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P.L. 1999, CHAPTER 409, *approved January 18, 2000*
Senate Committee Substitute for
Senate, No. 2094

1 **AN ACT** concerning organized delivery systems for health care
2 services or benefits.

3

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

6

7 1. As used in this act:

8 "Affiliate" means a person that directly, or indirectly through one
9 or more intermediaries, controls, or is controlled by, or is under
10 common control with, the organized delivery system.

11 "Capitation" means a fixed per member, per month, payment or
12 percentage of premium payment for which the provider assumes the
13 risk for the cost of contracted services without regard to the type,
14 value or frequency of the services provided.

15 "Carrier" means an insurer authorized to transact the business of
16 health insurance as defined at N.J.S.17B:17-4, a hospital service
17 corporation authorized to transact business in accordance with
18 P.L.1938, c.366 (C.17:48-1 et seq.), a medical service corporation
19 authorized to transact business in accordance with P.L.1940, c.74
20 (C.17:48A-1 et seq.), a health service corporation authorized to
21 transact business in accordance with P.L.1985, c.236 (C.17:48E-1 et
22 seq.) or a health maintenance organization authorized to transact
23 business pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.).

24 "Certified organized delivery system" means an organized delivery
25 system that is compensated on a basis which does not entail the
26 assumption of financial risk by the organized delivery system and that
27 is certified in accordance with this act.

28 "Comprehensive health care services" means the basic benefits
29 provided under a health benefits plan, including medical and surgical
30 services provided by licensed health care providers who may include,
31 but are not limited to, family physicians, internists, cardiologists,
32 psychiatrists, rheumatologists, dermatologists, orthopedists,
33 obstetricians, gynecologists, neurologists, endocrinologists,
34 radiologists, nephrologists, emergency services physicians,
35 ophthalmologists, pediatricians, pathologists, general surgeons,
36 osteopathic physicians, physical therapists and chiropractors. Basic
37 benefits may also include inpatient or outpatient services rendered at
38 a licensed hospital, covered services performed at an ambulatory

1 surgical facility and ambulance services.

2 "Financial risk" means exposure to financial loss that is attributable
3 to the liability of an organized delivery system for the payment of
4 claims or other losses arising from covered benefits for treatment or
5 services other than those performed directly by the person or
6 organized delivery system liable for payment, including a loss sharing
7 arrangement. A payment method wherein a provider accepts
8 reimbursement in the form of a capitation payment for which it
9 undertakes to provide health care services on a prepayment basis shall
10 not be considered financial risk.

11 "Health benefits plan" means a benefits plan which pays or
12 provides hospital and medical expense benefits for covered services,
13 and is delivered or issued for delivery in this State by or through a
14 carrier. Health benefits plan includes, but is not limited to, Medicare
15 supplement coverage and risk contracts to the extent not otherwise
16 prohibited by federal law. For the purposes of this act, health benefits
17 plan shall not include the following plans, policies or contracts:
18 accident only, credit, disability, long-term care, CHAMPUS
19 supplement coverage, coverage arising out of a workers' compensation
20 or similar law, automobile medical payment insurance, personal injury
21 protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et
22 seq.) or hospital confinement indemnity coverage.

23 "Licensed organized delivery system" means an organized delivery
24 system that is compensated on a basis which entails the assumption of
25 financial risk by the organized delivery system and that is licensed in
26 accordance with this act.

27 "Limited health care services" means a health service or benefit
28 which a carrier has elected to subcontract for as a separate service,
29 which may include, but shall not be limited to, substance abuse
30 services, vision care services, mental health services, podiatric care
31 services, chiropractic services or rehabilitation services. Limited
32 health care services shall not include pharmaceutical services, case
33 management services or employee assistance plan services.

34 "Organized delivery system" or "system" means an organization
35 with defined governance that:

36 a. is organized for the purpose of and has the capability of
37 contracting with a carrier to provide, or arrange to provide, under its
38 own management substantially all or a substantial portion of the
39 comprehensive health care services or benefits under the carrier's
40 benefits plan on behalf of the carrier, which may or may not include
41 the payment of hospital and ancillary benefits; or

42 b. is organized for the purpose of acting on behalf of a carrier to
43 provide, or arrange to provide, limited health care services that the
44 carrier elects to subcontract for as a separate category of benefits and
45 services apart from its delivery of benefits under its comprehensive
46 benefits plan, which limited services are provided on a separate

1 contractual basis and under different terms and conditions than those
2 governing the delivery of benefits and services under the carrier's
3 comprehensive benefits plan.

4 An organized delivery system shall not include an entity otherwise
5 authorized or licensed in this State to provide comprehensive or
6 limited health care services on a prepayment or other basis in
7 connection with a health benefits plan or a carrier.

8 "Provider" means a physician, health care professional, health care
9 facility, or any other person who is licensed or otherwise authorized
10 to provide health care services or other benefits in the state or
11 jurisdiction in which they are furnished.

12

13 2. a. Beginning one year after the enactment of this act, no
14 person, corporation, partnership, or other entity shall operate an
15 organized delivery system in this State without obtaining certification
16 or licensure pursuant to this act.

17 b. Any person, corporation, partnership, or other entity offering
18 health care services to a carrier in a manner substantially provided for
19 in this act shall be subject to the provisions of this act unless the entity
20 is otherwise regulated under P.L.1973, c. 337 (C.26:2J-1 et seq.),
21 Title 17 of the Revised Statutes, Title 17B of the New Jersey Statutes
22 or P.L.1970, c.102 (C.18A:64G-1 et seq.).

23

24 3. a. An organized delivery system which is not subject to
25 licensure requirements pursuant to this act shall submit an application
26 for certification to the Commissioner of Health and Senior Services.
27 The organized delivery system may continue to operate during the
28 pendency of its application, but in no case longer than 12 months after
29 the date of submission of the application to the Department of Health
30 and Senior Services, unless the commissioner, by regulation, extends
31 the 12-month limitation. In the event the application is denied, the
32 applicant shall be treated as an organized delivery system whose
33 certification has been revoked pursuant to sections 7 and 8 of this act.

34 Notwithstanding the obligations imposed by this act regarding
35 certification requirements, nothing in this subsection shall operate to
36 impair any contract in force on the effective date of this act, but this
37 act shall apply to any contract renewed on or after the effective date
38 of this act.

39 b. The certification shall be valid for a period of three years.

40 c. A certified organized delivery system shall not directly issue
41 health benefits plans.

42

43 4. Application for certification to operate an organized delivery
44 system shall be made to the Commissioner of Health and Senior
45 Services on a form prescribed by the commissioner, shall be certified
46 by an officer or authorized representative of the applicant and shall

- 1 include the following:
- 2 a. A copy of the applicant's basic organizational documents. For
3 purposes of this subsection, "basic organizational documents" means
4 the articles of incorporation, articles of association, partnership
5 agreement, management agreement, trust agreement, or other
6 applicable documents as appropriate to the applicant's form of
7 business entity, and all amendments to those documents;
- 8 b. A copy of the executed bylaws, rules and regulations, or similar
9 documents, regulating the conduct of the applicant's internal affairs;
- 10 c. A list, in a form approved by the Commissioner of Health and
11 Senior Services, of the names, addresses, and official positions of the
12 persons who are to be responsible for the conduct of the affairs of the
13 applicant, including, but not limited to, the members of the board of
14 directors, executive committee or other governing board or
15 committee, the principal officers, and any person or entity owning or
16 having the right to acquire 10% or more of the voting securities of the
17 applicant; in the case of a partnership or association, the names of the
18 partners or members; and a statement of any criminal convictions or
19 civil, enforcement or regulatory action, including actions relating to
20 professional licenses, taken against any person who is a member of the
21 board, the executive committee or other governing board or
22 committee, the principal officers, or the persons who are responsible
23 for the conduct of the affairs of the applicant;
- 24 d. A statement generally describing the applicant, its facilities,
25 personnel, and the health care services to be offered by the organized
26 delivery system;
- 27 e. A copy of the standard form of any provider agreement made
28 or to be made between the applicant and any providers relative to the
29 provision of health care services;
- 30 f. A copy of the form of any contract made or to be made between
31 the applicant and any carrier for the provision of or arrangement to
32 provide health care services, which contract shall contain provisions
33 establishing the respective duties of the carrier and the applicant with
34 respect to compliance with P.L.1997, c.192 (C.26:2S-1 et seq.);
- 35 g. With respect to each contract made or to be made between the
36 applicant and any other person who will provide comprehensive or
37 limited health care services:
- 38 (1) A list of the persons who are to provide the health care
39 services, and the geographical area in which they are located and in
40 which the services are to be performed;
- 41 (2) A list of any affiliate of the applicant which provides services
42 to the applicant in this State and a description of any material
43 transaction between the affiliate and the applicant;
- 44 (3) A description of the health care services or benefits to be
45 offered or proposed to be offered by the applicant;
- 46 (4) A description of the means which will be utilized to assure the

1 availability and accessibility of the health care services to enrollees or
2 contract holders; and

3 (5) A description of the means by which the organized delivery
4 system shall be compensated for each contract entered into with a
5 carrier; and

6 h. A list of all administrative, civil or criminal actions and
7 proceedings to which the applicant, or any of its affiliates, or persons
8 who are responsible for the conduct of the affairs of the applicant or
9 affiliate, have been subject and the resolution of those actions and
10 proceedings. If a license, certificate or other authority to operate has
11 been refused, suspended or revoked by any jurisdiction, the applicant
12 shall provide a copy of any orders, proceedings and determinations
13 relating thereto.

14 In addition to the information required pursuant to this section, the
15 Commissioner of Health and Senior Services or the Commissioner of
16 Banking and Insurance may establish additional reporting requirements
17 or make detailed reporting requirements for any class of certified
18 organized delivery system.

19

20 5. Following receipt of an application for certification, the
21 Commissioner of Health and Senior Services shall review it in
22 consultation with the Commissioner of Banking and Insurance and
23 notify the applicant of any deficiencies contained therein.

24 a. The Commissioner of Health and Senior Services shall issue a
25 certification to an organized delivery system if the commissioner finds
26 that the system meets the standards provided for in this act, including,
27 but not limited to:

28 (1) All of the material required by section 4 of this act has been
29 filed;

30 (2) The persons responsible for conducting the applicant's affairs
31 are competent, trustworthy and possess good reputations, and have
32 had appropriate experience, training and education;

33 (3) The persons who are to perform the health care services are
34 properly qualified;

35 (4) The organized delivery system has demonstrated the ability to
36 assure that health care services will be provided in a manner which will
37 assure the availability and accessibility of the services;

38 (5) The standard forms of provider agreements to be used by the
39 organized delivery system are acceptable; and

40 (6) The organized delivery system's contracts to provide services
41 do not entail or will not result in the assumption of financial risk by the
42 system.

43 b. The commissioner may deny an application for certification if
44 the applicant fails to meet any of the standards provided in this act or
45 on any other reasonable grounds. If certification is denied, the
46 commissioner shall notify the applicant and shall set forth the reasons

1 for the denial in writing. The applicant may request a hearing by
2 notice to the commissioner within 30 days of receiving the notice of
3 denial. Upon such denial, the applicant shall submit to the
4 commissioner a plan for bringing the organized delivery system into
5 compliance or providing for the closing down of its business.

6
7 6. a. A certified organized delivery system, unless otherwise
8 provided for in this act, shall not materially modify any matter or
9 document furnished to the Commissioner of Health and Senior
10 Services pursuant to section 4 of this act unless the organized delivery
11 system files with the commissioner, at least 60 days prior to use or
12 adoption of the change, a notice of the change or modification,
13 together with that information required by the commissioner to explain
14 the change or modification. If the commissioner fails to affirmatively
15 approve or disapprove the change or modification within 60 days of
16 submission of the notice, the notice of modification shall be deemed
17 approved. The commissioner may extend the 60-day review period for
18 not more than 30 additional days by giving written notice of the
19 extension before the expiration of the 60-day period. If a change or
20 modification is disapproved, the commissioner shall notify the system
21 in writing and specify the reason for the disapproval.

22 b. Prior to entering into any contract with a carrier, a certified
23 organized delivery system shall file with the commissioner, for the
24 commissioner's approval, a copy of that contract. The filing shall be
25 made no later than 60 days prior to the date that the contract is
26 intended to be in effect. If the contract is not disapproved prior to the
27 effective date by the commissioner, the contract shall be deemed
28 approved.

29
30 7. The Commissioner of Health and Senior Services may suspend
31 or revoke a certification issued to an organized delivery system
32 pursuant to this act upon the commissioner's determination that:

33 a. The certified organized delivery system is operating in
34 contravention of its basic organizational documents;

35 b. The certified organized delivery system is unable to fulfill its
36 obligations to the carriers with whom it contracts;

37 c. The continued operation of the certified organized delivery
38 system would be hazardous to the health and welfare of the enrollees
39 or contract holders to whom it is obligated to provide health care
40 services or detrimental to a carrier with whom it has contracted to
41 provide the services;

42 d. The certified organized delivery system is unable to maintain
43 the standards as set forth by the commissioner by regulation;

44 e. The certified organized delivery system has failed, as provided
45 by the contract, to comply with the provisions of P.L.1997, c.192
46 (C.26:2S-1 et seq.);

1 f. The certified organized delivery system has failed to provide the
2 health care services for which it has been certified or has provided
3 health care services which are in contravention of the contract or
4 contracts filed with the commissioner;

5 g. The certified organized delivery system has otherwise failed to
6 comply with this act or with other applicable law; or

7 h. There are other reasonable grounds that warrant suspension or
8 revocation.

9
10 8. a. If the Commissioner of Health and Senior Services has cause
11 to believe that grounds exist for the suspension or revocation of the
12 certification issued to an organized delivery system, the commissioner
13 shall notify the system, in writing, specifically stating the grounds for
14 suspension or revocation and fixing a time for a hearing in accordance
15 with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
16 1 et. seq.). If the certification is revoked, the organized delivery
17 system shall submit a plan to the commissioner within 15 days of the
18 revocation, for the winding up of its affairs, and shall conduct no
19 further business except as may be essential to the orderly conclusion
20 of its business. The commissioner may, by written order, permit such
21 further operation of the organized delivery system as the commissioner
22 finds to be in the best interest of individuals receiving health care
23 services from the system.

24 b. The commissioner shall notify all carriers with contracts with
25 the system that are on file with the Department of Health and Senior
26 Services of the proceedings.

27
28 9. A certified organized delivery system shall pay to the
29 Commissioner of Health and Senior Services those application and fees
30 as are established by the commissioner by regulation.

31
32 10. The Commissioner of Health and Senior Services may, upon
33 notice and hearing, assess a civil administrative penalty in an amount
34 not less than \$250 nor more than \$10,000 for each day that a certified
35 organized delivery system is in violation of this act. Penalties imposed
36 by the commissioner pursuant to this section may be in lieu of, or in
37 addition to, suspension or revocation of a certification pursuant to this
38 act. A penalty may be recovered in a summary proceeding pursuant
39 to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

40
41 11. a. An organized delivery system which receives compensation
42 on a basis that entails the assumption of financial risk shall submit an
43 application for licensure to the Commissioner of Banking and
44 Insurance. The organized delivery system may continue to operate
45 during the pendency of its application, but in no case longer than 12
46 months after the date of submission of the application to the

1 Department of Banking and Insurance, unless the commissioner, by
2 regulation, extends the 12-month limitation. In the event the
3 application is denied, the applicant shall be treated as an organized
4 delivery system whose license has been revoked pursuant to sections
5 23 and 24 of this act.

6 Notwithstanding the obligations imposed by this act regarding
7 licensure requirements, nothing in this subsection shall operate to
8 impair any contract in force on the effective date of this act, but this
9 act shall apply to any contract renewed on or after the effective date
10 of this act.

11 b. An organized delivery system which receives compensation on
12 a basis that entails the assumption of financial risk, but meets the
13 criteria set forth in this subsection, may apply to the commissioner for
14 an exemption from the licensure requirements of this act based on the
15 system's current contractual arrangements.

