

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RWH/JA

P.L.2017, CHAPTER 100, *approved July 4, 2017*
 Senate, No. 2

1 AN ACT concerning health service corporations and the publication
 2 of certain health insurance carrier information, amending and
 3 supplementing P.L.1985, c.236 and supplementing P.L.1997,
 4 c.192 (C.26:2S-1 et seq.).

5
 6 **BE IT ENACTED** by the Senate and General Assembly of the State
 7 of New Jersey:

8
 9 1. Section 3 of P.L.1985, c.236 (C.17:48E-3) is amended to
 10 read as follows:

11 3. a. **[No]** A health service corporation shall not be
 12 established as a corporation organized for pecuniary profit. Every
 13 health service corporation established pursuant to the provisions of
 14 **[this act]** P.L.1985, c.236 (C.17:48E-1 et seq.) shall be operated for
 15 the benefit of its subscribers. The mission of the health service
 16 corporation shall be to:

17 (1) provide affordable and accessible health insurance to its
 18 subscribers; and

19 (2) promote the integration of the health care system to meet the
 20 needs of its subscribers.

21 A health service corporation shall develop goals, objectives, and
 22 strategies for carrying out, in accordance with this section, its
 23 statutory mission.

24 b. No person, firm, association or corporation, other than a
 25 health service corporation or an insurance company authorized to
 26 transact life or health insurance in accordance with Title 17B of the
 27 New Jersey Statutes, shall establish, maintain or operate a health
 28 service plan. No person, firm, association or corporation, other than
 29 a hospital service corporation, a medical service corporation, a
 30 dental service corporation to the extent permitted by P.L.1968,
 31 c.305 (C.17:48C-1 et seq.), or an insurance company authorized to
 32 transact life or health insurance business or the kinds of insurance
 33 specified in subsection d. of R.S.17:17-1, shall otherwise contract in
 34 this State with persons to pay for or to provide for health services
 35 on the basis of premiums or other valuable considerations to be
 36 collected by the person, firm, association or corporation from any
 37 persons for the issuance of the contracts. This section shall not be
 38 construed as preventing the exercise of any authority or privilege
 39 granted to any corporation by a certificate of authority issued by the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 commissioner pursuant to any law of this State, or as preventing
2 any person, firm, association or corporation from furnishing health
3 services required under any workers' compensation law, or law
4 pertaining to health maintenance organizations, or as otherwise
5 provided by law.

6 c. A health service corporation shall, unless prohibited by the
7 commissioner, offer as an option medical-surgical contracts and
8 dental subscriber contracts which afford subscribers prepaid or
9 postpaid benefits pursuant to which payment is made to
10 participating providers for medical-surgical and dental services
11 rendered by a participating provider network with agreements
12 granting an aggregate differential allowance or discount on charges,
13 as well as a limit on total allowances which may or may not be
14 related to the subscriber's income level, where the aggregate
15 differential or discount on charges and limit on total allowances
16 may be achieved by payment of either the individual provider's
17 actual charge or the health service corporation's allowance on the
18 charge, whichever is less.

19 d. A health service corporation shall maintain an open
20 enrollment period for coverage to persons who are otherwise unable
21 to obtain hospital, medical-surgical, or major medical coverage in
22 accordance with the provisions of P.L.1992, c.161 (C.17B:27A-2 et
23 al.).

24 e. No health service corporation shall have the power to
25 underwrite life insurance as defined in Title 17B of the New Jersey
26 Statutes directly, but a health service corporation may, at such time
27 as the aggregate special contingent surplus is greater than 0%, own
28 stock in, control, or otherwise become affiliated with a life, health
29 or accident insurance company organized pursuant to Title 17B of
30 the New Jersey Statutes or under the laws of any other state,
31 provided that the company is admitted in this State.

32 f. No health service corporation shall solicit subscribers or
33 enter into any contract with any subscriber until it has received
34 from the commissioner a certificate of authority to do so, but if a
35 health service corporation is established by means of the merger of
36 a medical service corporation into a hospital service corporation,
37 which hospital service corporation possesses a valid certificate of
38 authority issued prior to the effective date of **[this act]** P.L.1985,
39 c.236 (C.17:48E-1 et seq.), the health service corporation thus
40 established need not reapply for a new certificate of authority, but
41 the corporation shall file in the Department of Banking and
42 Insurance any documents relating to the merger, including, but not
43 limited to, information concerning the operation of the health
44 service corporation as set forth in subsection a. of this section,
45 which the commissioner may require.

46 g. Nothing in **[this act]** P.L.1985, c.236 (C.17:48E-1 et seq.)
47 shall be deemed to prohibit a health service corporation from
48 contracting with, or paying commissions to, any duly licensed

1 affiliated or independent insurance producer, to the extent permitted
2 by the laws applicable to those producers.

3 h. A health service corporation shall, on an annual basis, and in
4 a form and manner prescribed by the Department of Banking and
5 Insurance, file with the department information relating to the
6 health service corporation's operations, including but not limited to
7 the following: the health service corporation's mission, activities,
8 revenues, expenses, assets, liabilities, and total compensation
9 provided to officers, directors, trustees and the five other highest
10 compensated employees who are not an officer, director or trustee,
11 which information shall be posted on the department's website.

12 i. On or before June 30, 2019, and annually thereafter, the
13 commissioner shall report to the Governor, and to the Legislature
14 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the
15 compliance of a health service corporation with the provisions of
16 P.L. , c. (C.) (pending before the Legislature as this bill).
17 (cf: P.L.1992, c.161, s.18)

18

19 2. Section 6 of P.L.1985, c.236 (C.17:48E-6) shall be amended
20 to read as follows:

21 6. The board of a health service corporation which is formed as
22 the result of a merger between a medical service corporation and a
23 hospital service corporation shall be composed of not more than
24 **[15]** 17 members as provided in this section. Initially, after the
25 merger has been effected, the board shall be constituted of 15
26 members as follows:

27 a. Four members of the board shall be public members, who
28 shall be appointed by the Governor with the advice and consent of
29 the Senate. The public members so appointed shall be persons
30 whose background and experience indicate that they are qualified to
31 act in the broad public interest, who may or may not have coverage
32 under a contract or contracts issued by the corporation, its
33 subsidiaries or affiliates, and who, or whose spouses or minor
34 children, are not officers, directors or owners of more than 10% of
35 the stock of a corporation whose aggregate sales to hospitals, other
36 health care facilities or other providers of health care services
37 exceed 5% of its total sales. The remaining **[eleven]** 11 members
38 shall be selected by the board of directors of the health service
39 corporation in accordance with the provisions of its certificate of
40 incorporation and bylaws.

