. The Commissioner of Banking and Insurance shall have the power,
2 whenever he deems the same expedient, to make or cause to be made an exam-
3 ination of the assets and liabilities, method of conducting business and all
4 other affairs of every hospital service corporation authorized or which has
5 made application for authority to transact business under the provisions of
6 this chapter. For the purpose of such examination the commissioner may
7 commission and employ such persons to conduct the same or to assist therein

8 as he may deem advisable, which examination may be conducted in any
9 State in which the corporation examined has an office, agent or place of bus-
10 iness.

11 The reasonable expense of such examination shall be fixed and deter-
12 mined by the Commissioner of Banking and Insurance, and he shall collect
13 the same from the corporation examined, which shall pay same on presenta-
14 tion of a detailed account of such expense. In case any corporation, after
15 such examination, shall be declared by the Court of Chancery to be insolvent,
16 the expense of such examination, if unpaid, shall be taxed in the costs of
17 the proceedings in the Court of Chancery and paid out of the assets of the
18 corporation. No corporation shall, either directly or indirectly, pay, by way
19 of gift, credit or otherwise, any other or further sum to the commissioner or
20 to any person in the employ of the Department of Banking and Insurance,
21 for extra service or for purposes of legislation, or for any other purpose
22 whatsoever.

23 It shall be the duty of the officers, agents and employees of any such
24 corporation to exhibit all its books, records and accounts for the purpose
25 of such examination, and otherwise to facilitate the same so far as it may be
26 in their power to do so, and for that purpose the Commissioner of Banking
27 and Insurance, and his deputies, assistants and employees shall have the
28 power to examine, under oath, the officers, agents and employees of any such
29 corporation relative to its business and affairs.

1 13. Whenever any hospital service corporation shall become insolvent
2 or shall suspend its ordinary business for want of funds to carry on the
3 same, or whenever the Commissioner of Banking and Insurance shall ascer-
4 tain, as a result of examination as authorized by this chapter, or in any
5 other manner, that any such association is exceeding its powers or violat-
6 ing the law or that its condition or methods of business are such as to ren-
7 der the continuance of its operations hazardous to the public or its members
8 or that the assets of such corporation are less than its liabilities or that
9 the number of subscribers to its service has decreased to less than one hun-
10 dred persons, said commissioner shall have authority to apply to the Court

11 of Chancery for an injunction restraining such corporation from the transac-
12 tion of any further business, or the transfer or disposal of its property in
13 any manner whatsoever, and the court, being satisfied of the sufficiency of
14 the application, may order an injunction and appoint a receiver, with power
15 to sue for, collect, receive and take into his possession all the goods and chat-
16 tels, rights, and credits, moneys and effects, lands and tenement, books,
17 papers, choses in action, bills, notes and property of every description be-
18 longing to such corporation and sell and convey and assign the same, and
19 hold and dispose of the proceeds thereof under the directions of the Court
20 of Chancery. Any such corporation may be deemed insolvent whenever it
21 is presently or prospectively unable to fulfill its outstanding contracts and
22 to maintain the reserves required pursuant to this chapter.

1 14. Every corporation to which this chapter shall be applicable shall pay
2 the following fees to the Commissioner of Banking and Insurance for en-
3 forcement of the provisions of this chapter, viz.: for filing its application and
4 charter, ten dollars (\$10.00); for filing each annual statement, five dollars
5 (\$5.00); for each copy of any paper filed in the Department of Banking and
6 Insurance, twenty cents (\$.20) a sheet or folio of one hundred words and
7 one dollar (\$1.00) for certifying the same.

1 15. Any hospital service corporation of this or any other State, country
2 or province which shall have violated any of the provisions of or shall have
3 neglected, failed or refused to comply with any of the requirements of this
4 chapter, except the failure to file an annual statement, shall be liable to a
5 penalty of five hundred dollars (\$500.00), such penalty to be sued for and
6 collected by the Commissioner of Banking and Insurance in an action upon
7 contract in the nature of an action for debt in the name of the State; such
8 penalty when recovered shall be paid by the Commissioner of Banking and
9 Insurance into the State treasury for the use of the State. Any officer,
10 agent, employee or member of any such corporation doing business in this
11 State who shall issue, circulate or cause or permit to be circulated, any esti-
12 mate, illustration, circular of any sort misrepresenting the terms of any con-

13 tract issued by such corporation, or any other such corporation authorized to
14 transact business under this chapter, or misrepresent the benefits or advan-
15 tages promised thereby, or use any name or title of any contract or class of
16 contracts misrepresenting the true nature thereof, or who shall solicit, nego-
17 tiate or effect the issue of any contract of any hospital service corporation
18 which shall have neglected, failed or refused to procure a certificate of au-
19 thority as provided for by the provisions of this chapter or who shall accept
20 any premiums, dues, deposits, contributions, fees, assessments or thing of
21 value of any kind in consideration for such contract or certificate on behalf
22 of such corporation, shall be adjudged guilty of a misdemeanor.

1 16. Any dispute arising between a corporation subject to the provisions of
2 this chapter and any hospital with which such corporation has a contract for
3 hospital service may be submitted to the Commissioner of Institutions and
4 Agencies for his decision with respect thereto. All decisions and findings of
5 the Commissioner of Banking and Insurance made under the provisions of
6 this chapter may be reviewed by proper proceedings in a court of competent
7 jurisdiction.

1 17. The provisions of this chapter shall not apply to any corporation
2 carrying on the business of life, health or accident insurance, for profit or
3 gain, nor to fraternal beneficiary associations as defined in section 17:39-1
4 of the Revised Statutes. Any hospital service corporation authorized to
5 transact business pursuant to this chapter shall be exempt from all other pro-
6 visions of Title 17 of the Revised Statutes except as herein specified.

1 18. Every corporation subject to the provisions of this chapter is hereby
2 declared to be a charitable and benevolent institution and all of its funds
3 shall be exempt from every State, county, district, municipal and school tax
4 other than taxes on real estate and equipment.

1 19. This act shall take effect October first, one thousand nine hundred
2 and thirty-eight.