16 The commissioner may grant the exemption for such period of time
17 that the commissioner determines that the financial risk of the
18 organized delivery system is de minimis because the organized delivery
19 system's exposure to financial loss is limited in amount or likelihood
20 to the degree that it reasonably will not prevent the system from
21 satisfying the liabilities imposed under the terms of its contracts.

22 The commissioner may revoke the organized delivery system's
23 exemption from licensure, after notice and an opportunity to be heard,
24 if the commissioner determines that the system's contracts no longer
25 meet the requirements for exemption set forth in this subsection.
26 Upon revocation of the exemption, the system shall be required to
27 obtain licensure from the department within 90 days.

28 c. An organized delivery system that is granted an exemption from
29 licensure shall apply to and obtain certification as an organized
30 delivery system from the Department of Health and Senior Services
31 pursuant to the provisions of this act.

32 d. A licensed organized delivery system shall not directly issue
33 health benefits plans.

34

35 12. Application for a license to operate an organized delivery
36 system shall be made to the Commissioner of Banking and Insurance
37 and the Commissioner of Health and Senior Services on a form
38 prescribed by the commissioners, shall be certified by an officer or
39 authorized representative of the applicant, and shall include the
40 following:

41 a. A copy of the applicant's basic organizational documents. For
42 purposes of this subsection, "basic organizational documents" means
43 the articles of incorporation, articles of association, partnership
44 agreement, management agreement, trust agreement, or other
45 applicable documents as appropriate to the applicant's form of
46 business entity and all amendments to those documents;

- 1 b. A copy of the executed bylaws, rules and regulations, or similar
2 documents, regulating the conduct of the applicant's internal affairs;
- 3 c. A list, in a form approved by the Commissioner of Banking and
4 Insurance, of the names, addresses, and official positions of the
5 persons who are to be responsible for the conduct of the affairs of the
6 applicant, including, but not limited to, the members of the board of
7 directors, executive committee or other governing board or
8 committee, the principal officers, and any person or entity owning or
9 having the right to acquire 10% or more of the voting securities of the
10 applicant; in the case of a partnership or association, the names of the
11 partners or members; each person who has loaned funds to the
12 applicant for the operation of its business; and a statement of any
13 criminal convictions or civil, enforcement or regulatory action,
14 including actions relating to professional licenses, taken against any
15 person who is a member of the board, the executive committee or
16 other governing board or committee, or the principal officers, or the
17 persons who are responsible for the conduct of the affairs of the
18 applicant;
- 19 d. A statement generally describing the applicant, its facilities,
20 personnel, and the health care services to be offered by the organized
21 delivery system;
- 22 e. A copy of the standard form of any provider agreement made
23 or to be made between the applicant and any providers relative to the
24 provision of health care services;
- 25 f. A copy of the form of any contract made or to be made
26 between the applicant and any carrier for the provision of or
27 arrangement to provide health care services, which contract shall
28 contain provisions establishing the respective duties of the carrier and
29 the applicant with respect to compliance with P.L.1997, c.192
30 (C.26:2S-1 et seq.);
- 31 g. A copy of the applicant's most recent financial statements
32 audited by an independent certified public accountant. If the financial
33 affairs of the applicant's parent company are audited by an
34 independent certified public accountant, but those of the applicant are
35 not, then a copy of the most recent audited financial statement of the
36 applicant's parent company, audited by an independent certified public
37 accountant, shall be submitted. A consolidated financial statement of
38 the applicant and its parent company shall satisfy this requirement
39 unless the Commissioner of Banking and Insurance determines that
40 additional or more recent financial information is required for the
41 proper administration of this act;
- 42 h. A copy of the applicant's financial plan, including a three-year
43 projection of anticipated operating results, a statement of the sources
44 of working capital and any other sources of funding and provisions for
45 contingencies;
- 46 i. With respect to each contract made or to be made between the

1 applicant and any other person who will provide comprehensive or
2 limited health care services:

3 (1) A list of the persons who are to provide the health care
4 services, and the geographical area in which they are located and in
5 which the services are to be performed;

6 (2) A list of any affiliate of the applicant which provides services
7 to the applicant in this State and a description of any material
8 transaction between the affiliate and the applicant;

9 (3) A description of the health care services or benefits to be
10 offered or proposed to be offered;

11 (4) A description of the means which will be utilized to assure the
12 availability and accessibility of the health care services to enrollees or
13 contract holders;

14 (5) A plan, in the event of the insolvency of the organized delivery
15 system, for continuation of the health care services to be provided for
16 under the contract; and

17 (6) A description of the means by which the organized delivery
18 system shall be compensated for each contract entered into with a
19 carrier;

20 j. A power of attorney, duly executed by the applicant, if not
21 domiciled in this State, appointing the Commissioner of Banking and
22 Insurance and the commissioner's successors in office as the true and
23 lawful attorney of the applicant in and for this State upon whom all
24 lawful process in any legal action or proceeding against the organized
25 delivery system in a cause of action arising in this State may be served;

26 k. A list of all administrative, civil or criminal actions and
27 proceedings to which the applicant, or any of its affiliates, or persons
28 who are responsible for the conduct of the affairs of the applicant or
29 affiliate, have been subject and the resolution of those actions and
30 proceedings. If a license, certificate or other authority to operate has
31 been refused, suspended or revoked by any jurisdiction, the applicant
32 shall provide a copy of any orders, proceedings and determinations
33 relating thereto; and

34 l. Other information as may be required by the Commissioner of
35 Banking and Insurance or the Commissioner of Health and Senior
36 Services.

37

38 13. Following receipt of an application for licensure, the
39 Commissioner of Banking and Insurance shall review it in consultation
40 with the Commissioner of Health and Senior Services and notify the
41 applicant of any deficiencies contained therein.

42 a. The Commissioner of Banking and Insurance shall issue a
43 license to an organized delivery system if the commissioner finds that
44 the system meets the standards provided for in this act, including, but
45 not limited to:

46 (1) All of the material required by section 12 of this act has been

1 filed;

2 (2) The persons responsible for conducting the applicant's affairs
3 are competent, trustworthy and possess good reputations, and have
4 had appropriate experience, training and education;

5 (3) The persons who are to perform the health care services are
6 properly qualified;

7 (4) The organized delivery system has demonstrated the ability to
8 assure that health care services will be provided in a manner which will
9 assure the availability and accessibility of the services;

10 (5) The standard forms of provider agreements to be used by the
11 organized delivery system are acceptable;

12 (6) The applicant is financially sound and may reasonably be
13 expected to meet its obligations to enrollees, contract holders and
14 carriers. In making this determination, the commissioner shall
15 consider:

16 (a) The financial soundness of the applicant's compensation
17 arrangements for the provision of health care services;

18 (b) The adequacy of working capital, other sources of funding and
19 provisions for contingencies; and

20 (c) Whether any deposit of cash or securities, or any other
21 evidence of financial protection submitted, meets the requirements set
22 forth in this act or by the commissioner by regulation;

23 (7) Any deficiencies identified by the commissioner have been
24 corrected; and

25 (8) Any other factors determined by the commissioner to be
26 relevant have been addressed to the satisfaction of the commissioner.

27 b. The Commissioner of Banking and Insurance shall refer all
28 standard forms of provider agreements, quality assurance programs
29 and utilization management programs to be used by the organized
30 delivery system to the Commissioner of Health and Senior Services for
31 review. The Commissioner of Banking and Insurance shall consult
32 with the Commissioner of Health and Senior Services regarding
33 provider agreements, quality assurance programs and utilization
34 management programs in determining whether the applicant for a
35 license:

36 (1) Has demonstrated the potential ability to assure that health care
37 services will be provided in a manner that will assure the availability
38 and accessibility of the services;

39 (2) Has adequate arrangements for an ongoing quality assurance
40 program, where applicable;

41 (3) Has established acceptable forms for provider agreements to be
42 used by the system; and

43 (4) Has demonstrated that the persons who are to perform the
44 health care services are properly qualified.

45 c. The Commissioner of Banking and Insurance, in consultation
46 with the Commissioner of Health and Senior Services, may deny an

1 application for a license if the applicant fails to meet any of the
2 standards provided in this act or on any other reasonable grounds. If
3 the license is denied, the Commissioner of Banking and Insurance shall
4 notify the applicant and shall set forth the reasons for the denial in
5 writing. The applicant may request a hearing by notice to the
6 commissioner within 30 days of receiving the notice of denial. Upon
7 such denial, the applicant shall submit to the commissioner a plan for
8 bringing the organized delivery system into compliance or providing
9 for the closing down of its business.

10
11 14. a. A licensed organized delivery system, unless otherwise
12 provided in this act, shall not materially modify any matter or
13 document furnished pursuant to section 12 of this act, unless the
14 system files with the Commissioner of Banking and Insurance, at least
15 60 days prior to use or adoption of the change, a notice of the change
16 or modification, together with that information required by the
17 commissioner to explain the change or modification. If the
18 commissioner fails to affirmatively approve or disapprove the change
19 or modification within 60 days of submission of the notice, the notice
20 of modification shall be deemed approved. The commissioner may
21 extend the 60-day review period for not more than 30 additional days
22 by giving written notice of the extension before the expiration of the
23 60-day period. If a change or modification is disapproved, the
24 commissioner shall notify the system in writing and specify the reason
25 for the disapproval.

26 b. Prior to entering into any contract with a carrier, a licensed
27 organized delivery system shall file with the commissioner, for the
28 commissioner's approval, a copy of the contract. The filing shall be
29 made no later than 60 days prior to the date that the contract is
30 intended to be in effect. The commissioner shall either approve the
31 contract or state in writing the commissioner's reasons for disapproval
32 within 60 days of receipt of the filing.

33
34 15. A licensed organized delivery system may:

35 a. Contract with an insurer licensed in this State for the provision
36 of indemnity coverage against the cost of services provided by the
37 system or other obligations of the system, either on an individual or
38 aggregate attachment basis; and

39 b. In addition to comprehensive or limited services, as applicable,
40 provided by the system for enrollees or contract holders, provide:

41 (1) Additional services as approved by the Commissioner of
42 Banking and Insurance, in consultation with the Commissioner of
43 Health and Senior Services;

44 (2) Indemnity benefits covering urgent care or emergency services;

45 (3) Coverage for services from providers, other than participating
46 providers, in accordance with the terms of the contract; and

1 (4) Any other function provided by law, in the system's
2 organizational documents or in the license.

3
4 16. a. A licensed organized delivery system which is organized
5 under the laws of this State shall be treated as a domestic insurer for
6 the purposes of P.L.1970, c.22 (C.17:27A-1 et seq.) and P.L.1992,
7 c.65 (C.17B:32-31 et seq.).

8 b. A licensed organized delivery system shall be subject to the
9 provisions of chapter 30 of Title 17B of the New Jersey Statutes.

10 c. The capital, surplus and other funds of a licensed organized
11 delivery system shall be invested in accordance with the provisions of
12 chapter 20 of Title 17B of the New Jersey Statutes and guidelines
13 established by the Commissioner of Banking and Insurance by
14 regulation.

15
16 17. The Commissioner of Banking and Insurance may conduct an
17 examination of a licensed organized delivery system as often as the
18 commissioner deems necessary in order to protect the interests of
19 providers, contract holders, enrollees, and the residents of this State.
20 A licensed organized delivery system shall make its relevant books and
21 records available for examination by the commissioner, and retain its
22 records in accordance with a schedule established by the commissioner
23 by regulation. The reasonable expenses of the examination shall be
24 borne by the licensed organized delivery system being examined. In
25 lieu of such examination, the commissioner may accept the report of
26 an examination made by the commissioner of another state.

27
28 18. All licensed organized delivery system contracts with
29 providers shall contain the following terms and conditions:

30 a. In the event that the organized delivery system fails to pay or
31 provide for comprehensive or limited health care services for any
32 reason whatsoever, including, but not limited to, insolvency or breach
33 of contract, neither the contract holder nor the covered person shall be
34 liable to the provider for any sums owed to the provider under the
35 contract.

36 b. No provider, or agent, trustee or assignee thereof may maintain
37 an action at law or attempt to collect from the contract holder or
38 covered person sums owed to the provider by the licensed organized
39 delivery system, except that this subsection shall not be construed to
40 prohibit collection of uncovered charges consented to or lawfully
41 owed to providers by a contract holder or covered person.

42
43 19. a. A licensed organized delivery system shall, at all times, have
44 and maintain a minimum net worth, determined on a statutory
45 accounting basis, in an amount established by the Commissioner of
46 Banking and Insurance by regulation, which amount may vary in

1 accordance with the size of the system, the services provided by the
2 system, and the financial liabilities of the system.

3 b. With respect to any amounts that may be required by the
4 commissioner pursuant to subsection a. of this section, the
5 commissioner shall take into account any limitation on the organized
6 delivery system's exposure to financial loss that results from a contract
7 with a carrier that provides that any liabilities of the system may be
8 satisfied by means of reductions or offsets against monies due to the
9 system from the carrier, which reductions or offsets will not adversely
10 affect the system's ability to meet its contractual obligations.

11

12 20. a. A licensed organized delivery system shall deposit with the
13 Commissioner of Banking and Insurance, or with an entity or trustee
14 acceptable to the commissioner through which a custodial or
15 controlled account is utilized, cash, securities, or any combination of
16 these or other measures that is acceptable to the commissioner in an
17 amount established by the commissioner, by regulation, which amount
18 shall be adjusted annually by the commissioner in accordance with
19 changes in the Consumer Price Index. The deposit shall be deemed an
20 admitted asset of the system in the determination of net worth.

21 b. All income from deposits shall be an asset of the licensed
22 organized delivery system. A licensed organized delivery system may
23 withdraw a deposit or any part thereof after making a substitute
24 deposit of equal amount and value, except that a security may not be
25 substituted unless it has been approved by the commissioner.

26 c. If a licensed organized delivery system is placed in rehabilitation
27 or liquidation, the deposit shall be treated as an asset subject to the
28 provisions of P.L.1992, c.65 (C.17B:32-31 et seq.).

29

30 21. A licensed organized delivery system shall maintain in force a
31 fidelity bond in its own name on its officers and employees, in an
32 amount established by the Commissioner of Banking and Insurance by
33 regulation.

34

35 22. A licensed organized delivery system shall file an annual report
36 with the Commissioner of Banking and Insurance, on or before March
37 1 of each year, attested to by at least two principal officers, which
38 covers the preceding calendar year. The report shall be on a form
39 prescribed by the commissioner and shall include:

40 a. A financial statement of the licensed organized delivery system,
41 including its balance sheet, income statement and statement of changes
42 in financial position for the preceding year, certified by an independent
43 public accountant, or a consolidated audited financial statement of its
44 parent company certified by an independent certified public
45 accountant, attached to which shall be consolidating financial
46 statements of the system;

1 b. At the discretion of the commissioner, a statement by a
2 qualified actuary setting forth the actuary's opinion as to the adequacy
3 of reserves; and

4 c. Any other information relating to the performance of the
5 licensed organized delivery system as may be required by the
6 commissioner.

7 The commissioner may assess a civil administrative penalty of up
8 to \$100 per day for each day a required report is late. The
9 commissioner may require the submission of additional reports from
10 time to time, as the commissioner deems necessary. A penalty may be
11 recovered in a summary proceeding pursuant to "the penalty
12 enforcement law," N.J.S.2A:58-1 et seq.

13
14 23. The Commissioner of Banking and Insurance may suspend or
15 revoke the license issued to an organized delivery system pursuant to
16 this act upon the commissioner's determination that:

17 a. The licensed organized delivery system is operating in
18 contravention of its basic organizational documents;

19 b. The licensed organized delivery system is unable to fulfill its
20 obligations to the carriers with whom it contracts;

21 c. The net worth of the licensed organized delivery system is less
22 than that required by this act, or the licensed organized delivery system
23 has failed to correct any deficiency in its net worth as required by the
24 commissioner;

25 d. The continued operation of the licensed organized delivery
26 system would be hazardous to the health and welfare of the enrollees
27 or contract holders with whom it has contracted to provide health care
28 services or detrimental to a carrier with whom it has contracted to
29 provide the services;

30 e. The licensed organized delivery system has failed to file any
31 report required pursuant to this act;

32 f. The licensed organized delivery system has failed to provide the
33 health care services for which it has been licensed or has provided
34 health care services which are in contravention of the contract or
35 contracts filed with the commissioner;

36 g. The licensed organized delivery system is unable to maintain the
37 standards set forth by regulation;

38 h. The licensed organized delivery system has failed, as provided
39 by the contract, to comply with the provisions of P.L.1997, c.192
40 (C.26:2S-1 et seq.);

41 i. The licensed organized delivery system has otherwise failed to
42 comply with this act or with other applicable law; or

43 j. There are other reasonable grounds that warrant suspension or
44 revocation.