41 b. Of the initial members of the board, as provided for in
42 subsection a. of this section, one public member and three members
43 selected by the board of the health service corporation shall serve
44 for a term of one year; one public member and three members
45 selected by the board of the health service corporation shall serve
46 for a term of two years; and two public members and five members
47 selected by the board of the health service corporation shall serve
48 for a term of three years. Thereafter, all members of the board shall

1 serve for a term of three years, and shall hold office until their
2 successors are appointed or elected and qualified.

3 c. After the constitution of the initial board as provided in
4 subsection b. of this section, and as the initial terms expire as
5 provided for in that section, the board shall be constituted of 17
6 members as follows:

7 (1) Four members shall be public members of the board
8 appointed by the Governor with the advice and consent of the
9 Senate; **[and]**

10 (2) Eleven members shall be elected by the board of directors,
11 as provided in the bylaws; and

12 (3) One member shall be a public member appointed by the
13 Senate President and one member shall be a public member
14 appointed by the Speaker of the General Assembly, each of whom
15 shall have experience in either finance, insurance, or health care
16 delivery.

17 d. The provisions of subsection c. of this section shall not be
18 construed to preclude the reappointment or reelection of any
19 member appointed or elected pursuant to subsection a. of this
20 section.

21 (cf: P.L.1991, c.208, s.20)

22

23 3. Section 7 of P.L.1985, c.236 (C.17:48E-7) is amended to
24 read as follows:

25 7. The board of directors of a health service corporation which
26 is established in accordance with paragraph (1) of subsection a. of
27 section 2 of P.L.1985, c.236 (C.17:48E-2) shall have four public
28 members appointed by the Governor with the advice and consent of
29 the Senate **[and eleven]** , one public member appointed by the
30 Senate President who shall have experience in either finance,
31 insurance, or health care delivery, one public member appointed by
32 the Speaker of the General Assembly who shall have experience in
33 either finance, insurance, or health care delivery, and 11 members
34 elected as provided in the bylaws.

35 (cf: P.L.1991, c.208, s.21)

36

37 4. (New section) a. The commissioner shall, on an annual
38 basis, examine a health service corporation's annual regulatory
39 filings to determine whether the health service corporation's risk-
40 based capital ratio is within 550% to 725%. If at any time the
41 commissioner determines that a health service corporation surplus
42 results in a ratio that exceeds this range, the department shall notify
43 the health service corporation and the health service corporation
44 shall, within 30 days of notice from the commissioner, file a report
45 with the commissioner to reduce the surplus to be within the range.
46 The report shall include a plan to benefit subscribers, which may
47 include but not be limited to proposals to lessen potential rate
48 increases in the future. The commissioner shall review the plan to

1 affirm that it meets the requirements of P.L. ,
2 c. (C.)(pending before the Legislature as this bill).

3 b. The department shall annually audit the financial statements
4 and surplus of the health service corporation to verify risk-based
5 capital. In order to implement the provisions of this section, the
6 department may engage independent actuaries, as necessary, at the
7 expense of the health service corporation.

8
9 5. (New section) The Department of Banking and Insurance
10 shall, for each carrier in the State, publish on the department's
11 website the annual financial statement, in the format adopted by the
12 National Association of Insurance Commissioners (NAIC) and in
13 use at the time the statement is due, within 30 days of the receipt of
14 that statement.

15
16 6. This act shall take effect immediately, except section 4 shall
17 take effect for the next annual regulatory filings with the
18 Department of Banking and Insurance after January 1, 2018.

19

20

21

STATEMENT

22

23 This bill makes various revisions to the regulation of health
24 service corporations. The bill clarifies the role of health service
25 corporations, revises the membership of the board of directors of
26 health service corporations, regulates surplus, and directs the
27 reduction of surplus that is in excess of an established range.

28 Specifically, the bill provides that a health service corporation
29 shall have a mission to:

30 (1) provide affordable and accessible health insurance to its
31 subscribers; and

32 (2) promote the integration of the health care system to meet the
33 needs of its subscribers.

34 Additionally, a health service corporation is directed to develop
35 goals, objectives, and strategies for carrying out, in accordance with
36 this bill, its statutory mission.

37 The bill requires a health service corporation to, on an annual
38 basis, and in a form and manner prescribed by the Department of
39 Banking and Insurance, file with the department information
40 relating to the health service corporation's operations, including but
41 not limited to the following: the health service corporation's
42 mission, activities, revenues, expenses, assets, liabilities, and total
43 compensation provided to officers, directors, trustees and the five
44 other highest compensated employees who are not an officer,
45 director or trustee, which information shall be posted on the
46 department's website.

47 The bill directs, on or before June 30, 2019, and annually
48 thereafter, the commissioner to report to the Governor, and to the

1 Legislature on the compliance of a health service corporation with
2 the provisions of the bill.

3 With regard to the board of directors of a health service
4 corporation, the bill adds one public member to be appointed by the
5 Senate President and one public member to be appointed by the
6 Speaker of the General Assembly, each of whom shall have
7 experience in either finance, insurance, or health care delivery.