45
46 24. a. If the Commissioner of Banking and Insurance has cause to

1 believe that grounds exist for the suspension or revocation of a license,
2 the commissioner shall notify the licensed organized delivery system,
3 in writing, specifically stating the grounds for suspension or revocation
4 and fixing a time for a hearing in accordance with the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). If a license is
6 revoked, the licensed organized delivery system shall submit a plan to
7 the commissioner within 15 days of the revocation, for the winding up
8 of its affairs, and shall conduct no further business except as may be
9 essential to the orderly conclusion of its business. The commissioner
10 may, by written order, permit such further operation of the system as
11 the commissioner finds to be in the best interest of individuals
12 receiving health care services from the system.

13 b. The commissioner shall notify all carriers with contracts with
14 the system that are on file with the Department of Banking and
15 Insurance of the proceedings.

16

17 25. The Commissioner of Banking and Insurance may require, in
18 connection with the plan for insolvency required pursuant to paragraph
19 (5) of subsection i. of section 12 of this act, that a licensed organized
20 delivery system maintain insurance to cover the expenses to be paid for
21 continued benefits following a determination of insolvency, or make
22 other arrangements to ensure that benefits are continued for the period
23 determined in the insolvency plan.

24

25 26. Any rehabilitation, liquidation or conservation of a licensed
26 organized delivery system shall be subject to the provisions of
27 P.L.1992, c.65 (C.17B:32-31 et seq.) and shall be conducted under the
28 supervision of the Commissioner of Banking and Insurance; except
29 that the commissioner shall have the authority to regulate any licensed
30 organized delivery system doing business in this State as a domestic
31 insurer. The commissioner may apply for an order directing the
32 commissioner to rehabilitate, liquidate, reorganize or conserve a
33 licensed organized delivery system upon any one or more applicable
34 grounds as stated for insurers in P.L.1992, c.65 (C.17B:32-31 et seq.),
35 or any other provisions of Title 17B of the New Jersey Statutes, or
36 when, in the commissioner's opinion, the licensed organized delivery
37 system fails to satisfy the requirements for the issuance of a license
38 relating to solvency or the requirements for solvency protection as set
39 forth in this act.

40

41 27. A licensed organized delivery system shall not be subject to
42 the "New Jersey Life and Health Insurance Guaranty Association Act,"
43 P.L.1991, c.208 (C.17B:32A-1 et seq.), and the New Jersey Life and
44 Health Insurance Guaranty Association established pursuant to that act
45 shall not provide protection to any individuals entitled to receive
46 health care services from a licensed organized delivery system.

1 28. A licensed organized delivery system shall pay to the
2 Commissioner of Banking and Insurance those application,
3 examination and fees as are established by the commissioner by
4 regulation in the same manner as established for insurers and health
5 maintenance organizations licensed or authorized to do business in this
6 State.

7
8 29. The Commissioner of Banking and Insurance may, upon notice
9 and hearing, assess a civil administrative penalty in an amount not less
10 than \$250 nor more than \$10,000 for each day that a licensed
11 organized delivery system is in violation of this act. Penalties imposed
12 by the commissioner pursuant to this section may be in lieu of, or in
13 addition to, suspension or revocation of a license pursuant to this act.
14 A penalty may be recovered in a summary proceeding pursuant to "the
15 penalty enforcement law," N.J.S.2A:58-1 et seq.

16
17 30. Any data or information relating to the diagnosis, treatment or
18 health of an enrollee, prospective enrollee or contract holder obtained
19 by a certified or licensed organized delivery system from the carrier,
20 contract holder, enrollee, prospective enrollee or any provider shall be
21 confidential and shall not be disclosed to any person except:

22 a. To the extent that it may be necessary to carry out the purposes
23 of this act;

24 b. Upon the express consent of the enrollee, prospective enrollee
25 or contract holder;

26 c. Pursuant to statute or court order for the production of
27 evidence or the discovery thereof; or

28 d. In the event of a claim or litigation between an enrollee, a
29 prospective enrollee or a contract holder and the organized delivery
30 system wherein that data or information is relevant. An organized
31 delivery system shall be entitled to claim any statutory privilege against
32 disclosure which the provider who furnished the information to the
33 system is entitled to claim.

34
35 31. Any certified organized delivery system which intends to
36 change the means by which it receives compensation so that it will be
37 compensated on a basis that entails the assumption of financial risk
38 shall notify the Commissioner of Health and Senior Services and make
39 application for licensure to the Commissioner of Banking and
40 Insurance pursuant to this act.

41
42 32. The Commissioners of Banking and Insurance and Health and
43 Senior Services shall adopt rules and regulations pursuant to the
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.), to effectuate the purposes of this act.

46 The commissioners shall adopt the rules and regulations within 180

1 days of the date of enactment of this act.

2

3 33. An organized delivery system which is either certified by the
4 Department of Health and Senior Services or licensed by the
5 Department of Banking and Insurance shall be subject to the "Health
6 Care Quality Act," P.L.1997, c.192 (C.26:2S-1 et seq.) and the
7 regulations promulgated thereunder.

8

9 34. a. A carrier that contracts with a licensed organized delivery
10 system shall provide that system with any data or reports required by
11 their contractual arrangement on a timely basis, in accordance with the
12 terms of the contract.

13 b. If a carrier fails to provide a report required pursuant to
14 subsection a. of this section, the Commissioner of Banking and
15 Insurance may, upon notice and hearing, assess a civil administrative
16 penalty in an amount not less than \$250 nor more than \$1,000 for each
17 day the carrier is in violation of this section. The penalty may be
18 recovered in a summary proceeding pursuant to "the penalty
19 enforcement law," N.J.S.2A:58-1 et seq.

20

21 35. Any documents provided by a organized delivery system to the
22 Departments of Banking and Insurance or Health and Senior Services
23 pursuant to this act that are deemed by the Commissioner of Banking
24 and Insurance or the Commissioner of Health and Senior Services to
25 be proprietary, shall be confidential and shall not be considered public
26 documents pursuant to P.L.1963, c.73 (C.47:1A-2).

27

28 36. This act shall take effect on the 180th day following
29 enactment, but the Commissioners of Banking and Insurance and
30 Health and Senior Services may take such anticipatory administrative
31 action in advance of the effective date as shall be necessary for the
32 implementation of this act.

33

34

35

36

37 _____
38 Regulates organized delivery systems for health care services and
benefits.

SENATE, No. 2094

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED JULY 1, 1999

Sponsored by:

Senator JACK SINAGRA

District 18 (Middlesex)

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

Co-Sponsored by:

Senators Bassano, Singer, Codey, Vitale and Inverso

SYNOPSIS

Regulates organized delivery systems for health care services or benefits.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/24/1999)

1 AN ACT concerning organized delivery systems for health care
2 services or benefits.

3

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

6

7 1. As used in this act:

8 "Affiliate" means a person that directly, or indirectly through one
9 or more intermediaries, controls, or is controlled by, or is under
10 common control, with the organized delivery system.

11 "Capitation" means a fixed per member, per month, payment or
12 percentage of premium payment for which the provider assumes the
13 full risk for the cost of contracted services without regard to the type,
14 value or frequency of services provided.

15 "Carrier" means an insurer authorized to transact the business of
16 health insurance as defined at N.J.S.17B:17-4, a hospital service
17 corporation authorized to transact business in accordance with
18 P.L.1938, c.366 (C.17:48-1 et seq.), a medical service corporation
19 authorized to transact business in accordance with P.L.1940, c.74 (C.
20 17:48A-1 et seq.), a health service corporation authorized to transact
21 business in accordance with P.L.1985, c.236 (C.17:48E-1 et seq.) or
22 a health maintenance organization authorized to transact business
23 pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.).

24 "Certified organized delivery system" means an organization with
25 defined governance that undertakes to provide for, or arrange for, the
26 provision of comprehensive or limited health care services or benefits
27 to enrollees or contractholders of a carrier and that is compensated on
28 a basis which does not entail the assumption of financial risk by the
29 delivery system and that is certified in accordance with this act. A
30 certified organized delivery system shall not include an entity
31 otherwise licensed to provide comprehensive health care services on
32 a prepayment or other basis in connection with a health benefits plan
33 or a carrier.

34 "Comprehensive health care services" means preventive care,
35 emergency care, inpatient and outpatient hospital and provider care,
36 diagnostic laboratory and diagnostic and therapeutic radiological
37 services.

38 "Financial risk" means participation in financial gains or losses
39 accruing pursuant to a contractual arrangement, based on aggregate
40 measures of medical expenditures or utilization, and includes payment
41 based on capitation. Any payment method for services for which the
42 provider receiving the payment is licensed as a professional or is
43 otherwise authorized to render shall not be considered financial risk.

44 "Licensed organized delivery system" means an organization with
45 defined governance that undertakes to provide for, or arrange for, the

1 provision of comprehensive or limited health care services or benefits
2 to enrollees or contractholders of a carrier and that is compensated by
3 the carrier on a basis which entails the assumption of financial risk by
4 the delivery system and that is licensed in accordance with this act. An
5 organized delivery system shall not include an entity otherwise
6 authorized or licensed pursuant to the laws of this State to provide
7 comprehensive health care services on a prepayment or other basis in
8 connection with a health benefits plan or a carrier.

9 "Limited health care services" means a health service or benefit that
10 may be or is provided to an enrollee or contractholder as specified by
11 the Commissioner of Health and Senior Services by regulation, which
12 may include, but shall not be limited to, substance abuse services,
13 vision care services, mental health services, pharmaceutical services,
14 podiatric care services, chiropractic services, case management
15 services, employee assistance plan services or rehabilitation services.
16 Limited health care services shall not include hospital, medical,
17 surgical or emergency services except those provided in connection
18 with the limited health care services which are the subject of the
19 contract or agreement with the provider.

20 "Organized delivery system" means an organization with defined
21 governance that undertakes to provide or arrange for the provision of
22 comprehensive or limited health care services or benefits to enrollees
23 or contractholders of a carrier that is compensated either on a basis
24 that entails the assumption of financial risk or on a basis that does not
25 entail the assumption of financial risk.

26 "Provider" means a physician, hospital, facility, or other person who
27 is licensed or otherwise authorized to provide health care services or
28 other benefits in the state or jurisdiction in which they are furnished.
29

30 2. Any person offering health care services in a manner
31 substantially provided for in this act shall be subject to the provisions
32 of this act unless the person is otherwise regulated under P.L.1973, c.
33 337 (C.26:2J-1 et seq.), Title 17 of the Revised Statutes or Title 17B
34 of the New Jersey Statutes.

35
36 3. a. No person, corporation, partnership, or other entity which
37 receives compensation on a basis that does not entail the assumption
38 of financial risk shall operate an organized delivery system in this State
39 without obtaining certification from the Commissioner of Health and
40 Senior Services pursuant to this act. A certified organized delivery
41 system shall not directly issue health benefit plans.

42 b. An organized delivery system operating in this State on the
43 effective date of this act which receives compensation on a basis that
44 does not entail the assumption of financial risk shall submit an
45 application for certification to the Commissioner of Health and Senior
46 Services within nine months of the date of enactment of this act. The

1 organized delivery system may continue to operate during the
2 pendency of its application, but in no case longer than 18 months after
3 the enactment of this act. In the event the application is denied, the
4 applicant shall be treated as an organized delivery system whose
5 certification has been revoked pursuant to sections 7 and 8 of this act.
6 Notwithstanding the obligations imposed by this act regarding
7 certification requirements, nothing in this subsection shall operate to
8 impair any contract which was entered into before the effective date
9 of this act.

10 c. The certification shall be valid for a period of three years.

11

12 4. Application for certification to operate an organized delivery
13 system shall be made to the Commissioner of Health and Senior
14 Services on a form prescribed by the commissioner, shall be certified
15 by an officer or authorized representative of the applicant and shall
16 include the following:

17 a. A copy of the applicant's basic organizational documents. For
18 purposes of this subsection, "basic organizational documents" means
19 the articles of incorporation, articles of association, partnership
20 agreement, management agreement, trust agreement, or other
21 applicable documents as appropriate to the applicant's form of
22 business entity, and all amendments to those documents;

23 b. A copy of the executed bylaws, rules and regulations, or similar
24 documents, regulating the conduct of the applicant's internal affairs;

25 c. A list, in a form approved by the Commissioner of Health and
26 Senior Services, of the names, addresses, and official positions of the
27 persons who are to be responsible for the conduct of the affairs of the
28 applicant, including, but not limited to, the members of the board of
29 directors, executive committee or other governing board or
30 committee, the principal officers, and any person or entity owning or
31 having the right to acquire 10% or more of the voting securities of the
32 applicant; in the case of a partnership or association, the names of the
33 partners or members; each person who has loaned funds to the
34 applicant for the operation of its business; and a statement of any
35 criminal convictions or enforcement or regulatory action taken against
36 any person who is a member of the board, the executive committee or
37 other governing board or committee, the principal officers, or the
38 persons who are responsible for the conduct of the affairs of the
39 applicant;

40 d. A statement generally describing the applicant, its facilities,
41 personnel, and the health care services to be offered by the
42 organization;

43 e. A copy of the standard form of any contract made or to be made
44 between the applicant and providers relative to the provision of health
45 care services;

- 1 f. A copy of the form of agreement the applicant intends to enter
2 into with carriers for the provision of or arrangement to provide health
3 care services;
- 4 g. A copy of the applicant's most recent financial statements
5 audited by an independent certified public accountant. If the financial
6 affairs of the applicant's parent company are audited by an
7 independent certified public accountant, but those of the applicant are
8 not, then a copy of the most recent audited financial statement of the
9 applicant's parent company, certified by an independent certified
10 public accountant shall be submitted. A consolidated financial
11 statement of the applicant and its parent shall satisfy this requirement
12 unless the Commissioner of Banking and Insurance determines that
13 additional or more recent financial information is required for the
14 proper administration of this act;
- 15 h. A copy of the applicant's financial plan, including a three-year
16 projection of anticipated operating results, a statement of the sources
17 of working capital and any other sources of funding and provisions for
18 contingencies;
- 19 i. A description of the complaint and appeals procedures instituted
20 by the applicant;
- 21 j. A description of the quality assurance and utilization review
22 procedures established by the applicant;
- 23 k. With respect to each contract made or to be made between the
24 applicant and any other person who will provide comprehensive or
25 limited health care services:
- 26 (1) A list of the persons who are to provide the health care services,
27 and the geographical area in which they are located and in which the
28 services are to be performed;
- 29 (2) A list of any affiliate of the applicant which provides services to
30 the applicant in this State and a description of any material transaction
31 between the affiliate and the applicant;
- 32 (3) A description of the services or benefits to be offered or
33 proposed to be offered by the applicant;
- 34 (4) A description of the means which will be utilized to assure the
35 availability and accessibility of the health care services to enrollees or
36 contractholders;
- 37 (5) A plan, in the event of insolvency, for continuation of the health
38 care services to be provided for under the contract; and
- 39 (6) A description of the means by which the organized delivery
40 system shall be compensated for its services and benefits;
- 41 l. A list of all administrative, civil or criminal actions and
42 proceedings to which the applicant, or any of its affiliates, or persons
43 who are responsible for the conduct of the affairs of the applicant or
44 affiliate, have been subject and the resolution of those actions and
45 proceedings. If a license, certificate or other authority to operate has
46 been refused, suspended or revoked by any jurisdiction, the applicant

1 shall provide a copy of any orders, proceedings and determinations
2 relating thereto; and

3 m. Other information as may be required by the Commissioner of
4 Banking and Insurance or the Commissioner of Health and Senior
5 Services.

6

7 5. Following receipt of an application, the Commissioner of Health
8 and Senior Services shall review it in consultation with the
9 Commissioner of Banking and Insurance and notify the applicant of
10 any deficiencies contained therein.

11 a. The Commissioner of Health and Senior Services shall issue a
12 certification to an organized delivery system if the commissioner finds
13 that the organization meets the standards provided for in this act,
14 including, but not limited to:

15 (1) All of the material required by section 4 of this act has been
16 filed;

17 (2) The persons responsible for conducting the applicant's affairs
18 are competent, trustworthy and possess good reputations, and have
19 had appropriate experience, training and education;

20 (3) The persons who are to perform the health care services are
21 properly qualified;

22 (4) The organized delivery system has demonstrated the ability to
23 assure that health care services will be provided in a manner which will
24 assure the availability and accessibility of the services;

25 (5) The standard forms of provider agreements to be used by the
26 organization are acceptable;

27 (6) The organized delivery system has adequate arrangements for
28 compliance with the "Health Care Quality Act," P.L.1997, c.192
29 (C.26:2S-1 et seq.) and the regulations promulgated thereunder; and

30 (7) The organized delivery system's contracts to provide services
31 do not entail or will not result in the assumption of financial risk by the
32 organization.

33 b. The Commissioner of Health and Senior Services may deny an
34 application for certification if the applicant fails to meet any of the
35 standards provided in this act or on any other reasonable grounds. If
36 certification is denied, the commissioner shall notify the applicant and
37 shall set forth the reasons for the denial in writing. The applicant may
38 request a hearing by notice to the commissioner within 30 business
39 days of receiving the notice of denial. Upon such denial, the applicant
40 shall submit to the commissioner a plan for bringing the organized
41 delivery system into compliance or providing for the closing down of
42 its business.

43

44 6. a. A certified organized delivery system, unless otherwise
45 provided for in this act, shall not materially modify any matter or
46 document furnished to the Commissioner of Health and Senior

1 Services pursuant to section 4 of this act unless the organization files
2 with the commissioner at least 60 days prior to use or adoption of the
3 change, a notice of the change or modification, together with that
4 information required by the commissioner to explain the change or
5 modification. If the commissioner fails to affirmatively approve or
6 disapprove the change or modification within 60 days of submission of
7 the notice, the notice of modification shall be deemed approved. The
8 commissioner may extend the 60-day review period for not more than
9 30 additional days by giving written notice of the extension before the
10 expiration of the 60-day period. If a change or modification is
11 disapproved, the commissioner shall notify the organization in writing
12 and specify the reason for the disapproval.

13 b. Prior to entering into any contract with a carrier, a certified
14 organized delivery system shall file with the commissioner, for his
15 approval, a copy of that contract listing any benefits which are offered
16 or proposed to be offered under the plan, as well as any modifications
17 which may be made thereto. The filing shall be made no later than 60
18 days prior to the date that the contract is intended to be in effect. If
19 the contract is not disapproved prior to the effective date by the
20 commissioner, the contract shall be deemed approved.

21

22 7. The Commissioner of Health and Senior Services may suspend
23 or revoke a certification issued to a certified organized delivery system
24 pursuant to this act upon his determination that:

25 a. The certified organized delivery system is operating in
26 contravention of its basic organizational documents;

27 b. The certified organized delivery system is unable to fulfill its
28 obligations to the carriers with whom it contracts;

29 c. The continued operation of the certified organized delivery
30 system would be hazardous to the health and welfare of the enrollees
31 and contractholders it is obligated to provide health care services to;

32 d. The certified organized delivery system is unable to maintain the
33 standards of care as set forth by the commissioner by regulation;

34 e. The certified organized delivery system has failed to comply with
35 the provisions of the "Health Care Quality Act," P.L.1997, c.192
36 (C.26:2S-1 et seq.);

37 f. The certified organized delivery system has failed to provide the
38 health care services for which it has been certified or which are in
39 contravention of the contract or contracts filed with the commissioner;

40 g. The certified organized delivery system has otherwise failed to
41 comply with this act or with other applicable law;

42 h. There are other reasonable grounds for suspension or
43 revocation.

44

45 8. If the Commissioner of Health and Senior Services has cause to
46 believe that grounds exist for the suspension or revocation of the

1 certification issued to an organized delivery system, he shall notify the
2 system in writing, specifically stating the grounds for suspension or
3 revocation and fixing a time for a hearing in accordance with the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et.
5 seq.). If the certification is revoked, the organized delivery system
6 shall submit a plan to the commissioner within 15 days of the
7 revocation, for the winding up of its affairs, and shall conduct no
8 further business except as may be essential to the orderly conclusion
9 of its business. The commissioner may, by written order, permit that
10 further operation of the organized delivery system as he finds to be in
11 the best interest of individuals receiving care from the system.

12

13 9. A certified organized delivery system shall pay to the
14 Commissioner of Health and Senior Services the application and
15 annual fees established by the commissioner by regulation.

16

17 10. The Commissioner of Health and Senior Services may, upon
18 notice and hearing, assess a civil administrative penalty in an amount
19 not less than \$250 nor more than \$10,000 for each day that a certified
20 organized delivery system is in violation of this act. Penalties imposed
21 by the commissioner pursuant to this section may be in lieu of, or in
22 addition to, suspension or revocation of a certification pursuant to this
23 act. A penalty may be recovered in a summary proceeding pursuant
24 to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

25

26 11. a. Beginning one year after the enactment of this act, no
27 person, corporation, partnership, or other entity which receives
28 compensation from carriers on a basis that entails the assumption of
29 financial risk shall operate an organized delivery system in this state
30 without obtaining a license from the Commissioner of Banking and
31 Insurance pursuant to this act. A licensed organized delivery system
32 shall not directly issue health benefit plans.

33 b. An organized delivery system operating in this State on the
34 effective date of this act which receives compensation from carriers on
35 a basis that entails the assumption of financial risk shall submit an
36 application for licensure to the Commissioner of Banking and
37 Insurance within nine months of the date of enactment of the act. The
38 organized delivery system may continue to operate during the
39 pendency of its application, but in no case longer than 18 months after
40 the date of enactment of this act. In the event the application is
41 denied, the applicant shall be treated as an organized delivery system
42 whose license has been revoked pursuant to sections 23 and 24 of this
43 act. Nothing in this subsection shall operate to impair any contract
44 which was entered into before the effective date of this act.

45

46 12. Application for a license to operate an organized delivery system

1 shall be made to the Commissioner of Banking and Insurance and the
2 Commissioner of Health and Senior Services on a form prescribed by
3 the commissioners, shall be certified by an officer or authorized
4 representative of the applicant, and shall include the following:

5 a. A copy of the applicant's basic organizational documents. For
6 purposes of this subsection, "basic organizational documents" means
7 the articles or incorporation, articles of association, partnership
8 agreement, management agreement, trust agreement, or other
9 applicable documents as appropriate to the applicant's form of
10 business entity and all amendments to those documents;

11 b. A copy of the executed bylaws, rules and regulations, or similar
12 documents, regulating the conduct of the applicant's internal affairs;

13 c. A list, in a form approved by the Commissioner of Banking and
14 Insurance of the names, addresses, and official positions of the persons
15 who are to be responsible for the conduct of the affairs of the
16 applicant, including, but not limited to, the members of the board of
17 directors, executive committee or other governing board or
18 committee, the principal officers, and any person or entity owning or
19 having the right to acquire 10% or more of the voting securities of the
20 applicant; in the case of a partnership or association, the names of the
21 partners or members; each person who has loaned funds to the
22 applicant for the operation of its business; and a statement of any
23 criminal convictions or enforcement or regulatory action, including
24 licensing actions, taken against any person who is a member of the
25 board, the executive committee or other governing board of
26 committee, or the principal officers;

27 d. A statement generally describing the applicant, its facilities,
28 personnel, and the health care services to be offered by the organized
29 delivery system;

30 e. A copy of the standard form of any contract made or to be made
31 between the applicant and any providers relative to the provision of
32 health care services;

33 f. A copy of the form of agreement the applicant intends to enter
34 into with carriers for the provision of or arrangement to provide health
35 care services;

36 g. A copy of the applicant's most recent financial statements audited
37 by an independent certified public accountant. If the financial affairs
38 of the applicant's parent company are audited by an independent
39 certified public accountant, but those of the applicant are not, then a
40 copy of the most recent audited financial statement of the applicant's
41 parent company, certified by an independent certified public
42 accountant, shall be submitted. A consolidated financial statement of
43 the applicant and its parent company shall satisfy this requirement
44 unless the Commissioner of Banking and Insurance determines that
45 additional or more recent financial information is required for the
46 proper administration of this act;

- 1 h. A copy of the applicant's financial plan, including a three-year
2 projection of anticipated operating results, a statement of the sources
3 of working capital and any other sources of funding and provisions for
4 contingencies;
- 5 i. A description of the complaint and appeals procedures instituted
6 by the applicant;
- 7 j. A description of the quality assurance and utilization review
8 procedures established by the applicant;
- 9 k. With respect to each contract made or to be made between the
10 applicant and any other person who will provide comprehensive or
11 limited health care services:
- 12 (1) A list of the persons who are to provide the health care services,
13 and the geographical area in which they are located and in which the
14 services are to be performed;
- 15 (2) A list of any affiliate of the applicant which provides services to
16 the applicant in this State and a description of any material transaction
17 between the affiliate and the applicant;
- 18 (3) A description of the health care services or benefits to be offered
19 or proposed to be offered by the applicant;
- 20 (4) A description of the means which will be utilized to assure the
21 availability and accessibility of the health care services to enrollees and
22 contractholders;
- 23 (5) A plan, in the event of insolvency, for continuation of the health
24 care services to be provided for under the contract; and
- 25 (6) A description of the means by which the organized delivery
26 system shall be compensated for its services and benefits;
- 27 l. A power of attorney, duly executed by the applicant, if not
28 domiciled in this State, appointing the Commissioner of Banking and
29 Insurance and his successors in office as the true and lawful attorney
30 of the applicant in and for this State upon whom all lawful process in
31 any legal action or proceeding against the organization on a cause of
32 action arising in this State may be served;
- 33 m. A list of all administrative, civil or criminal actions and
34 proceedings to which the applicant, or any of its affiliates, or persons
35 who are responsible for the conduct of the affairs of the applicant or
36 affiliate, have been subject and the resolution of those actions and
37 proceedings. If a license, certificate or other authority to operate has
38 been refused, suspended or revoked by any jurisdiction, the applicant
39 shall provide a copy of any orders, proceedings and determinations
40 relating thereto; and
- 41 n. Other information as may be required by the Commissioner of
42 Banking and Insurance or the Commissioner of Health and Senior
43 Services.
- 44
- 45 13. Following receipt of an application, the Commissioner of
46 Banking and Insurance shall review it in consultation with the

1 Commissioner of Health and Senior Services and notify the applicant
2 of any deficiencies contained therein.

3 a. The Commissioner of Banking and Insurance shall issue a license
4 to an organized delivery system if the commissioner finds that the
5 organization meets the standards provided for in this act, including,
6 but not limited to:

7 (1) All of the material required by section 12 of this act has been
8 filed;

9 (2) The persons responsible for conducting the applicant's affairs are
10 competent, trustworthy and possess good reputations, and have had
11 appropriate experience, training and education;

12 (3) The persons who are to perform the health care services are
13 properly qualified;

14 (4) The organized delivery system has demonstrated the ability to
15 assure that health care services will be provided in a manner which will
16 assure the availability and accessibility of the services;

17 (5) The standard forms of provider agreements to be used by the
18 organization are acceptable;

19 (6) The applicant is financially sound and may reasonably be
20 expected to meet its obligations to enrollees, contractholders and
21 carriers. In making this determination, the commissioner shall
22 consider:

23 (a) The financial soundness of the applicant's compensation
24 arrangements for the provision of health care services;

25 (b) The adequacy of working capital, other sources of funding and
26 provisions for contingencies; and

27 (c) Whether any deposit of cash or securities, or any other evidence
28 of financial protection submitted, meets the requirements set forth in
29 this act or by the commissioner by regulation;

30 (7) Any deficiencies identified by the commissioner have been
31 corrected; and

32 (8) Any other factors determined by the commissioner to be relevant
33 have been addressed to the satisfaction of the commissioner.

34 b. The Commissioner of Banking and Insurance shall refer all
35 standard forms of provider agreements, quality assurance programs
36 and utilization management programs to be used by the organized
37 delivery system to the Commissioner of Health and Senior Services for
38 review and approval. The Commissioner of Banking and Insurance
39 shall rely principally upon the decision of the Commissioner of Health
40 and Senior Services regarding provider agreements, quality assurance
41 programs and utilization management programs in determining
42 whether the applicant for a license:

43 (1) Has demonstrated the potential ability to assure that
44 comprehensive health care services will be provided in a manner that
45 will assure the availability and accessibility of the services;

1 (2) Has adequate arrangements for an ongoing quality assurance
2 program;

3 (3) Has established acceptable forms for provider agreements to be
4 used by the organization;

5 (4) Has demonstrated that the persons who are to perform the health
6 care services are properly qualified; and

7 (5) Has adequate procedures established to comply with the "Health
8 Care Quality Act," P.L.1997, c.192 (C.26:2S-1 et seq.) and the
9 regulations promulgated thereunder.

10 c. The Commissioner of Banking and Insurance may deny an
11 application for a license if the applicant fails to meet any of the
12 standards provided in this act or on any other reasonable grounds. If
13 the license is denied, the commissioner shall notify the applicant and
14 shall set forth the reasons for the denial in writing. The applicant may
15 request a hearing by notice to the commissioner within 30 business
16 days of receiving the notice of denial. Upon such denial, the applicant
17 shall submit to the commissioner a plan for bringing the organized
18 delivery system into compliance or providing for the closing down of
19 its business.

20

21 14. a. A licensed organized delivery system, unless otherwise
22 provided in this act, shall not materially modify any matter or
23 document furnished pursuant to section 12 of this act, unless the
24 system files with the Commissioner of Banking and Insurance and the
25 Commissioner of Health and Senior Services at least 60 days prior to
26 use or adoption of the change, a notice of the change or modification,
27 together with that information required by the commissioners to
28 explain the change or modification. If the commissioners fail to
29 affirmatively approve or disapprove the change or modification within
30 60 days of submission of the notice, the notice of modification shall be
31 deemed approved. The commissioners may extend the 60-day review
32 period for not more than 30 additional days by giving written notice
33 of the extension before the expiration of the 60-day period. If a
34 change or modification is disapproved, the commissioners shall notify
35 the organization in writing and specify the reason for the disapproval.

36 b. Prior to entering into any contract with a carrier, a licensed
37 organized delivery system shall file with the Commissioner of Banking
38 and Insurance, for his approval, a copy of the contract listing any
39 services or benefits which are offered or proposed to be offered, as
40 well as any modifications which may be made thereto. The filing shall
41 be made no later than 60 days prior to the date that the contract is
42 intended to be in effect. The commissioner shall either approve the
43 contract or state in writing his reasons for its disapproval within 60
44 days of receipt of the filing.