8 The bill also regulates the surplus of a health service corporation.
9 Specifically, the bill directs the commissioner to, on an annual
10 basis, examine a health service corporation's annual regulatory
11 filings to determine whether the health service corporation's surplus
12 is within 550% to 725% of risk based-capital. If at any time the
13 commissioner determines that a health service corporation surplus
14 exceeds this range, the department is to notify the health service
15 corporation and the health service corporation shall, within 30 days
16 of notice from the commissioner, file a report with the
17 commissioner to reduce the surplus to be within the range. The
18 report shall include a plan to benefit subscribers, which may include
19 but not be limited to proposals to lessen potential rate increases in
20 the future. The commissioner shall review the plan to affirm that it
21 meets the requirements of the bill.

22 The department is also directed to annually audit the financial
23 statements and surplus of the health service corporation to verify
24 risk-based capital. In order to implement the provisions of this
25 provision of the bill, the department may engage and retain
26 independent actuaries, as necessary, at the expense of the health
27 service corporation.

28 Finally, the bill also supplements the "Health Care Quality Act"
29 to require the Department of Banking and Insurance to publish on
30 its website the annual financial statement of each carrier, in the
31 format adopted by the National Association of Insurance
32 Commissioners (NAIC) and in use at the time the statement is due,
33 within 30 days of the receipt of that statement.

34 The bill takes effect immediately, except the provisions
35 regulating the health service corporation surplus take effect for the
36 next annual regulatory filings with the Department of Banking and
37 Insurance after January 1, 2018.

38

39

40

41

42 Clarifies role of health service corporations, revises membership
43 of board of directors, regulates surplus, and requires timely
44 publication of certain information by DOBI.

SENATE, No. 2

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JULY 4, 2017

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblywoman ELIZABETH MAHER MUOIO

District 15 (Hunterdon and Mercer)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman RALPH R. CAPUTO

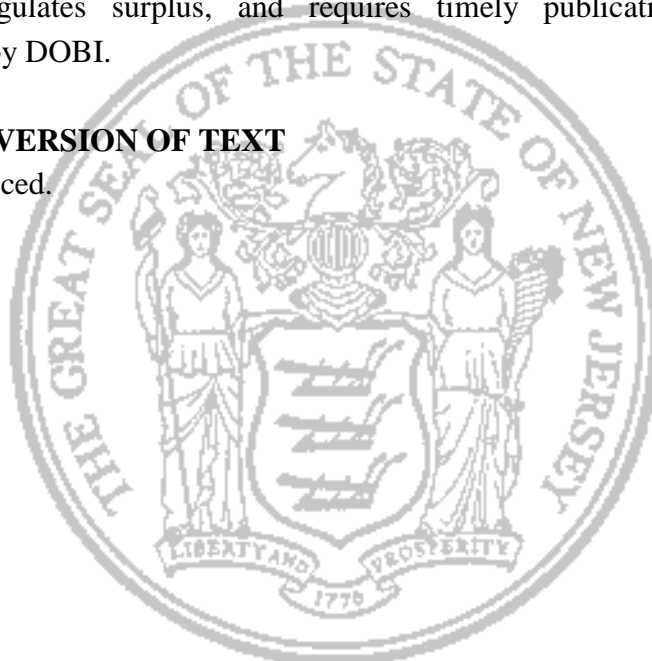
District 28 (Essex)

SYNOPSIS

Clarifies role of health service corporations, revises membership of board of directors, regulates surplus, and requires timely publication of certain information by DOBI.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2017)

1 AN ACT concerning health service corporations and the publication
2 of certain health insurance carrier information, amending and
3 supplementing P.L.1985, c.236 and supplementing P.L.1997,
4 c.192 (C.26:2S-1 et seq.).

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. Section 3 of P.L.1985, c.236 (C.17:48E-3) is amended to
10 read as follows:

11 3. a. **[No]** A health service corporation shall not be
12 established as a corporation organized for pecuniary profit. Every
13 health service corporation established pursuant to the provisions of
14 **[this act]** P.L.1985, c.236 (C.17:48E-1 et seq.) shall be operated for
15 the benefit of its subscribers. The mission of the health service
16 corporation shall be to:

17 (1) provide affordable and accessible health insurance to its
18 subscribers; and

19 (2) promote the integration of the health care system to meet the
20 needs of its subscribers.

21 A health service corporation shall develop goals, objectives, and
22 strategies for carrying out, in accordance with this section, its
23 statutory mission.

24 b. No person, firm, association or corporation, other than a
25 health service corporation or an insurance company authorized to
26 transact life or health insurance in accordance with Title 17B of the
27 New Jersey Statutes, shall establish, maintain or operate a health
28 service plan. No person, firm, association or corporation, other than
29 a hospital service corporation, a medical service corporation, a
30 dental service corporation to the extent permitted by P.L.1968,
31 c.305 (C.17:48C-1 et seq.), or an insurance company authorized to
32 transact life or health insurance business or the kinds of insurance
33 specified in subsection d. of R.S.17:17-1, shall otherwise contract in
34 this State with persons to pay for or to provide for health services
35 on the basis of premiums or other valuable considerations to be
36 collected by the person, firm, association or corporation from any
37 persons for the issuance of the contracts. This section shall not be
38 construed as preventing the exercise of any authority or privilege
39 granted to any corporation by a certificate of authority issued by the
40 commissioner pursuant to any law of this State, or as preventing
41 any person, firm, association or corporation from furnishing health
42 services required under any workers' compensation law, or law
43 pertaining to health maintenance organizations, or as otherwise
44 provided by law.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. A health service corporation shall, unless prohibited by the
2 commissioner, offer as an option medical-surgical contracts and
3 dental subscriber contracts which afford subscribers prepaid or
4 postpaid benefits pursuant to which payment is made to
5 participating providers for medical-surgical and dental services
6 rendered by a participating provider network with agreements
7 granting an aggregate differential allowance or discount on charges,
8 as well as a limit on total allowances which may or may not be
9 related to the subscriber's income level, where the aggregate
10 differential or discount on charges and limit on total allowances
11 may be achieved by payment of either the individual provider's
12 actual charge or the health service corporation's allowance on the
13 charge, whichever is less.