45

46 15. A licensed organized delivery system may:

- 1 a. Purchase, lease, construct, renovate, operate and maintain any
2 facilities, ancillary equipment and property which may be required for
3 its principal office or for any other purposes deemed necessary in the
4 business transactions of the organization;
- 5 b. Borrow money;
- 6 c. Loan funds to any person for the purpose of acquiring or
7 constructing facilities or in furtherance of a program providing
8 services to individuals, or for any other purpose reasonably related to
9 the business of the organization;
- 10 d. Furnish health care services to enrollees or contract holders of
11 carriers through providers who are under contract with or employed
12 by the system;
- 13 e. Contract with an insurer licensed in this State for the provision of
14 indemnity coverage, or reimbursement against the cost of services
15 provided by the system;
- 16 f. In addition to comprehensive services provided by the system for
17 enrollees or contractholders of carriers, provide:
- 18 (1) Additional services as approved by the Commissioner of Banking
19 and Insurance, in consultation with the Commissioner of Health and
20 Senior Services;
- 21 (2) Indemnity benefits covering urgent care or emergency services;
- 22 (3) Coverage for services from providers, other than participating
23 providers, when referred in accordance with the terms of the contract;
24 and
- 25 (4) Any other function provided by law, in the system's articles of
26 incorporation or in the license.
- 27
- 28 16. a. A licensed organized delivery system which is organized
29 under the laws of this State shall be treated as a domestic insurer for
30 the purposes of P.L.1970, c.22 (C.17:27A-1 et seq.) and P.L.1992,
31 c.65 (C.17B:32-31 et seq.).
- 32 b. A licensed organized delivery system shall be subject to the
33 provisions of chapter 30 of Title 17B of the New Jersey Statutes.
- 34 c. The capital, surplus and other funds of a licensed organized
35 delivery system shall be invested in accordance with the provisions of
36 chapter 20 of Title 17B of the New Jersey Statutes and guidelines
37 established by the Commissioner of Banking and Insurance by
38 regulation.
- 39
- 40 17. The Commissioner of Banking and Insurance may conduct an
41 examination of a licensed organized delivery system as often as he
42 deems necessary in order to protect the interests of providers, contract
43 holders, enrollees, and the residents of this State. A licensed
44 organized delivery system shall make its relevant books and records
45 available for examination by the commissioner, and retain its records
46 in accordance with a schedule established by the commissioner by

1 regulation. The reasonable expenses of the examination shall be borne
2 by the licensed organized delivery system being examined. In lieu of
3 such examination, the commissioner may accept the report of an
4 examination made by the commissioner of another state.

5
6 18. All licensed organized delivery system contracts with providers
7 shall contain the following terms and conditions:

8 a. In the event that the organized delivery system fails to pay for
9 comprehensive or limited health care services for any reason
10 whatsoever, including, but not limited to, insolvency or breach of
11 contract, neither the contractholder nor the enrollee shall be liable to
12 the provider for any sums owed to the provider under the contract.

13 b. No provider, or agent, trustee or assignee thereof may maintain
14 an action at law or attempt to collect from the contract holder or
15 enrollee sums owed to the provider by the licensed organized delivery
16 system, except that this subsection shall not be construed to prohibit
17 collection of uncovered charges consented to or lawfully owed to
18 providers by a contractholder or enrollee.

19
20 19. A licensed organized delivery system shall, at all times, have and
21 maintain a minimum net worth, determined on a statutory accounting
22 basis, in an amount established by the Commissioner of Banking and
23 Insurance by regulation, which amount may vary in accordance with
24 the size of the system, the services provided by the system, and the
25 financial liabilities of the system.

26
27 20. a. A licensed organized delivery system shall deposit with the
28 Commissioner of Banking and Insurance, or with an entity or trustee
29 acceptable to the commissioner through which a custodial or
30 controlled account is utilized, cash, securities, or any combination of
31 these or other measures that is acceptable to the commissioner in an
32 amount established by the commissioner, by regulation, which amount
33 shall be adjusted annually by the commissioner in accordance with
34 changes in the Consumer Price Index. The deposit shall be deemed an
35 admitted asset of the system in the determination of net worth.

36 b. All income from deposits shall be an asset of the licensed
37 organized delivery system. A licensed organized delivery system may
38 withdraw a deposit or any part thereof after making a substitute
39 deposit of equal amount and value, except that a security may not be
40 substituted unless it has been approved by the commissioner.

41 c. If a licensed organized delivery system is placed in rehabilitation
42 or liquidation, the deposit shall be treated as an asset subject to the
43 provisions of P.L.1992, c.65 (C.17B:32-31 et seq.).

44
45 21. A licensed organized delivery system shall maintain in force a
46 fidelity bond in its own name on its officers and employees, in an

1 amount established by the Commissioner of Banking and Insurance by
2 regulation.

3

4 22. A licensed organized delivery system shall file an annual report
5 with the Commissioner of Banking and Insurance, on or before March
6 1 of each year, attested to by at least two principal officers, which
7 covers the preceding calendar year. The report shall be on a form
8 prescribed by the commissioner and shall include:

9 a. A financial statement of the licensed organized delivery system,
10 including its balance sheet, income statement and statement of changes
11 in financial position for the preceding year, certified by an independent
12 public accountant, or a consolidated audited financial statement of its
13 parent company certified by an independent certified public
14 accountant, attached to which shall be consolidating financial
15 statements of the organization;

16 b. At the discretion of the commissioner, a statement by a qualified
17 actuary setting forth his opinion as to the adequacy of reserves; and

18 c. Any other information relating to the performance of the licensed
19 organization delivery system as may be required by the commissioner.

20 The commissioner may assess a civil administrative penalty of up to
21 \$100 per day for each day a required report is late. The commissioner
22 may require the submission of additional reports from time to time, as
23 he deems necessary. A penalty may be recovered in a summary
24 proceeding pursuant to "the penalty enforcement law," N.J.S.2A:58-1
25 et seq.

26

27 23. The Commissioner of Banking and Insurance may suspend or
28 revoke the license issued to an organized delivery system pursuant to
29 this act upon his determination that:

30 a. The licensed organized delivery system is operating in
31 contravention of its basic organizational documents;

32 b. The licensed organized delivery system is unable to fulfill its
33 obligations to the carriers with whom it contracts;

34 c. The net worth of the licensed organized delivery system is less
35 than that required by this act, or the licensed organized delivery system
36 has failed to correct any deficiency in its net worth as required by the
37 commissioner;

38 d. The continued operation of the licensed organized delivery
39 system would be hazardous to the health and welfare of the enrollees
40 and contractholders it has contracted to provide health care services
41 to;

42 e. The licensed organized delivery system has failed to file any
43 report required pursuant to this act;

44 f. The licensed organized delivery system has failed to provide the
45 health care services for which it has been licensed or which are in
46 contravention of the contract or contracts filed with the commissioner;

1 g. The licensed organized delivery system is unable to maintain the
2 standards set forth by regulation;

3 h. The licensed organized delivery system has otherwise failed to
4 comply with this act or with other applicable law; or

5 i. There are other reasonable grounds that warrant suspension or
6 revocation.

7
8 24. If the Commissioner of Banking and Insurance has cause to
9 believe that grounds exist for the suspension or revocation of a license,
10 he shall notify the licensed organized delivery system in writing,
11 specifically stating the grounds for suspension or revocation and fixing
12 a time for a hearing in accordance with the "Administrative Procedure
13 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). If a license is revoked,
14 the licensed organized delivery system shall submit a plan to the
15 commissioner within 15 days of the revocation, for the winding up of
16 its affairs, and shall conduct no further business except as may be
17 essential to the orderly conclusion of its business. The commissioner
18 may, by written order, permit such further operation of the system as
19 he may find to be in the best interest of individuals receiving health
20 care services from the organized delivery system.

21
22 25. The Commissioner of Banking and Insurance may require, in
23 connection with the plan for insolvency required pursuant to paragraph
24 (5) of subsection k. of section 12 of this act, that a licensed organized
25 delivery system maintain insurance to cover the expenses to be paid for
26 continued benefits following a determination of insolvency, or make
27 other arrangements to ensure that benefits are continued for the period
28 determined in the insolvency plan.

29
30 26. Any rehabilitation, liquidation or conservation of a licensed
31 organized delivery system shall be subject to the provisions of
32 P.L.1992, c.65 (C.17B:32-31 et seq.) and shall be conducted under the
33 supervision of the Commissioner of Banking and Insurance; except
34 that the commissioner shall have the authority to regulate any licensed
35 organized delivery system doing business in this State as a domestic
36 insurer. The commissioner may apply for an order directing him to
37 rehabilitate, liquidate, reorganize or conserve a licensed organized
38 delivery system upon any one or more applicable grounds as stated for
39 insurers in P.L.1992, c.65 (C.17B:32-31 et seq.), or any other
40 provisions of Title 17B of the New Jersey Statutes, or when in his
41 opinion the licensed organized delivery system fails to satisfy the
42 requirements for the issuance of a license relating to solvency or the
43 requirements for solvency protection as set forth in this act.

44
45 27. A licensed organized delivery system shall not be subject to the
46 "New Jersey Life and Health Insurance Guaranty Association Act,"

1 P.L.1991, c.208 (C.17B:32A-1 et seq.), and the New Jersey Life and
2 Health Insurance Guaranty Association established pursuant to that act
3 shall not provide protection to any individuals entitled to receive
4 health care services from a licensed organized delivery system.

5
6 28. A licensed organized delivery system shall pay to the
7 Commissioner of Banking and Insurance those application,
8 examination and annual fees established by the commissioner by
9 regulation.

10
11 29. The Commissioner of Banking and Insurance may, upon notice
12 and hearing, assess a civil administrative penalty in an amount not less
13 than \$250 nor more than \$10,000 for each day that a licensed
14 organized delivery system is in violation of this act. Penalties imposed
15 by the commissioner pursuant to this section may be in lieu of, or in
16 addition to, suspension or revocation of a license pursuant to this act.
17 A penalty may be recovered in a summary proceeding pursuant to "the
18 penalty enforcement law," N.J.S.2A:58-1 et seq.

19
20 30. Any data or information relating to the diagnosis, treatment or
21 health of an enrollee or contractholder obtained by a licensed
22 organized delivery system shall be confidential and shall not be
23 disclosed to any person except:

24 a. To the extent that it may be necessary to carry out the purposes
25 of this act;

26 b. Upon the express consent of the individual;

27 c. Pursuant to statute or court order for the production of evidence
28 or the discovery thereof; or

29 d. In the event of a claim or litigation between an enrollee or
30 contractholder and the licensed organized delivery system wherein
31 such data or information is relevant. A licensed organized delivery
32 system shall be entitled to claim any statutory privilege against
33 disclosure which the provider who furnished the information to the
34 system is entitled to claim.

35
36 31. Any certified organized delivery system which intends to change
37 the means by which it receives compensation so that it will be
38 compensated on a basis that entails the assumption of financial risk
39 shall notify the Commissioner of Health and Senior Services and make
40 application for licensure to the Commissioner of Banking and
41 Insurance.

42
43 32. The Commissioners of Banking and Insurance and Health and
44 Senior Services shall adopt rules and regulations pursuant to the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.), to effectuate the purposes of this act.

1 33. An organized delivery system which is either certified by the
2 Department of Health and Senior Services or licensed by the
3 Department of Banking and Insurance shall be subject to the "Health
4 Care Quality Act," P.L.1997, c.192 (C.26:2S-1 et seq.) and
5 regulations promulgated thereunder.

6
7 34. This act shall take effect on the 180th day following enactment,
8 but the Commissioners of Banking and Insurance and Health and
9 Senior Services may take such anticipatory administrative action in
10 advance of the effective date as shall be necessary for the
11 implementation of this act.

12

13

14

STATEMENT

15

16 This bill provides for the regulation, by the Departments of Health
17 and Senior Services and Banking and Insurance, of organized delivery
18 systems for health care services or benefits.

19 An organized delivery system is an organization with defined
20 governance that undertakes to provide for, or arrange for, the
21 provision of comprehensive or limited health care services or benefits
22 to enrollees or contractholders of a carrier. The system may be
23 compensated on a basis which does not entail the assumption of
24 financial risk by the system or on a basis which entails the assumption
25 of financial risk, as defined in the bill. The bill provides that those
26 systems that do not assume financial risk shall obtain a certification
27 from the Department of Health and Senior Services and those systems
28 that do assume financial risk shall be licensed by the Department of
29 Banking and Insurance and treated as a domestic insurer.

SENATE HEALTH COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2094**

STATE OF NEW JERSEY

DATED: OCTOBER 18, 1999

The Senate Health Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2094.

This committee substitute provides for the regulation, by the Departments of Health and Senior Services and Banking and Insurance, of organized delivery systems for health care services or benefits.

An organized delivery system is an organization with defined governance that:

a. is organized for the purpose of and has the capability of contracting with a carrier to provide, or arrange to provide, under its own management substantially all or a substantial portion of the comprehensive health care services or benefits under the carrier's benefits plan on behalf of the carrier, which may or may not include the payment of hospital and ancillary benefits; or

b. is organized for the purpose of acting on behalf of a carrier to provide, or arrange to provide, limited health care services that the carrier elects to subcontract for as a separate category of benefits and services apart from its delivery of benefits under its comprehensive benefits plan, which limited services are provided on a separate contractual basis and under different terms and conditions than those governing the delivery of benefits and services under the carrier's comprehensive benefits plan.

An organized delivery system shall not include an entity otherwise authorized or licensed in this State to provide comprehensive or limited health care services on a prepayment or other basis in connection with a health benefits plan or a carrier.

An organized delivery system is not permitted to directly issue health benefits plans.

Under the provisions of the substitute, comprehensive health care services are the basic benefits provided under a health benefits plan, including medical and surgical services provided by licensed health care providers. Limited health care services are health services or benefits which are subcontracted for as a separate service, and may include, but are not be limited to, substance abuse services, vision care services, mental health services, podiatric care services, chiropractic

services or rehabilitation services. Limited health care services shall not include pharmaceutical services, case management services or employee assistance plan services.

The substitute provides that an organized delivery system may be compensated either on a basis which does not entail the assumption of financial risk by the system or on a basis which entails the assumption of financial risk, as that term is defined in the substitute. Those systems that do not assume financial risk shall obtain a certification from the Department of Health and Senior Services and those systems that do assume financial risk shall be licensed by the Department of Banking and Insurance and treated as a domestic insurer. The substitute specifies the information and documents that an organized delivery system shall provide to the respective department to become certified or licensed, as appropriate.

LEGISLATIVE FISCAL ESTIMATE

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 2094

STATE OF NEW JERSEY 208th LEGISLATURE

DATED: JANUARY 18, 2000

BILL SUMMARY

Senate Committee Substitute for Senate Bill No. 2094 of 1999 regulates organized delivery systems for health care services or benefits. An organized delivery system is an organization that either contracts with a health care carrier, or acts on behalf of a carrier to provide comprehensive or limited health care services or benefits.

The bill provides that an organized delivery system may be compensated either on a basis which does not entail the assumption of financial risk by the system or on a basis which entails the assumption of financial risk, as that term is defined in the bill. Those systems that do not assume financial risk shall obtain certification from the Department of Health and Senior Services. Those systems that do assume financial risk shall be licensed by the Department of Banking and Insurance and treated for certain purposes as domestic insurers. The Commissioner of the Department of Banking and Insurance may conduct an examination of a licensed organized delivery system as often as the commissioner deems necessary in order to protect the interests of providers, contract holders, enrollees, and the residents of this State. The reasonable expenses of the examination shall be borne by the licensed organized delivery system being examined. An entity certified by the Department of Health and Senior Services is not subject to such financial scrutiny.

OFFICE OF LEGISLATIVE SERVICES COMMENTS

Under the bill, the Departments of Health and Senior Services and Banking and Insurance may charge reasonable fees for the cost of regulation and administration. Therefore, it is anticipated that the State will not incur any new costs as fee revenues are expected to offset administrative costs of the program.

Informal information provided by the Department of Banking and Insurance indicates that, based on similar regulatory fees, the cost of

application would be approximately \$1,500 per entity. Although the department anticipates a larger percentage of licensed organized delivery systems than certified organized delivery systems, the total number of entities seeking licensure or certification is unknown at this time. Consequently, the total anticipated revenue cannot be estimated.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 3357

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED JUNE 28, 1999

Sponsored by:

Assemblyman PAUL KRAMER

District 14 (Mercer and Middlesex)

Assemblyman GUY F. TALARICO

District 38 (Bergen)

SYNOPSIS

Regulates limited health service organizations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning limited health service organizations.

2

3 **BE IT ENACTED** *by the Senate and General Assembly of the State*
4 *of New Jersey:*

5

6 1. As used in this act:

7 "Affiliate" means a person that directly, or indirectly through one
8 or more intermediaries, controls, or is controlled by, or is under
9 common control with, the limited health service organization.