14 d. A health service corporation shall maintain an open
15 enrollment period for coverage to persons who are otherwise unable
16 to obtain hospital, medical-surgical, or major medical coverage in
17 accordance with the provisions of P.L.1992, c.161 (C.17B:27A-2 et
18 al.).

19 e. No health service corporation shall have the power to
20 underwrite life insurance as defined in Title 17B of the New Jersey
21 Statutes directly, but a health service corporation may, at such time
22 as the aggregate special contingent surplus is greater than 0%, own
23 stock in, control, or otherwise become affiliated with a life, health
24 or accident insurance company organized pursuant to Title 17B of
25 the New Jersey Statutes or under the laws of any other state,
26 provided that the company is admitted in this State.

27 f. No health service corporation shall solicit subscribers or
28 enter into any contract with any subscriber until it has received
29 from the commissioner a certificate of authority to do so, but if a
30 health service corporation is established by means of the merger of
31 a medical service corporation into a hospital service corporation,
32 which hospital service corporation possesses a valid certificate of
33 authority issued prior to the effective date of **【this act】** P.L.1985,
34 c.236 (C.17:48E-1 et seq.), the health service corporation thus
35 established need not reapply for a new certificate of authority, but
36 the corporation shall file in the Department of Banking and
37 Insurance any documents relating to the merger, including, but not
38 limited to, information concerning the operation of the health
39 service corporation as set forth in subsection a. of this section,
40 which the commissioner may require.

41 g. Nothing in **【this act】** P.L.1985, c.236 (C.17:48E-1 et seq.)
42 shall be deemed to prohibit a health service corporation from
43 contracting with, or paying commissions to, any duly licensed
44 affiliated or independent insurance producer, to the extent permitted
45 by the laws applicable to those producers.

46 h. A health service corporation shall, on an annual basis, and in
47 a form and manner prescribed by the Department of Banking and
48 Insurance, file with the department information relating to the

1 health service corporation's operations, including but not limited to
2 the following: the health service corporation's mission, activities,
3 revenues, expenses, assets, liabilities, and total compensation
4 provided to officers, directors, trustees and the five other highest
5 compensated employees who are not an officer, director or trustee,
6 which information shall be posted on the department's website.

7 i. On or before June 30, 2019, and annually thereafter, the
8 commissioner shall report to the Governor, and to the Legislature
9 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the
10 compliance of a health service corporation with the provisions of
11 P.L. , c. (C.) (pending before the Legislature as this bill).
12 (cf: P.L.1992, c.161, s.18)

13
14 2. Section 6 of P.L.1985, c.236 (C.17:48E-6) shall be amended
15 to read as follows:

16 6. The board of a health service corporation which is formed as
17 the result of a merger between a medical service corporation and a
18 hospital service corporation shall be composed of not more than
19 **[15]** 17 members as provided in this section. Initially, after the
20 merger has been effected, the board shall be constituted of 15
21 members as follows:

22 a. Four members of the board shall be public members, who
23 shall be appointed by the Governor with the advice and consent of
24 the Senate. The public members so appointed shall be persons
25 whose background and experience indicate that they are qualified to
26 act in the broad public interest, who may or may not have coverage
27 under a contract or contracts issued by the corporation, its
28 subsidiaries or affiliates, and who, or whose spouses or minor
29 children, are not officers, directors or owners of more than 10% of
30 the stock of a corporation whose aggregate sales to hospitals, other
31 health care facilities or other providers of health care services
32 exceed 5% of its total sales. The remaining **[eleven]** 11 members
33 shall be selected by the board of directors of the health service
34 corporation in accordance with the provisions of its certificate of
35 incorporation and bylaws.

36 b. Of the initial members of the board, as provided for in
37 subsection a. of this section, one public member and three members
38 selected by the board of the health service corporation shall serve
39 for a term of one year; one public member and three members
40 selected by the board of the health service corporation shall serve
41 for a term of two years; and two public members and five members
42 selected by the board of the health service corporation shall serve
43 for a term of three years. Thereafter, all members of the board shall
44 serve for a term of three years, and shall hold office until their
45 successors are appointed or elected and qualified.

46 c. After the constitution of the initial board as provided in
47 subsection b. of this section, and as the initial terms expire as

1 provided for in that section, the board shall be constituted of 17
2 members as follows:

3 (1) Four members shall be public members of the board
4 appointed by the Governor with the advice and consent of the
5 Senate; **【and】**

6 (2) Eleven members shall be elected by the board of directors,
7 as provided in the bylaws; and

8 (3) One member shall be a public member appointed by the
9 Senate President and one member shall be a public member
10 appointed by the Speaker of the General Assembly, each of whom
11 shall have experience in either finance, insurance, or health care
12 delivery.

13 d. The provisions of subsection c. of this section shall not be
14 construed to preclude the reappointment or reelection of any
15 member appointed or elected pursuant to subsection a. of this
16 section.

17 (cf: P.L.1991, c.208, s.20)

18

19 3. Section 7 of P.L.1985, c.236 (C.17:48E-7) is amended to
20 read as follows:

21 7. The board of directors of a health service corporation which
22 is established in accordance with paragraph (1) of subsection a. of
23 section 2 of P.L.1985, c.236 (C.17:48E-2) shall have four public
24 members appointed by the Governor with the advice and consent of
25 the Senate **【and eleven】** , one public member appointed by the
26 Senate President who shall have experience in either finance,
27 insurance, or health care delivery, one public member appointed by
28 the Speaker of the General Assembly who shall have experience in
29 either finance, insurance, or health care delivery, and 11 members
30 elected as provided in the bylaws.

31 (cf: P.L.1991, c.208, s.21)

32

33 4. (New section) a. The commissioner shall, on an annual
34 basis, examine a health service corporation's annual regulatory
35 filings to determine whether the health service corporation's risk-
36 based capital ratio is within 550% to 725%. If at any time the
37 commissioner determines that a health service corporation surplus
38 results in a ratio that exceeds this range, the department shall notify
39 the health service corporation and the health service corporation
40 shall, within 30 days of notice from the commissioner, file a report
41 with the commissioner to reduce the surplus to be within the range.
42 The report shall include a plan to benefit subscribers, which may
43 include but not be limited to proposals to lessen potential rate
44 increases in the future. The commissioner shall review the plan to
45 affirm that it meets the requirements of P.L. ,

46 c. (C.)(pending before the Legislature as this bill).

47 b. The department shall annually audit the financial statements
48 and surplus of the health service corporation to verify risk-based

1 capital. In order to implement the provisions of this section, the
2 department may engage independent actuaries, as necessary, at the
3 expense of the health service corporation.
4

5 5. (New section) The Department of Banking and Insurance
6 shall, for each carrier in the State, publish on the department's
7 website the annual financial statement, in the format adopted by the
8 National Association of Insurance Commissioners (NAIC) and in
9 use at the time the statement is due, within 30 days of the receipt of
10 that statement.
11

12 6. This act shall take effect immediately, except section 4 shall
13 take effect for the next annual regulatory filings with the
14 Department of Banking and Insurance after January 1, 2018.
15

16
17 STATEMENT
18

19 This bill makes various revisions to the regulation of health
20 service corporations. The bill clarifies the role of health service
21 corporations, revises the membership of the board of directors of
22 health service corporations, regulates surplus, and directs the
23 reduction of surplus that is in excess of an established range.

24 Specifically, the bill provides that a health service corporation
25 shall have a mission to:

26 (1) provide affordable and accessible health insurance to its
27 subscribers; and

28 (2) promote the integration of the health care system to meet the
29 needs of its subscribers.

30 Additionally, a health service corporation is directed to develop
31 goals, objectives, and strategies for carrying out, in accordance with
32 this bill, its statutory mission.

33 The bill requires a health service corporation to, on an annual
34 basis, and in a form and manner prescribed by the Department of
35 Banking and Insurance, file with the department information
36 relating to the health service corporation's operations, including but
37 not limited to the following: the health service corporation's
38 mission, activities, revenues, expenses, assets, liabilities, and total
39 compensation provided to officers, directors, trustees and the five
40 other highest compensated employees who are not an officer,
41 director or trustee, which information shall be posted on the
42 department's website.

43 The bill directs, on or before June 30, 2019, and annually
44 thereafter, the commissioner to report to the Governor, and to the
45 Legislature on the compliance of a health service corporation with
46 the provisions of the bill.

47 With regard to the board of directors of a health service
48 corporation, the bill adds one public member to be appointed by the

1 Senate President and one public member to be appointed by the
2 Speaker of the General Assembly, each of whom shall have
3 experience in either finance, insurance, or health care delivery.

4 The bill also regulates the surplus of a health service corporation.
5 Specifically, the bill directs the commissioner to, on an annual
6 basis, examine a health service corporation's annual regulatory
7 filings to determine whether the health service corporation's surplus
8 is within 550% to 725% of risk based-capital. If at any time the
9 commissioner determines that a health service corporation surplus
10 exceeds this range, the department is to notify the health service
11 corporation and the health service corporation shall, within 30 days
12 of notice from the commissioner, file a report with the
13 commissioner to reduce the surplus to be within the range. The
14 report shall include a plan to benefit subscribers, which may include
15 but not be limited to proposals to lessen potential rate increases in
16 the future. The commissioner shall review the plan to affirm that it
17 meets the requirements of the bill.

18 The department is also directed to annually audit the financial
19 statements and surplus of the health service corporation to verify
20 risk-based capital. In order to implement the provisions of this
21 provision of the bill, the department may engage and retain
22 independent actuaries, as necessary, at the expense of the health
23 service corporation.

24 Finally, the bill also supplements the "Health Care Quality Act"
25 to require the Department of Banking and Insurance to publish on
26 its website the annual financial statement of each carrier, in the
27 format adopted by the National Association of Insurance
28 Commissioners (NAIC) and in use at the time the statement is due,
29 within 30 days of the receipt of that statement.

30 The bill takes effect immediately, except the provisions
31 regulating the health service corporation surplus take effect for the
32 next annual regulatory filings with the Department of Banking and
33 Insurance after January 1, 2018.

ASSEMBLY, No. 5129

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JUNE 29, 2017

Sponsored by:

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblywoman ELIZABETH MAHER MUOIO

District 15 (Hunterdon and Mercer)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

SYNOPSIS

Clarifies role of health service corporations, revises membership of board of directors, regulates surplus, and requires timely publication of certain information by DOBI.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning health service corporations and the publication
2 of certain health insurance carrier information, amending and
3 supplementing P.L.1985, c.236 and supplementing P.L.1997,
4 c.192 (C.26:2S-1 et seq.).

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. Section 3 of P.L.1985, c.236 (C.17:48E-3) is amended to
10 read as follows:

11 3. a. **[No]** A health service corporation shall not be
12 established as a corporation organized for pecuniary profit. Every
13 health service corporation established pursuant to the provisions of
14 **[this act]** P.L.1985, c.236 (C.17:48E-1 et seq.) shall be operated for
15 the benefit of its subscribers. The mission of the health service
16 corporation shall be to:

17 (1) provide affordable and accessible health insurance to its
18 subscribers; and

19 (2) promote the integration of the health care system to meet the
20 needs of its subscribers.

21 A health service corporation shall develop goals, objectives, and
22 strategies for carrying out, in accordance with this section, its
23 statutory mission.