10 "Capitation" means a fixed per member, per month, payment, or
11 percentage of premium payment, where the provider assumes the full
12 risk for the cost of contracted services without regard to the type,
13 value or frequency of the services provided.

14 "Certified limited health service organization" means a limited
15 health service organization that undertakes to provide or arrange for
16 the provision of one or more limited health services or benefits to
17 enrollees or contract holders, which is compensated on a basis that
18 does not entail the assumption of financial risk by the organization and
19 that is certified in accordance with this act.

20 "Consumer Price Index" means the medical component of the
21 Consumer Price Index for All Urban Consumers, as reported by the
22 United States Department of Labor, shown as an average index for the
23 New York-Northern New Jersey-Long Island region and the
24 Philadelphia-Wilmington-Trenton region combined.

25 "Contract holder" means the person or group which contracts with
26 the limited health service organization for the provision of limited
27 health services to the person or to members of the group.

28 "Enrollee" means a person and his dependents who are entitled to
29 benefits provided under a limited health service organization contract.

30 "Evidence of coverage" means the certificate, agreement or booklet
31 issued pursuant to this act which sets forth the services or benefits to
32 which the enrollee or contract holder is entitled.

33 "Financial risk" means participation in financial gains or losses
34 accruing pursuant to a contractual arrangement, based on aggregate
35 measures of medical expenditures or utilization, and includes payment
36 based on capitation. Any payment method for services which the
37 provider receiving the payment is licensed or otherwise authorized to
38 render shall not be considered financial risk.

39 "Licensed limited health service organization" means a limited
40 health service organization that undertakes to provide or arrange for
41 the provision of one or more limited health services or benefits to
42 enrollees or contract holders, which is compensated on a basis that
43 entails the assumption of financial risk by the organization and that is
44 licensed in accordance with this act. A licensed limited health service
45 organization shall not include: a health maintenance organization
46 authorized to transact business pursuant to P.L.1973, c.337 (C.26:2J-1

1 et seq.); or a health insurer, hospital, medical or health service
2 corporation, dental plan organization, dental service corporation or
3 prescription provider organization authorized pursuant to Title 17 of
4 the Revised Statutes or Title 17B of the New Jersey Statutes.

5 "Limited health service" means a health service or benefit that may
6 be or is provided to an enrollee or contract holder as specified by the
7 Commissioner of Health and Senior Services by regulation, which may
8 include, but shall not be limited to, substance abuse services, vision
9 care services, mental health services, pharmaceutical services,
10 podiatric care services, chiropractic services, case management
11 services, employee assistance plan services or rehabilitation services.
12 Limited health service shall not include hospital, medical, surgical or
13 emergency services except those provided in connection with the
14 limited health services which are the subject of the contract or
15 agreement with the provider.

16 "Limited health service organization" means an organization that
17 undertakes to provide or arrange for the provision of one or more
18 limited health services or benefits to enrollees or contract holders
19 either on a basis that does not entail the assumption of financial risk by
20 the organization or on a basis that entails the assumption of financial
21 risk by the organization.

22 "Net worth" means the excess of total assets over total liabilities,
23 calculated pursuant to statutory accounting principles, excluding
24 liabilities that have been subordinated in a manner acceptable to the
25 Commissioner of Banking and Insurance.

26 "Person" means a corporation, company, association, society, firm,
27 partnership, and joint stock company as well as an individual.

28 "Provider" means a physician, health care professional, health care
29 facility or any other person who is licensed or otherwise authorized to
30 provide health care services or other benefits in the state or
31 jurisdiction in which they are furnished.

32 "Tangible net worth" means net worth reduced by the value
33 assigned to intangible assets, including, but not limited to, goodwill,
34 going concern value, organizational expense, start-up costs, long-term
35 prepayments of deferred charges, nonreturnable deposits, and
36 obligations of officers, directors, owners or affiliates, except short-
37 term obligations of affiliates for goods or services arising in the normal
38 course of business which are payable on the same terms as equivalent
39 transactions with nonaffiliates and which are not past due.

40

41 2. Any person offering limited health services in a manner
42 substantially provided for in this act shall be subject to the provisions
43 of this act unless the person is otherwise regulated under P.L.1973,
44 c.337 (C.26:2J-1 et seq.), Title 17 of the Revised Statutes or Title 17B
45 of the New Jersey Statutes. Any person offering limited health
46 services on a contractual basis with an insurer licensed pursuant to

1 Title 17 of the Revised Statutes or Title 17B of the New Jersey
2 Statutes or a health maintenance organization licensed pursuant to
3 P.L.1973, c.337 (C.26:2J-1 et seq.) as well as on a contractual basis
4 with an entity other than an insurer licensed pursuant to Title 17 of the
5 Revised Statutes or Title 17B of the New Jersey Statutes or a health
6 maintenance organization licensed pursuant to P.L.1973, c.337
7 (C.26:2J-1 et seq), shall be subject to the provisions of this act.

8
9 3. a. No person which receives compensation on a basis that does
10 not entail the assumption of financial risk shall operate a limited health
11 service organization in this State and no person shall sell, offer to sell
12 or solicit offers to purchase or receive advance or periodic
13 consideration for those limited health services without obtaining
14 certification from the Commissioner of Health and Senior Services
15 pursuant to this act.

16 b. A limited health service organization operating in this State on
17 the effective date of this act which receives compensation on a basis
18 that does not entail the assumption of financial risk shall submit an
19 application for certification to the Commissioner of Health and Senior
20 Services within nine months of the date of enactment of this act. The
21 limited health service organization may continue to operate during the
22 pendency of its application, but in no case longer than 18 months after
23 the date of enactment of this act. If the application is denied, the
24 applicant shall be treated as a limited health service organization
25 whose certification has been revoked pursuant to section 8 of this act.
26 Notwithstanding the obligations imposed by this act regarding
27 certification requirements, nothing in this subsection shall operate to
28 impair any contract which was entered into before the effective date
29 of this act.

30 c. The certification shall be valid for a period of three years.

31
32 4. Application for certification to operate a limited health service
33 organization shall be made to the Commissioner of Health and Senior
34 Services on a form prescribed by the commissioner, shall be certified
35 by an officer or authorized representative of the applicant and shall
36 include the following:

37 a. A copy of the applicant's basic organizational documents. For
38 purposes of this section, basic organizational documents means the
39 articles of incorporation, articles of association, partnership
40 agreement, management agreement, trust agreement, or other
41 applicable documents as appropriate to the applicant's form of
42 business entity, and all amendments to those documents;

43 b. A copy of the executed bylaws, rules and regulations, or similar
44 documents, regulating the conduct of the applicant's internal affairs;

45 c. A list, in a form approved by the Commissioner of Health and
46 Senior Services, of the names, addresses, and official positions of the

1 persons who are responsible for the conduct of the affairs of the
2 applicant, including, but not limited to, the members of the board of
3 directors, executive committee or other governing board or
4 committee, the principal officers, and any person owning or having the
5 right to acquire 10% or more of the voting securities of the applicant;
6 in the case of a partnership or association, the names of the partners
7 or members; each person who has loaned funds to the applicant for the
8 operation of its business; and a statement of any criminal convictions
9 and civil, enforcement or regulatory action, including actions relating
10 to professional licenses, taken or pending against any person who is
11 a member of the board, the executive committee or other governing
12 board or committee, the principal officers, or the persons who are
13 responsible for the conduct of the applicant;

14 d. A statement generally describing the applicant, its facilities,
15 personnel, and the limited health services to be offered by the
16 organization;

17 e. A copy of the standard form of any contract made or to be made
18 between the applicant and any providers relative to the provision of
19 limited health services to enrollees or contract holders;

20 f. A copy of the form of any contract made or to be made between
21 the applicant and contract holders and the evidence of coverage to be
22 issued to enrollees;

23 g. A copy of the applicant's most recent financial statements
24 audited by an independent certified public accountant. If the financial
25 affairs of the applicant's parent company are audited by an
26 independent certified public accountant, but those of the applicant are
27 not, then a copy of the most recent audited financial statement of the
28 applicant's parent company, certified by an independent certified
29 public accountant, shall be submitted. A consolidated financial
30 statement of the applicant and its parent company shall satisfy this
31 requirement unless the Commissioner of Banking and Insurance
32 determines that additional or more recent financial information is
33 required for the proper administration of this act;

34 h. A copy of the applicant's financial plan, including a three-year
35 projection of anticipated operating results, a statement of the sources
36 of working capital and any other sources of funding and provisions for
37 contingencies;

38 i. With respect to each contract made or to be made between the
39 applicant and any other person who will provide limited health
40 services:

41 (1) A list of the persons who are to provide the limited health
42 services, and the geographical area in which they are located and in
43 which the services are to be performed;

44 (2) A list of any affiliate of the applicant which provides services
45 to the applicant in this State and a description of any material
46 transaction between the affiliate and the applicant;

- 1 (3) A description of the services or benefits to be offered or
2 proposed to be offered by the organization;
- 3 (4) A description of the means which will be utilized to assure the
4 availability and accessibility of limited health services to the enrollees;
- 5 (5) A plan, in the event of insolvency, for continuation of the
6 limited health services to be provided for under the contract; and
- 7 (6) A statement setting forth the means by which the organization
8 is to be compensated for its services;
- 9 j. A description of the proposed method of marketing;
- 10 k. A description of the complaint and appeals procedures instituted
11 by the applicant;
- 12 l. A description of the quality assurance and utilization review
13 procedures established by the applicant;
- 14 m. A list of all administrative, civil or criminal actions and
15 proceedings to which the applicant, or any of its affiliates, or persons
16 who are responsible for the conduct of the affairs of the applicant or
17 any affiliate, have been subject or which are pending. If a license,
18 certificate or other authority to operate has been refused, suspended
19 or revoked by any jurisdiction, the applicant shall provide a copy of
20 any orders, proceedings and determinations relating thereto; and
- 21 n. Other information required by the Commissioner of Health and
22 Senior Services.
23
- 24 5. a. Following receipt of an application for certification, the
25 Commissioner of Health and Senior Services shall review it in
26 consultation with the Commissioner of Banking and Insurance and
27 notify the applicant of any deficiencies contained therein.
- 28 b. The Commissioner of Health and Senior Services shall issue a
29 certification to a limited health service organization if the
30 commissioner finds that the organization meets the standards provided
31 for in this act, including, but not limited to:
 - 32 (1) All of the material required by section 4 of this act has been
33 filed;
 - 34 (2) The persons responsible for conducting the applicant's affairs
35 are competent, trustworthy and possess good reputations, and have
36 had appropriate experience, training and education;
 - 37 (3) The persons who are to perform the limited health services are
38 properly qualified;
 - 39 (4) The organization has demonstrated the ability to assure that
40 limited health services will be provided in a manner which will assure
41 the availability and accessibility of the services;
 - 42 (5) The standard forms of provider agreements to be used by the
43 organization are acceptable;
 - 44 (6) The organization has adequate arrangements for complying
45 with the "Health Care Quality Act," P.L.1997, c.192 (C.26:2S-1 et
46 seq.) and the regulations promulgated thereunder; and

1 (7) The organization's contracts to provide limited health services
2 do not entail or will not result in the assumption of financial risk by the
3 organization.

4 c. The Commissioner of Health and Senior Services may deny an
5 application for certification if the applicant fails to meet any of the
6 standards provided in this act or on any other reasonable grounds. If
7 certification is denied, the commissioner shall notify the applicant and
8 shall set forth the reasons for the denial in writing. The applicant may
9 request a hearing by notice to the commissioner within 30 business
10 days of receiving the notice of denial. Upon that denial, the applicant
11 shall submit to the commissioner a plan for bringing the limited health
12 service organization into compliance or providing for the closing down
13 of its business.

14
15 6. a. A certified limited health service organization, unless
16 otherwise provided for in this act, shall not materially modify any
17 matter or document furnished to the Commissioner of Health and
18 Senior Services pursuant to section 4 of this act unless the
19 organization files with the commissioner, at least 60 days prior to use
20 or adoption of the change, a notice of the change or modification,
21 together with any information required by the commissioner to explain
22 the change or modification. If the commissioner fails to affirmatively
23 approve or disapprove the change or modification within 60 days of
24 submission of the notice, the notice of modification shall be deemed
25 approved. The commissioner may extend the 60-day review period for
26 not more than 30 additional days by giving written notice of the
27 extension before the expiration of the 60-day period. If a change or
28 modification is disapproved, the commissioner shall notify the
29 organization in writing and specify the reason for the disapproval.

30 b. Prior to entering into any contract with a contract holder, an
31 organization shall file with the commissioner, for his approval, the
32 form of contract and evidence of coverage listing any benefits which
33 are offered or proposed to be offered under the limited health services
34 plan, as well as any modifications which may be made thereto. The
35 filing shall be made no later than 60 days prior to the date that the
36 benefits are intended to be in effect. If the contract and evidence of
37 coverage are not disapproved prior to the effective date by the
38 commissioner, the contract and evidence of coverage shall be deemed
39 approved.

40
41 7. Every contract holder shall be issued a contract and every
42 enrollee shall be issued an evidence of coverage by the certified limited
43 health service organization, which shall contain a clear and complete
44 statement of:

- 45 a. The limited health services to which each enrollee is entitled;
46 b. Any limitation to which the services or benefits are subject,

1 including, but not limited to, exclusions or other charges, if applicable;

2 c. Where information is available as to where and how health
3 services may be obtained; and

4 d. The method for resolving complaints by enrollees and contract
5 holders.

6

7 8. The Commissioner of Health and Senior Services may suspend
8 or revoke a certification issued to a limited health service organization
9 pursuant to this act upon his determination that:

10 a. The organization is operating in contravention of its basic
11 organizational documents;

12 b. The organization has failed to provide the limited health services
13 for which it has been certified or has provided services which are in
14 contravention of the contract or contracts filed with the commissioner;

15 c. The organization is unable to maintain the standards of care as
16 set forth by the commissioner by regulation;

17 d. The organization has failed to comply with the provisions of the
18 "Health Care Quality Act," P.L.1997, c.192 (C.26:2S-1 et seq.) and
19 the regulations promulgated thereunder;

20 e. The continued operation of the organization would be hazardous
21 to the health and welfare of its enrollees;

22 f. The organization has otherwise failed to comply with this or any
23 other applicable act or any applicable regulations; or

24 g. There are other reasonable grounds that warrant suspension or
25 revocation.

26

27 9. If the Commissioner of Health and Senior Services has cause to
28 believe that grounds exist for the suspension or revocation of the
29 certification issued to a limited health service organization, he shall
30 notify the organization in writing, specifically stating the grounds for
31 suspension or revocation and fixing a time for a hearing in accordance
32 with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
33 1 et seq.). If the certification is revoked, the organization shall submit
34 a plan to the commissioner within 15 days of the revocation, for the
35 winding up of its affairs, and shall conduct no further business except
36 as may be essential to the orderly conclusion of its business. The
37 commissioner may, by written order, permit such further operation of
38 the organization as he may find to be in the best interest of enrollees
39 or contract holders, to the end that enrollees or contract holders will
40 be afforded the greatest practical opportunity to obtain continuing
41 limited health services.

42

43 10. A certified limited health service organization shall pay to the
44 Commissioner of Health and Senior Services application and annual
45 fees as established by the commissioner by regulation.

1 11. The Commissioner of Health and Senior Services may, upon
2 notice and hearing, assess a civil administrative penalty in an amount
3 not less than \$250 nor more than \$10,000 for each day that a certified
4 limited health service organization is in violation of this act. Penalties
5 imposed by the commissioner pursuant to this section may be in lieu
6 of, or in addition to, suspension or revocation of a certification
7 pursuant to this act. A penalty may be recovered in a summary
8 proceeding pursuant to "the penalty enforcement law," N.J.S.2A:58-1
9 et seq.