24 b. No person, firm, association or corporation, other than a
25 health service corporation or an insurance company authorized to
26 transact life or health insurance in accordance with Title 17B of the
27 New Jersey Statutes, shall establish, maintain or operate a health
28 service plan. No person, firm, association or corporation, other than
29 a hospital service corporation, a medical service corporation, a
30 dental service corporation to the extent permitted by P.L.1968,
31 c.305 (C.17:48C-1 et seq.), or an insurance company authorized to
32 transact life or health insurance business or the kinds of insurance
33 specified in subsection d. of R.S.17:17-1, shall otherwise contract in
34 this State with persons to pay for or to provide for health services
35 on the basis of premiums or other valuable considerations to be
36 collected by the person, firm, association or corporation from any
37 persons for the issuance of the contracts. This section shall not be
38 construed as preventing the exercise of any authority or privilege
39 granted to any corporation by a certificate of authority issued by the
40 commissioner pursuant to any law of this State, or as preventing
41 any person, firm, association or corporation from furnishing health
42 services required under any workers' compensation law, or law
43 pertaining to health maintenance organizations, or as otherwise
44 provided by law.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. A health service corporation shall, unless prohibited by the
2 commissioner, offer as an option medical-surgical contracts and
3 dental subscriber contracts which afford subscribers prepaid or
4 postpaid benefits pursuant to which payment is made to
5 participating providers for medical-surgical and dental services
6 rendered by a participating provider network with agreements
7 granting an aggregate differential allowance or discount on charges,
8 as well as a limit on total allowances which may or may not be
9 related to the subscriber's income level, where the aggregate
10 differential or discount on charges and limit on total allowances
11 may be achieved by payment of either the individual provider's
12 actual charge or the health service corporation's allowance on the
13 charge, whichever is less.

14 d. A health service corporation shall maintain an open
15 enrollment period for coverage to persons who are otherwise unable
16 to obtain hospital, medical-surgical, or major medical coverage in
17 accordance with the provisions of P.L.1992, c.161 (C.17B:27A-2 et
18 al.).

19 e. No health service corporation shall have the power to
20 underwrite life insurance as defined in Title 17B of the New Jersey
21 Statutes directly, but a health service corporation may, at such time
22 as the aggregate special contingent surplus is greater than 0%, own
23 stock in, control, or otherwise become affiliated with a life, health
24 or accident insurance company organized pursuant to Title 17B of
25 the New Jersey Statutes or under the laws of any other state,
26 provided that the company is admitted in this State.

27 f. No health service corporation shall solicit subscribers or
28 enter into any contract with any subscriber until it has received
29 from the commissioner a certificate of authority to do so, but if a
30 health service corporation is established by means of the merger of
31 a medical service corporation into a hospital service corporation,
32 which hospital service corporation possesses a valid certificate of
33 authority issued prior to the effective date of **【this act】** P.L.1985,
34 c.236 (C.17:48E-1 et seq.), the health service corporation thus
35 established need not reapply for a new certificate of authority, but
36 the corporation shall file in the Department of Banking and
37 Insurance any documents relating to the merger, including, but not
38 limited to, information concerning the operation of the health
39 service corporation as set forth in subsection a. of this section,
40 which the commissioner may require.

41 g. Nothing in **【this act】** P.L.1985, c.236 (C.17:48E-1 et seq.)
42 shall be deemed to prohibit a health service corporation from
43 contracting with, or paying commissions to, any duly licensed
44 affiliated or independent insurance producer, to the extent permitted
45 by the laws applicable to those producers.

46 h. A health service corporation shall, on an annual basis, and in
47 a form and manner prescribed by the Department of Banking and
48 Insurance, file with the department information relating to the

1 health service corporation's operations, including but not limited to
2 the following: the health service corporation's mission, activities,
3 revenues, expenses, assets, liabilities, and total compensation
4 provided to officers, directors, trustees and the five other highest
5 compensated employees who are not an officer, director or trustee,
6 which information shall be posted on the department's website.

7 i. On or before June 30, 2019, and annually thereafter, the
8 commissioner shall report to the Governor, and to the Legislature
9 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the
10 compliance of a health service corporation with the provisions of
11 P.L. , c. (C.) (pending before the Legislature as this bill).
12 (cf: P.L.1992, c.161, s.18)

13
14 2. Section 6 of P.L.1985, c.236 (C.17:48E-6) shall be amended
15 to read as follows:

16 6. The board of a health service corporation which is formed as
17 the result of a merger between a medical service corporation and a
18 hospital service corporation shall be composed of not more than
19 **[15]** 17 members as provided in this section. Initially, after the
20 merger has been effected, the board shall be constituted of 15
21 members as follows:

22 a. Four members of the board shall be public members, who
23 shall be appointed by the Governor with the advice and consent of
24 the Senate. The public members so appointed shall be persons
25 whose background and experience indicate that they are qualified to
26 act in the broad public interest, who may or may not have coverage
27 under a contract or contracts issued by the corporation, its
28 subsidiaries or affiliates, and who, or whose spouses or minor
29 children, are not officers, directors or owners of more than 10% of
30 the stock of a corporation whose aggregate sales to hospitals, other
31 health care facilities or other providers of health care services
32 exceed 5% of its total sales. The remaining **[eleven]** 11 members
33 shall be selected by the board of directors of the health service
34 corporation in accordance with the provisions of its certificate of
35 incorporation and bylaws.

36 b. Of the initial members of the board, as provided for in
37 subsection a. of this section, one public member and three members
38 selected by the board of the health service corporation shall serve
39 for a term of one year; one public member and three members
40 selected by the board of the health service corporation shall serve
41 for a term of two years; and two public members and five members
42 selected by the board of the health service corporation shall serve
43 for a term of three years. Thereafter, all members of the board shall
44 serve for a term of three years, and shall hold office until their
45 successors are appointed or elected and qualified.

46 c. After the constitution of the initial board as provided in
47 subsection b. of this section, and as the initial terms expire as

1 provided for in that section, the board shall be constituted of 17
2 members as follows:

3 (1) Four members shall be public members of the board
4 appointed by the Governor with the advice and consent of the
5 Senate; **【and】**

6 (2) Eleven members shall be elected by the board of directors,
7 as provided in the bylaws; and

8 (3) One member shall be a public member appointed by the
9 Senate President and one member shall be a public member
10 appointed by the Speaker of the General Assembly, each of whom
11 shall have experience in either finance, insurance, or health care
12 delivery.

13 d. The provisions of subsection c. of this section shall not be
14 construed to preclude the reappointment or reelection of any
15 member appointed or elected pursuant to subsection a. of this
16 section.

17 (cf: P.L.1991, c.208, s.20)

18

19 3. Section 7 of P.L.1985, c.236 (C.17:48E-7) is amended to
20 read as follows:

21 7. The board of directors of a health service corporation which
22 is established in accordance with paragraph (1) of subsection a. of
23 section 2 of P.L.1985, c.236 (C.17:48E-2) shall have four public
24 members appointed by the Governor with the advice and consent of
25 the Senate **【and eleven】** , one public member appointed by the
26 Senate President who shall have experience in either finance,
27 insurance, or health care delivery, one public member appointed by
28 the Speaker of the General Assembly who shall have experience in
29 either finance, insurance, or health care delivery, and 11 members
30 elected as provided in the bylaws.

31 (cf: P.L.1991, c.208, s.21)

32

33 4. (New section) a. The commissioner shall, on an annual
34 basis, examine a health service corporation's annual regulatory
35 filings to determine whether the health service corporation's risk-
36 based capital ratio is within 550% to 725%. If at any time the
37 commissioner determines that a health service corporation surplus
38 results in a ratio that exceeds this range, the department shall notify
39 the health service corporation and the health service corporation
40 shall, within 30 days of notice from the commissioner, file a report
41 with the commissioner to reduce the surplus to be within the range.
42 The report shall include a plan to benefit subscribers, which may
43 include but not be limited to proposals to lessen potential rate
44 increases in the future. The commissioner shall review the plan to
45 affirm that it meets the requirements of P.L. ,

46 c. (C.)(pending before the Legislature as this bill).

47 b. The department shall annually audit the financial statements
48 and surplus of the health service corporation to verify risk-based

1 capital. In order to implement the provisions of this section, the
2 department may engage independent actuaries, as necessary, at the
3 expense of the health service corporation.
4

5 5. (New section) The Department of Banking and Insurance
6 shall, for each carrier in the State, publish on the department's
7 website the annual financial statement, in the format adopted by the
8 National Association of Insurance Commissioners (NAIC) and in
9 use at the time the statement is due, within 30 days of the receipt of
10 that statement.
11

12 6. This act shall take effect immediately, except section 4 shall
13 take effect for the next annual regulatory filings with the
14 Department of Banking and Insurance after January 1, 2018.
15

16
17 STATEMENT
18

19 This bill makes various revisions to the regulation of health
20 service corporations. The bill clarifies the role of health service
21 corporations, revises the membership of the board of directors of
22 health service corporations, regulates surplus, and directs the
23 reduction of surplus that is in excess of an established range.

24 Specifically, the bill provides that a health service corporation
25 shall have a mission to:

26 (1) provide affordable and accessible health insurance to its
27 subscribers; and

28 (2) promote the integration of the health care system to meet the
29 needs of its subscribers.

30 Additionally, a health service corporation is directed to develop
31 goals, objectives, and strategies for carrying out, in accordance with
32 this bill, its statutory mission.

33 The bill requires a health service corporation to, on an annual
34 basis, and in a form and manner prescribed by the Department of
35 Banking and Insurance, file with the department information
36 relating to the health service corporation's operations, including but
37 not limited to the following: the health service corporation's
38 mission, activities, revenues, expenses, assets, liabilities, and total
39 compensation provided to officers, directors, trustees and the five
40 other highest compensated employees who are not an officer,
41 director or trustee, which information shall be posted on the
42 department's website.

43 The bill directs, on or before June 30, 2019, and annually
44 thereafter, the commissioner to report to the Governor, and to the
45 Legislature on the compliance of a health service corporation with
46 the provisions of the bill.

47 With regard to the board of directors of a health service
48 corporation, the bill adds one public member to be appointed by the

1 Senate President and one public member to be appointed by the
2 Speaker of the General Assembly, each of whom shall have
3 experience in either finance, insurance, or health care delivery.

4 The bill also regulates the surplus of a health service corporation.
5 Specifically, the bill directs the commissioner to, on an annual
6 basis, examine a health service corporation's annual regulatory
7 filings to determine whether the health service corporation's surplus
8 is within 550% to 725% of risk based-capital. If at any time the
9 commissioner determines that a health service corporation surplus
10 exceeds this range, the department is to notify the health service
11 corporation and the health service corporation shall, within 30 days
12 of notice from the commissioner, file a report with the
13 commissioner to reduce the surplus to be within the range. The
14 report shall include a plan to benefit subscribers, which may include
15 but not be limited to proposals to lessen potential rate increases in
16 the future. The commissioner shall review the plan to affirm that it
17 meets the requirements of the bill.

18 The department is also directed to annually audit the financial
19 statements and surplus of the health service corporation to verify
20 risk-based capital. In order to implement the provisions of this
21 provision of the bill, the department may engage and retain
22 independent actuaries, as necessary, at the expense of the health
23 service corporation.

24 Finally, the bill also supplements the "Health Care Quality Act"
25 to require the Department of Banking and Insurance to publish on
26 its website the annual financial statement of each carrier, in the
27 format adopted by the National Association of Insurance
28 Commissioners (NAIC) and in use at the time the statement is due,
29 within 30 days of the receipt of that statement.

30 The bill takes effect immediately, except the provisions
31 regulating the health service corporation surplus take effect for the
32 next annual regulatory filings with the Department of Banking and
33 Insurance after January 1, 2018.

Search All of NJ [input] Submit

Home Newsroom Media Administration NJ's Priorities Contact Us

Press Releases Public Addresses Executive Orders Press Kit Reports

Home > Newsroom > Press Releases > 2017

Governor Christie Signs Bipartisan Legislation Protecting Taxpayers, Medicaid Recipients, Insurance Subscribers

Tuesday, July 4, 2017 Tags: [Shutdown](#)



New Rules Of Transparency And Accountability Established for New Jersey's Largest Insurance Carrier, Horizon, Which Was Established By The State As The Insurer Of The Last Resort

"The winners will be Horizon policyholders and the taxpayers of our state. No more operating in the shadows for Horizon."
- Governor Christie, 7/3/17

Governor Chris Christie signed today, Democrat-sponsored Senate Bill No. 2 to protect millions of New Jersey taxpayers, Medicaid recipients and health insurance subscribers.