10
11 12. a. Beginning one year after the enactment of this act, no
12 person which receives compensation on a basis that entails the
13 assumption of financial risk shall operate a limited health service
14 organization in this State and no person shall sell, offer to sell or
15 solicit offers to purchase or receive advance or periodic consideration
16 for those limited health services without obtaining a license from the
17 Commissioner of Banking and Insurance pursuant to this act.

18 b. A limited health service organization operating in this State on
19 the effective date of this act which receives compensation on a basis
20 that entails the assumption of financial risk shall submit an application
21 for licensure to the Commissioner of Banking and Insurance within
22 nine months of the date of enactment of this act. The limited health
23 service organization may continue to operate during the pendency of
24 its application, but in no event longer than 18 months after the date of
25 enactment of this act. In the event the application is denied, the
26 applicant shall be treated as a limited health service organization
27 whose license has been revoked pursuant to section 26 of this act.
28 Nothing in this subsection shall operate to impair any contract entered
29 into before the effective date of this act.

30 c. The license shall be valid for a period of three years.

31
32 13. An application for a license to operate a limited health service
33 organization shall be made to the Commissioner of Banking and
34 Insurance and the Commissioner of Health and Senior Services on a
35 form prescribed by the commissioners, shall be certified by an officer
36 or authorized representative of the applicant, and shall include the
37 following:

38 a. A copy of the applicant's basic organizational documents. For
39 purposes of this section, basic organizational documents means the
40 articles of incorporation, articles of association, partnership
41 agreement, management agreement, trust agreement, or other
42 applicable documents as appropriate to the applicant's form of
43 business entity and all amendments to those documents;

44 b. A copy of the executed bylaws, rules and regulations, or similar
45 documents, regulating the conduct of the applicant's internal affairs;

46 c. A list, in a form established by regulation, of the names,

1 addresses, and official positions of the persons who are to be
2 responsible for the conduct of the affairs of the applicant, including,
3 but not limited to, the members of the board of directors, executive
4 committee or other governing board or committee, the principal
5 officers, and any person or entity owning or having the right to acquire
6 10% or more of the voting securities of the applicant; in the case of a
7 partnership or association, the names of the partners or members; each
8 person who has loaned funds to the applicant for the operation of its
9 business; and a statement of any criminal convictions or enforcement
10 or regulatory action, including actions relating to professional licenses,
11 taken or pending against any person who is a member of the board,
12 the executive committee or other governing board or committee, or
13 the principal officers;

14 d. A statement generally describing the applicant, its facilities,
15 personnel, and the limited health services to be offered by the
16 organization;

17 e. A copy of the standard form of any contract made or to be made
18 between the applicant and any providers relative to the provision of
19 limited health services to enrollees or contract holders;

20 f. A copy of the form of any contract made or to be made between
21 the applicant and contract holders or prospective contract holders and
22 the evidence of coverage to be issued to enrollees;

23 g. A copy of the applicant's most recent financial statements
24 audited by an independent certified public accountant. If the financial
25 affairs of the applicant's parent company are audited by an independent
26 certified public accountant, but those of the applicant are not, then a
27 copy of the most recent audited financial statement of the applicant's
28 parent company, certified by an independent certified public
29 accountant, shall be submitted. A consolidated financial statement of
30 the applicant and its parent company shall satisfy this requirement
31 unless the Commissioner of Banking and Insurance determines that
32 additional or more recent financial information is required for the
33 proper administration of this act;

34 h. A copy of the applicant's financial plan, including a three-year
35 projection of anticipated operating results, a statement of the sources
36 of working capital and any other sources of funding and provisions for
37 contingencies;

38 i. With respect to each contract made or to be made between the
39 applicant and any other person who will provide limited health
40 services:

41 (1) A list of the persons who are to provide the limited health
42 services, and the geographical area in which they are located and in
43 which the services are to be performed;

44 (2) A list of any affiliate of the applicant which provides services
45 to the applicant in this State and a description of any material
46 transaction between the affiliate and the applicant;

- 1 (3) A description of the services or benefits to be offered or
2 proposed to be offered by the organization;
- 3 (4) A description of the means which will be utilized to assure the
4 availability and accessibility of the limited health services to enrollees.
- 5 (5) A plan, in the event of insolvency, for continuation of the
6 limited health services to be provided for under the contract; and
- 7 (6) A description of the means by which the organization shall be
8 compensated for its services and benefits and a schedule of rates and
9 charges;
- 10 j. A description of the proposed method of marketing;
- 11 k. A description of the complaint and appeals procedures instituted
12 by the applicant;
- 13 l. A description of the quality assurance and utilization review
14 procedures established by the applicant;
- 15 m. A power of attorney, duly executed by the applicant, if not
16 domiciled in this State, appointing the Commissioner of Banking and
17 Insurance and his successors in office as the true and lawful attorney
18 of the applicant in and for this State upon whom all lawful process in
19 any legal action or proceeding against the organization on a cause of
20 action arising in this State may be served;
- 21 n. A list of all administrative, civil or criminal actions and
22 proceedings to which the applicant or any of its affiliates, or persons
23 who are responsible for the conduct of the affairs of the applicant or
24 affiliate have been subject or which are pending. If a license,
25 certificate or other authority to operate has been refused, suspended
26 or revoked by any jurisdiction, the applicant shall provide a copy of
27 any orders, proceedings and determinations relating thereto; and
- 28 o. Other information required by the Commissioner of Banking and
29 Insurance or the Commissioner of Health and Senior Services.
- 30
- 31 14. a. Following receipt of an application, the Commissioner of
32 Banking and Insurance shall review it in consultation with the
33 Commissioner of Health and Senior Services and notify the applicant
34 of any deficiencies contained therein.
- 35 b. The Commissioner of Banking and Insurance shall issue a license
36 to a limited health service organization if the commissioner finds that
37 the organization meets the standards provided for in this act,
38 including, but not limited to:
- 39 (1) All of the material required by section 13 of this act has been
40 filed;
- 41 (2) The persons responsible for conducting the applicant's affairs
42 are competent, trustworthy and possess good reputations, and have
43 had appropriate experience, training and education;
- 44 (3) The persons who are to perform the limited health services are
45 properly qualified;
- 46 (4) The limited health service organization has demonstrated the

1 ability to assure that limited health services will be provided in a
2 manner which will assure the availability and accessibility of the
3 services;

4 (5) The standard forms of provider agreements to be used by the
5 limited health service organization are acceptable;

6 (6) The applicant is financially sound and may reasonably be
7 expected to meet its obligations to enrollees and contract holders. In
8 making this determination, the commissioner shall consider:

9 (a) The financial soundness of the applicant's arrangements for
10 limited health services and the minimum standard rates, deductibles,
11 copayments and other enrollee charges used in connection therewith;

12 (b) The adequacy of working capital, other sources of funding and
13 provisions for contingencies;

14 (c) Whether any deposit of cash or securities, or any other
15 evidence of financial protection submitted meets the requirements set
16 forth in this act or by the commissioner by regulation; and

17 (d) The applicant's rates and rating methodology;

18 (7) Any deficiencies identified by the commissioner have been
19 corrected; and

20 (8) Any other factors determined by the commissioner to be
21 relevant have been addressed to the satisfaction of the commissioner.

22 c. The Commissioner of Banking and Insurance shall refer all
23 standard forms of provider agreements and quality assurance and
24 utilization management programs to be used by the licensed limited
25 health service organization to the Commissioner of Health and Senior
26 Services for review and approval. The Commissioner of Banking and
27 Insurance shall rely principally upon the decision of the Commissioner
28 of Health and Senior Services regarding provider agreements and
29 quality assurance and utilization management programs in determining
30 whether the applicant for a license:

31 (1) Has demonstrated the potential ability to assure that limited
32 health services will be provided in a manner that will assure the
33 availability and accessibility of the services;

34 (2) Has adequate arrangements for an ongoing quality assurance
35 program;

36 (3) Has established acceptable standard forms for provider
37 agreements to be used by the organization;

38 (4) Has demonstrated that the persons who are to perform the
39 limited health services are properly qualified; and

40 (5) Has adequate procedures established to comply with the
41 "Health Care Quality Act," P.L.1997, c.192 (C.26:2S-1 et seq.) and
42 the regulations promulgated thereunder.

43 d. The commissioners may deny an application for a license if the
44 applicant fails to meet any of the standards provided in this act or on
45 any other reasonable grounds. If the license is denied, the
46 commissioners shall notify the applicant and shall set forth the reasons

1 for the denial in writing. The applicant may request a hearing by
2 notice to the commissioners within 30 business days of receiving the
3 notice of denial. Upon that denial, the applicant shall submit to the
4 commissioners a plan for bringing the limited health service
5 organization into compliance or providing for the closing down of its
6 business.

7
8 15. a. A licensed limited health service organization, unless
9 otherwise provided for in this act, shall not materially modify any
10 matter or document furnished pursuant to section 13 of this act,
11 including any change in rates or charges offered or to be offered under
12 the contract, unless the organization files with the Commissioner of
13 Banking and Insurance, at least 60 days prior to use or adoption of the
14 change, a notice of the change or modification, together with that
15 information required by the commissioners to explain the change or
16 modification. If the commissioners fail to affirmatively approve or
17 disapprove the change or modification within 60 days of submission of
18 the notice, the notice of modification shall be deemed approved. The
19 commissioners may extend the 60-day review period for not more than
20 30 additional days by giving written notice of the extension before the
21 expiration of the 60-day period. If a change or modification is
22 disapproved, the commissioners shall notify the organization in writing
23 and specify the reason for the disapproval.

24 b. Charges under any contract for limited health services shall be
25 established in accordance with sound actuarial principles and shall not
26 be excessive, inadequate, or unfairly discriminatory. If at any time the
27 Commissioner of Banking and Insurance finds that the rates or benefits
28 offered under the plan are inadequate, excessive, or unfairly
29 discriminatory, he may order that they be rescinded or modified. If the
30 commissioner orders that the plans be rescinded or modified, he shall
31 notify the organization and specify the reasons for the order. The
32 organization may, within 30 business days of receiving the order,
33 request a hearing, which shall be scheduled no later than 45 days after
34 the receipt of the request by the commissioner.

35 c. Prior to entering into any contract with a contract holder, an
36 organization shall file with the Commissioner of Banking and
37 Insurance, for his approval, the form of contract and evidence of
38 coverage listing any services or benefits which are offered or proposed
39 to be offered under the limited health services plan, as well as any
40 modifications which may be made thereto. The filing shall be made no
41 later than 60 days prior to the date that the services or benefits are
42 intended to be in force. The commissioner shall either approve the
43 contract and evidence of coverage or state in writing his reasons for
44 their disapproval within 60 days of receipt of the filing.

45
46 16. Any health insurer, hospital, medical or health service

1 corporation or health maintenance organization which is not otherwise
2 authorized to offer limited health services on a per capita or fixed
3 prepayment basis may do so by filing for approval with the
4 Commissioner of Banking and Insurance that information required by
5 the commissioner pursuant to section 13 of this act.

6
7 17. A licensed limited health service organization may:

8 a. Purchase, lease, construct, renovate, operate and maintain any
9 facilities, ancillary equipment and property which may be required for
10 its principal office or for any other purposes deemed necessary in the
11 business transactions of the organization;

12 b. Borrow money;

13 c. Loan funds to any person for the purpose of acquiring or
14 constructing facilities or in furtherance of a program providing
15 services to enrollees, or for any other purpose reasonably related to
16 the business of the organization;

17 d. Furnish limited health services to enrollees or contract holders
18 through providers who are under contract with or employed by the
19 organization;

20 e. Contract with any person for the performance of certain
21 administrative functions such as marketing and enrollment;

22 f. Contract with an insurer licensed in this State for the provision
23 of indemnity coverage, or reimbursement against the cost of services
24 provided by the organization; and

25 g. In addition to specified limited health services provided by the
26 organization to contract holders and enrollees, provide:

27 (1) Additional services as approved by the Commissioner of
28 Banking and Insurance, in consultation with the Commissioner of
29 Health and Senior Services;

30 (2) Indemnity benefits covering urgent care or emergency services;

31 (3) Coverage for services from providers other than participating
32 providers, when referred in accordance with the terms of the contract;
33 and

34 (4) Any other function provided by law, in the organization's
35 articles of incorporation or in the license.

36
37 18. Every contract holder shall be issued a contract and every
38 enrollee shall be issued an evidence of coverage by the licensed limited
39 health service organization, which shall contain a clear and complete
40 statement of:

41 a. The limited health services or benefits to which each enrollee is
42 entitled;

43 b. Any limitation to which the services are subject, including, but
44 not limited to, exclusions, deductibles, copayments or other charges;

45 c. Where information is available as to where and how limited
46 health services may be obtained; and

1 d. The method for resolving complaints by enrollees and contract
2 holders.

3

4 19. a. A licensed limited health service organization which is
5 organized under the laws of this State shall be treated as a domestic
6 insurer for the purposes of P.L.1970, c.22 (C.17:27A-1 et seq.) and
7 P.L.1992, c. 65 (C.17B:32-31 et seq.).

8 b. An organization shall be subject to the provisions of
9 N.J.S.17B:30-1 et seq.

10 c. The capital, surplus and other funds of an organization shall be
11 invested in accordance with the provisions of N.J.S.17B:20-1 et seq.
12 and guidelines established by the Commissioner of Banking and
13 Insurance by regulation.

14

15 20. The Commissioner of Banking and Insurance may conduct an
16 examination of a licensed limited health service organization as often
17 as he deems necessary in order to protect the interests of providers,
18 contract holders, enrollees, and the residents of this State. An
19 organization shall make its relevant books and records available for
20 examination by the commissioner, and retain its records in accordance
21 with a schedule established by the commissioner by regulation. The
22 reasonable expenses of the examination shall be borne by the
23 organization being examined. In lieu of the examination, the
24 commissioner may accept the report of an examination made by the
25 commissioner of another state.

26

27 21. All licensed limited health service organization contracts with
28 providers shall contain the following terms and conditions:

29 a. In the event that the organization fails to pay for limited health
30 services for any reason whatsoever, including, but not limited to,
31 insolvency or breach of contract, neither the contract holder nor the
32 enrollee shall be liable to the provider for any sums owed to the
33 provider under the contract.

34 b. No provider, or agent, trustee or assignee thereof may maintain
35 an action at law or attempt to collect from the contract holder or
36 enrollee sums owed to the provider by the organization, except that
37 this subsection shall not be construed to prohibit collection of
38 uncovered charges consented to or lawfully owed to providers by a
39 contract holder or enrollee.

40

41 22. a. Except as provided in subsection b. of this section, each
42 licensed limited health service organization shall, at all times, have and
43 maintain net worth as established by the Commissioner of Banking and
44 Insurance by regulation, which amount may vary in accordance with
45 the size of the organization, the services provided by the organization
46 and the financial liabilities of the organization.

1 b. An organization which has uncovered expenses in excess of
2 \$50,000, as reported on the most recent annual financial statement
3 filed with the commissioner, shall maintain net worth in an amount
4 established by the commissioner by regulation, in addition to the net
5 worth required by subsection a. of this section.

6 c. The commissioner may adjust the amounts required in subsection
7 b. of this section annually, by regulation, in accordance with changes
8 in the Consumer Price Index.

9
10 23. a. A licensed limited health service organization shall deposit
11 with the Commissioner of Banking and Insurance, or with an entity or
12 trustee acceptable to the commissioner through which a custodial or
13 controlled account is utilized, cash, securities, or any combination of
14 these or other measures that is acceptable to the commissioner in an
15 amount established by the commissioner, by regulation, which amount
16 shall be adjusted annually by the commissioner, by regulation, in
17 accordance with changes in the Consumer Price Index, plus 25% of
18 the net worth required by section 22 of this act; except that the deposit
19 shall not be required to exceed \$100,000, which amount may be
20 adjusted by the commissioner annually in accordance with changes in
21 the Consumer Price Index. The deposit shall be deemed an admitted
22 asset of the organization in the determination of net worth.

23 b. All income from deposits shall be assets of the organization. An
24 organization may withdraw a deposit or any part thereof after making
25 a substitute deposit of equal amount and value, except that a security
26 may not be substituted unless it has been approved by the
27 commissioner.

28 c. Amounts on deposit shall be used to protect the interests of the
29 organization's enrollees in the State and to assure continuation of
30 limited health services to enrollees of an organization which is in
31 rehabilitation or liquidation. If an organization is placed in
32 rehabilitation or liquidation, the deposit shall be treated as an asset
33 subject to the provisions of P.L.1992, c.65 (C.17B:32-31 et seq.).

34 d. The commissioner may, by regulation, adjust the amount of
35 required net worth that an organization may have in order to provide
36 adequate protection against contingencies affecting the organization's
37 financial position which are not fully covered by reserves and other
38 liabilities and supporting assets.

39
40 24. A licensed limited health service organization shall maintain in
41 force a fidelity bond in its own name on its officers and employees, in
42 an amount established by the Commissioner of Banking and Insurance
43 by regulation.

44
45 25. A licensed limited health service organization shall file an
46 annual report with the Commissioner of Banking and Insurance, on or

1 before March 1 of each year, attested to by at least two principal
2 officers, which covers the preceding calendar year. The report shall
3 be on a form prescribed by the commissioner and shall include:

4 a. A financial statement of the organization, including its balance
5 sheet, income statement and statement of changes in financial position
6 for the preceding year, certified by an independent certified public
7 accountant, or a consolidated audited financial statement of its parent
8 company certified by an independent certified public accountant,
9 attached to which shall be consolidating financial statements of the
10 organization;

11 b. The number of enrollees at the beginning of the year, the number
12 of enrollees as of the end of the year, and the number of enrollments
13 during the year;

14 c. A statement by a qualified actuary setting forth his opinion as to
15 the adequacy of reserves; and

16 d. Any other information relating to the performance of the
17 organization as may be required by the commissioner.

18 The commissioner may assess a civil administrative penalty of up to
19 \$100 per day for each day a required report is late. The commissioner
20 and the Commissioner of Health and Senior Services may require the
21 submission of additional reports from time to time, as deemed
22 necessary. A penalty may be recovered in a summary proceeding
23 pursuant to "the penalty enforcement law," N.J.S. 2A:58-1 et seq.
24

25 26. The Commissioner of Banking and Insurance may suspend or
26 revoke the license issued to a limited health service organization
27 pursuant to this act upon his determination that:

28 a. The organization is operating in contravention of its basic
29 organizational documents;

30 b. The organization has issued a contract or an evidence of
31 coverage or used rates or charges which do not comply with the
32 requirements of this act;

33 c. The organization is unable to fulfill its obligations to enrollees
34 or prospective enrollees;

35 d. The net worth of the organization is less than that required by
36 this act, or the organization has failed to correct any deficiency in its
37 net worth as required by the commissioner;

38 e. The organization has failed to implement in a reasonable manner
39 the complaint system required to be established by this act;

40 f. The continued operation of the organization would be hazardous
41 to the health and welfare of its enrollees;

42 g. The organization has failed to file any report required pursuant
43 to this act;

44 h. The organization has failed to provide the services for which it
45 has been licensed or has provided services which are in contravention
46 of the contract or contracts filed with the commissioner;

1 i. The organization is unable to maintain the standards of care as
2 set forth by regulation;

3 j. The organization has otherwise failed to comply with this act or
4 other applicable law; or

5 k. There are other reasonable grounds that warrant suspension or
6 revocation.

7
8 27. If the Commissioner of Banking and Insurance has cause to
9 believe that grounds exist for the suspension or revocation of a license,
10 he shall notify the licensed limited health service organization in
11 writing, specifically stating the grounds for suspension or revocation
12 and fixing a time for a hearing in accordance with the "Administrative
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). If a license is
14 revoked, the organization shall submit a plan to the commissioner
15 within 15 days of the revocation, for the winding up of its affairs, and
16 shall conduct no further business except as may be essential to the
17 orderly conclusion of its business. The commissioner may, by written
18 order, permit such further operation of the organization as he may find
19 to be in the best interest of enrollees, to the end that enrollees will be
20 afforded the greatest practical opportunity to obtain continuing limited
21 health services.

22
23 28. The Commissioner of Banking and Insurance may require, in
24 connection with the plan for insolvency required pursuant to paragraph
25 (5) of subsection i. of section 13 of this act, that a licensed limited
26 health service organization maintain insurance to cover the expenses
27 to be paid for continued benefits following a declaration of insolvency
28 by a court of competent jurisdiction, or make other arrangements to
29 ensure that benefits are continued for the period determined in the
30 insolvency plan.

31
32 29. Any rehabilitation, liquidation or conservation of a licensed
33 limited health service organization shall be subject to the provisions
34 P.L.1992, c.65 (C.17B:32-31 et seq.) and shall be conducted under the
35 supervision of the Commissioner of Banking and Insurance; except
36 that the commissioner shall have the authority to regulate any licensed
37 limited health service organization doing business in this State as a
38 domestic insurer. The commissioner may apply for an order directing
39 him to rehabilitate, liquidate, reorganize or conserve an organization
40 upon any one or more applicable grounds as stated for insurers in
41 P.L.1992, c.65 (C.17B:32-31 et seq.) or any other provision of Title
42 17B of the New Jersey Statutes or when in his opinion the
43 organization fails to satisfy the requirements for the issuance of a
44 license relating to solvency or the requirements for solvency protection
45 as set forth in this act.

1 30. A licensed limited health service organization shall not be
2 subject to the "New Jersey Life and Health Insurance Guaranty
3 Association Act," P.L.1991, c.208 (C.17B:32A-1 et seq.), and the
4 New Jersey Life and Health Insurance Guaranty Association
5 established pursuant to that act shall not provide protection to any
6 enrollee or contract holder entitled to receive limited health services
7 from a licensed limited health service organization pursuant to a
8 contract with that organization.

9
10 31. A licensed limited health service organization shall pay to the
11 Commissioner of Banking and Insurance application, examination and
12 annual fees established by the commissioner by regulation.

13
14 32. The Commissioner of Banking and Insurance may, upon notice
15 and hearing, assess a civil administrative penalty in an amount not less
16 than \$250 nor more than \$10,000 for each day that the licensed limited
17 health service organization is in violation of this act. Penalties
18 imposed by the commissioner pursuant to this section may be in lieu
19 of, or in addition to, suspension or revocation of a license pursuant to
20 this act. A penalty may be recovered in a summary proceeding
21 pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

22
23 33. Any data or information relating to the diagnosis, treatment or
24 health of an enrollee or prospective enrollee obtained by a certified or
25 licensed limited health service organization from the contract holder,
26 enrollee, prospective enrollee or any provider shall be confidential and
27 shall not be disclosed to any person except:

28 a. To the extent that it may be necessary to carry out the purposes
29 of this act;

30 b. Upon the express consent of the enrollee or prospective
31 enrollee;

32 c. Pursuant to statute or court order for the production of evidence
33 or the discovery thereof; or

34 d. In the event of a claim or litigation between an enrollee or a
35 prospective enrollee and the organization wherein that data or
36 information is relevant. An organization shall be entitled to claim any
37 statutory privilege against disclosure which the provider who furnished
38 the information to the organization is entitled to claim.

39
40 34. The Commissioner of Health and Senior Services and the
41 Commissioner of Banking and Insurance shall consult with the
42 Commissioner of Human Services with respect to the certification or
43 licensure, as the case may be, of any limited health service
44 organization which contracts with or is to contract with the
45 Department of Human Services for the provision of limited health
46 services.

1 35. Any certified limited health services organization, which
2 intends to change the means by which it receives compensation so that
3 it will be compensated on a basis that entails the assumption of
4 financial risk, shall notify the Commissioner of Health and Senior
5 Services and make application for licensure to the Commissioner of
6 Banking and Insurance.

7
8 36. A limited health service organization which is either certified
9 by the Department of Health and Senior Services or licensed by the
10 Department of Banking and Insurance pursuant to this act shall be
11 subject to the "Health Care Quality Act," P.L.1997, c.192 (C.26:2S-1
12 et seq.) and the regulations promulgated thereunder.

13
14 37. The Commissioners of Health and Senior Services and Banking
15 and Insurance, respectively, shall adopt rules and regulations pursuant
16 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
17 et seq.), to effectuate the purposes of this act.

18
19 38. This act shall take effect 180 days after enactment, but the
20 Commissioners of Health and Senior Services and Banking and
21 Insurance may take such anticipatory administrative action in advance
22 of the effective date as shall be necessary for the implementation of the
23 act.

24
25
26 STATEMENT

27
28 This bill provides for the regulation by the Departments of Health
29 and Senior Services and Banking and Insurance of limited health
30 service organizations.

31 A limited health service organization is an entity that undertakes to
32 provide or arrange for the provision of one or more limited health
33 services or benefits to enrollees or contract holders. The organization
34 may be compensated on a basis that does not entail the assumption of
35 financial risk by the organization or on a basis which entails the
36 assumption of financial risk by the organization, as defined in the bill.
37 The bill provides that those organizations that do not assume financial
38 risk shall obtain certification from the Department of Health and
39 Senior Services and those organizations that do assume financial risk
40 shall be licensed by the Department of Banking and Insurance and
41 treated as a domestic insurer.

42 The bill defines "limited health service" as a health service or benefit
43 including, but not limited to, substance abuse services, vision care
44 services, mental health services, pharmaceutical services, podiatric
45 care services, chiropractic services, case management services,
46 employee assistance plan services or rehabilitation services. Limited

1 health service does not include hospital, medical, surgical or
2 emergency services except those provided in connection with the
3 limited health services which are the subject of the contract or
4 agreement with the provider.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 3357**

STATE OF NEW JERSEY

DATED: DECEMBER 2, 1999

The Assembly Banking and Insurance Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3357.

This bill, an Assembly Committee Substitute for Assembly Bill No. 3357, provides for the regulation, by the Departments of Health and Senior Services and Banking and Insurance, of organized delivery systems for health care services or benefits.

An organized delivery system is an organization with defined governance that:

- is organized for the purpose of and has the capability of contracting with a carrier to provide, or arrange to provide, under its own management, substantially all or a substantial portion of the comprehensive health care services or benefits under the carrier's benefits plan on behalf of the carrier, which may or may not include the payment of hospital and ancillary benefits; or
- is organized for the purpose of acting on behalf of a carrier to provide, or arrange to provide, limited health care services that the carrier elects to subcontract for as a separate category of benefits and services apart from its delivery of benefits under its comprehensive benefits plan, which limited services are provided on a separate contractual basis and under different terms and conditions than those governing the delivery of benefits and services under the carrier's comprehensive benefits plan.

An organized delivery system does not include an entity otherwise authorized or licensed in this State to provide comprehensive or limited health care services on a prepayment or other basis in connection with a health benefits plan or a carrier. An organized delivery system also does not include an entity which contracts with providers and carriers to provide various administrative services, but does not collect or handle premiums, control utilization management or pay claims.

An organized delivery system is not permitted to directly issue health benefits plans.

Under the provisions of the bill, comprehensive health care services are the basic benefits provided under a health benefits plan, including medical and surgical services provided by licensed health care

providers. Limited health care services are health services or benefits which are subcontracted for as a separate service, and may include, but are not be limited to, substance abuse services, vision care services, mental health services, podiatric care services, chiropractic services or rehabilitation services. Limited health care services shall not include pharmaceutical services, case management services or employee assistance plan services.

The bill provides that an organized delivery system may be compensated either on a basis which does not entail the assumption of financial risk by the system or on a basis which entails the assumption of financial risk, as that term is defined in the bill. Those systems that do not assume financial risk shall obtain certification from the Department of Health and Senior Services and those systems that do assume financial risk shall be licensed by the Department of Banking and Insurance and treated as a domestic insurer. The bill specifies the information and documents that an organized delivery system shall provide to the respective department to become certified or licensed, as appropriate.

As reported by the committee, this bill is identical to the Senate Committee Substitute for Senate Bill No. 2094.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 3357**

STATE OF NEW JERSEY

DATED: JANUARY 6, 2000

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3357 (ACS).

Assembly Bill No. 3357 (ACS) provides for the regulation, by the Department of Health and Senior Services or the Department of Banking and Insurance, of organized delivery systems for health care services or benefits.

An "organized delivery system" is an organization that, under contract with a health care carrier or on behalf of a health care carrier, provides:

- *comprehensive health care services or benefits* under the carrier's benefits plan on behalf of the carrier, which may or may not include the payment of hospital and ancillary benefits; or
- *limited health care services* that the carrier elects to subcontract for as a separate category of benefits and services apart from its delivery of benefits under its comprehensive benefits plan, which limited services are provided on a separate contractual basis and under different terms and conditions than those governing the delivery of benefits and services under the carrier's comprehensive benefits plan.

The bill defines "comprehensive health care services" as the basic benefits provided under a health benefits plan, including medical and surgical services provided by licensed health care providers. "Limited health care services" are health services or benefits which are subcontracted for as a separate service, and may include, but are not be limited to, substance abuse services, vision care services, mental health services, podiatric care services, chiropractic services or rehabilitation services.

An organized delivery system does not include an entity otherwise authorized or licensed in this State to provide comprehensive or limited health care services on a prepayment or other basis in connection with a health benefits plan or a carrier. An organized delivery system also does not include an entity which contracts with providers and carriers to provide various administrative services, but does not collect or handle premiums, control utilization management or pay claims. An organized delivery system is not an entity that

directly issues health benefits plans.

The "organized delivery systems" that are subject to regulation by the bill are components of the emerging health and benefits delivery systems structure that are not currently regulated or supervised under State law.

The bill distinguishes between organized delivery systems that are compensated on a basis that does not entail the assumption of "financial risk" by the system and those that are compensated on a basis that does entail the assumption of "financial risk," as that term is defined in the bill. Those systems that do not assume financial risk shall obtain certification from the Department of Health and Senior Services and those systems that do assume financial risk shall be licensed by the Department of Banking and Insurance and be treated as a domestic insurer. The bill specifies the information and documents that an organized delivery system shall provide to the respective department to become certified or licensed, as appropriate.

FISCAL IMPACT:

The Department of Health and Senior Services and the Department of Banking and Insurance may charge reasonable fees for the costs of regulation and administration. Although the number of organized delivery systems is unknown, the Department of Banking and Insurance has estimated that, based on the per-entity costs of licensing similar health care entities currently subject to regulation, that the per-entity costs of administering this bill will be approximately \$1,500.

LEGISLATIVE FISCAL ESTIMATE

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3357

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: JANUARY 10, 2000

BILL SUMMARY

Assembly Committee Substitute for Assembly Bill No. 3357 of 1999 regulates organized delivery systems for health care services or benefits. An organized delivery system is an organization that either contracts with a health care carrier, or acts on behalf of a carrier to provide comprehensive or limited health care services or benefits.

The bill provides that an organized delivery system may be compensated either on a basis which does not entail the assumption of financial risk by the system or on a basis which entails the assumption of financial risk, as that term is defined in the bill. Those systems that do not assume financial risk shall obtain certification from the Department of Health and Senior Services. Those systems that do assume financial risk shall be licensed by the Department of Banking and Insurance and treated for certain purposes as domestic insurers. The Commissioner of the Department of Banking and Insurance may conduct an examination of a licensed organized delivery system as often as the commissioner deems necessary in order to protect the interests of providers, contract holders, enrollees, and the residents of this State. The reasonable expenses of the examination shall be borne by the licensed organized delivery system being examined. An entity certified by the Department of Health and Senior Services is not subject to such financial scrutiny.

OFFICE OF LEGISLATIVE SERVICES COMMENTS

Under the bill, the Departments of Health and Senior Services and Banking and Insurance may charge reasonable fees for the cost of regulation and administration. Therefore, it is anticipated that the State will not incur any new costs as fee revenues are expected to offset administrative costs of the program.

Informal information provided by the Department of Banking and Insurance indicates that, based on similar regulatory fees, the cost of

application would be approximately \$1,500 per entity. Although the department anticipates a larger percentage of licensed organized delivery systems than certified organized delivery systems, the total number of entities seeking licensure or certification is unknown at this time. Consequently, the total anticipated revenue cannot be estimated.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.