All of the central elements of the reforms Governor asked of the Legislature over the past weeks and months are incorporated in the new law bringing new transparency and accountability to the operations of New Jersey's largest insurer. Horizon, with 3.8 million New Jersey subscribers, including approximately 1.85 million taxpayer-funded members, such as the state's Medicaid population, holds more than 55 percent of the insurance market in the state.

Thanks to the legislature and in particular Senate President Sweeney and Senator Vitale for standing with the Governor to reign in this enormous New Jersey charity, the reforms include:

Increased Transparency and Detailed Financial Reporting: The law subjects Horizon, as a largely taxpayer-funded organization that holds more than 55 percent of the insurance market, to new requirements established by the state Department of Banking and Insurance for health service corporations to provide detailed financial reporting information, including executive compensation, to be posted on the departmental website.

Caps Excessive Reserves: Under the new law, the Commissioner of Banking and Insurance will establish an appropriate range for Horizon requiring minimum reserves of 550 percent of Risk-Based Capital reserves and a "hard cap" maximum of 725 percent, sufficient to cover claims for all of its policyholders in the event of unanticipated medical emergencies.

Excess Reserves to Benefit Policyholders: The law sets up a process for Horizon to submit a plan to the Department of Banking and Insurance to determine how excess reserves above 725 percent should be used to reduce future policyholder premiums or otherwise benefit policyholders.

Increased public representation to oversight of Horizon's board of directors. Two more public members will be appointed to the Horizon board by the Senate President and Assembly Speaker, increasing the total number of public members to six, with four already appointed by the Governor. With 11 members chosen by Horizon, the board of the is now more closely split.

Annual Independent Audits: The new law also requires the state Department of Banking and Insurance to commission independent annual audits to be paid for by Horizon.

Plan To Benefit Policyholders With Excess Reserves: The law also sets up a process for Horizon to submit a plan to the Department of Banking and Insurance to determine how excess reserves above 725% should be used to reduce future policyholder premiums or otherwise benefit policyholders.

Stay Connected with Social Media

Stay Connected with Email Alerts

[input]

LIKE THIS PAGE? SHARE IT WITH YOUR FRIENDS.

SHARE [social icons]

A Recent Timeline on Why Reforms Are Necessary:

Horizon's most profitable line is Medicaid services, direct tax dollars that continue to build upon Horizon's more than \$2.4 billion surplus. In 2016, while the problems in this briefing compounded, Horizon's Medicaid profits from the poor exceeded \$163 million in taxpayer dollars.

On June 19, 2017, the Department of Human Services(DHS), Division of Medical Assistance and Health Services, served a Notice of Sanction to Horizon, the State's largest health insurer, for non-compliance with several provisions of its managed care contract involving the faulty processing and handling of thousands of claims since spring of 2016.

In April 2016, DHS began receiving an increasing number of complaints from enrollees, providers, and professional associations regarding Horizon's processing of claims. DHS's investigation of the complaints revealed that Horizon's issues were wide-ranging and had a significant and detrimental impact on thousands of claims involving the NJ FamilyCare program, including Medicaid enrollees and their healthcare providers throughout the State, where Horizon controls over 55 percent of the market.

DHS's sanction notice concludes Horizon violated the terms of its managed care contract in its non-timely and inaccurate processing of claims; inadequate handling of provider and member complaints and inquiries about these processing issues; and inaccurate reporting of financial information.

Horizon also failed to meet the contract's requirements for abandon call rates, which refers to when a caller hangs up because they don't want to wait on hold any more, and it involved both members and providers. Its failure to meet the contractual timeframes was not an isolated event, and the troubles cited in 2016 continued into the first quarter of 2017. Their backlog of unprocessed claims, which involved claims concerning the State's most vulnerable people, increased more than tenfold from the first to second quarter of 2016. The backlog then ballooned into the middle and end of 2016, and by the beginning of 2017, the backlog was still not back to the level at which it started before the processing changes were made in early 2016.

Pursuant to a contractual formula, liquidated damages have been calculated at \$15,523,370.

It also should be noted that, in September 2016 and March 2017, Horizon entered into two settlement agreements with the Department of Banking and Insurance (DOBI), resulting in \$550,000 in fines to resolve related allegations of mishandling provider claims since July 2015.

In September 2016, Horizon agreed to pay DOBI \$400,000 to resolve claims that Horizon and a vendor improperly processed claims made by commercial providers of home health care and hospice service between July 2015 and March 2016, just before the new and troubling claims system was installed. This issue resulted in Horizon's improper denial of approximately 4,500 claims, failure to promptly pay claims and failure to pay interest on late claims to providers. Horizon promised to fix its processing issues.

In March 2017, Horizon agreed to pay DOBI \$150,000 to resolve problems also involving the new claims system that was implemented in April 2016. In this matter, Horizon's new system failed to generate almost 9,500 statutorily required overpayment recovery notices to over 1,100 Medicaid providers between September 2016 and January 2017. Despite not having advised the providers of their right to dispute or appeal Horizon's claim of overpayment, Horizon nevertheless recouped the nearly \$8.1 million it had mistakenly overpaid those providers.

Press Contact:

Brian Murray
609-777-2600



[Contact Us](#) | [Privacy Notice](#) | [Legal Statement & Disclaimers](#) | [Accessibility Statement](#) | 

Statewide: [NJ Home](#) | [Services A to Z](#) | [Departments/Agencies](#) | [FAQs](#)
Office of the Governor: [Home](#) | [Newsroom](#) | [Media](#) | [Administration](#) | [NJ's Priorities](#) | [Contact Us](#)

Copyright © State of New Jersey, 1996-2018
Office of the Governor
PO Box 001
Trenton, NJ 08625
609-292-6000