

17:48-8.1

LEGISLATIVE HISTORY CHECKLIST
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(Life & Health Insurance and HMO forms)

NJSA: 17:48-8.1

LAWS OF: 1995 CHAPTER: 73

BILL NO: A1885

SPONSOR(S): Bagger

DATE INTRODUCED: June 16, 1994

COMMITTEE: ASSEMBLY: Insurance
SENATE: ---

AMENDED DURING PASSAGE: No Assembly substitute enacted

DATE OF PASSAGE: ASSEMBLY: February 27, 1995
SENATE: March 2, 1995

DATE OF APPROVAL: April 10, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: No

FISCAL ~~NOTE~~ Estimate ~~No~~ Yes

VETO MESSAGE: ~~Yes~~ No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

*Also attached: Statement
attached to Assembly Substitute*

ASSEMBLY SUBSTITUTE FOR
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1885

STATE OF NEW JERSEY

ADOPTED DECEMBER 15, 1994

Sponsored by Assemblymen BAGGER and GARRETT

1 AN ACT concerning the approval of forms for life and health
2 insurance and health maintenance organizations and revising
3 various parts of the statutory law.

4

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

7 1. (New section) This act shall be known and may be cited as
8 the "Life and Health Insurance and Health Maintenance
9 Organization Form Approval Reform Act."

10 2. (New section) The Legislature finds and declares that:

11 a. The New Jersey Department of Insurance has completed an
12 internal restructuring aimed at significantly improving the life
13 and health insurance form approval process.

14 b. The results of this restructuring would be further improved
15 by the passage of supporting legislation aimed at codifying
16 certain reform procedures.

17 c. Positive economic and consumer benefits can be realized
18 through the combination of an internal departmental
19 restructuring and a complimentary legislative reform effort.

20 d. It is in the public's best interest to phase in a file and use
21 system under which certain standard policies, contracts and
22 related forms would receive immediate file and use status, while
23 more complex and detailed policies, contracts and related forms
24 would receive consideration for file and use status upon further
25 review and as determined by the Commissioner of Insurance.

26 3. (New section) No hospital service corporation contract
27 subject to the provisions of P.L.1938, c.366, (C.17:48-1 et seq.),
28 or application for that contract, if a written application is
29 required and is to be made a part of that contract, or a printed
30 rider or an endorsement for use with that contract, shall be
31 delivered or issued for delivery in this State unless its provisions
32 comply with all of the applicable requirements of P.L.1938, c.366
33 (C.17:48-1 et seq.) and any regulations adopted or guidelines
34 published by the Commissioner of Insurance consistent with the
35 requirements thereof. Any contract, application, rider, or
36 endorsement issued or delivered in this State that is not in
37 compliance with that law or regulations or guidelines shall be
38 deemed to be in compliance with the requirements and shall be
39 interpreted by the courts and among the persons affected by the
40 contract as if that contract form were in compliance with the
41 requirements; except that this provision shall not relieve the
42 hospital service corporation from any penalty that may be

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

Matter underlined thus is new matter.

1 imposed for violation of this act or any other applicable provision
2 of P.L.1938, c.366 (C.17:48-1 et seq.).

3 4. (New section) a. Except as otherwise provided in P.L.1992,
4 c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et
5 seq.), any contract subject to the provisions of P.L.1938, c.366
6 (C.17:48-1 et seq.), including any application, rider, or
7 endorsement which is made a part of that contract, shall be filed
8 with the commissioner for approval as provided in this section.
9 Any such contract, and any related form, except those certified
10 pursuant to section 5 of this act, shall be filed with the
11 commissioner for approval pursuant to this section.

12 b. Any contract or related form filed with the commissioner
13 for approval pursuant to this section shall be deemed approved
14 upon the expiration of 60 days after the submission of the form
15 unless disapproved in writing by the commissioner within that
16 time. Any such disapproval shall be based only on the specific
17 provisions of applicable statutes, regulations adopted by the
18 commissioner, or guidelines published by the commissioner as of
19 the effective date of this act, with regard to forms of that type.
20 A disapproved contract or related form may be resubmitted.

21 c. Any contract or related form submitted for approval
22 pursuant to this section and disapproved by the commissioner
23 before the expiration of 60 days after its submission shall be
24 deemed withdrawn at the expiration of 60 days after the
25 transmittal of the commissioner's specific objections unless the
26 filer submits a complete written response to all of the
27 commissioner's objections regarding the submission within the 60
28 day period.

29 d. A contract or related form, resubmitted in response to the
30 commissioner's objections pursuant to subsection b. of this
31 section, shall be deemed approved upon the expiration of 30 days
32 after its resubmission unless disapproved in writing by the
33 commissioner within that time. No disapproval by the
34 commissioner of a resubmission shall be based on any objection
35 not specified by the commissioner in his initial disapproval of the
36 filing, except that the commissioner may disapprove such form
37 based upon any new provisions introduced in the resubmission or
38 if in addressing the specified objections cited in the
39 commissioner's disapproval transmission, the hospital service
40 corporation changes or modifies any substantive provisions of the
41 form. Any contract or related form resubmitted for approval
42 pursuant to this section and disapproved by the commissioner
43 before the expiration of 30 days after its submission shall be
44 deemed withdrawn at the expiration of 30 days after the
45 transmittal of the commissioner's specific objections, unless the
46 filer submits a complete written response to all of the
47 commissioner's objections regarding the submission within the 30
48 day period.

49 e. With respect to all types of contracts or related forms
50 required to be filed pursuant to this section and currently on file
51 with and approved by the commissioner upon enactment of this
52 act, the commissioner shall propose regulations, which may be
53 amended or modified by the commissioner from time to time
54 after adoption, concerning any actuarial or form requirements

1 consistent with applicable statutory provisions but not specified
2 therein, not later than 180 days after enactment of this act. Any
3 such regulation shall be adopted not later than 180 days after it is
4 proposed. With respect to any type of form not then on file with
5 the commissioner but filed subsequent to the enactment of this
6 act, the commissioner shall propose regulations, which may be
7 amended or modified by the commissioner from time to time
8 after adoption, concerning any actuarial or form requirements
9 consistent with applicable statutory provisions but not specified
10 therein, within 120 days after the form is approved or deemed
11 approved by the commissioner pursuant to this section. Any such
12 regulation shall be adopted not later than 180 days after it is
13 proposed. The commissioner may issue bulletins which are
14 interpretive of existing regulations consistent with statutory
15 provisions, with respect to any type of form that may be certified
16 pursuant to section 5 of this act. Nothing in this section shall
17 preclude a hospital service corporation from filing a certifiable
18 contract or related form for approval by the commissioner.

19 f. Any such form which is filed with the commissioner or
20 deemed filed may be so delivered or issued for delivery until such
21 time as any subsequent withdrawal of the filing by the
22 commissioner, following an opportunity for a hearing held in
23 accordance with the "Administrative Procedure Act," P.L.1968,
24 c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder,
25 becomes final in accordance therewith.

26 g. For purposes of this section, "days" means calendar days,
27 except that when the last day of any specified time period is a
28 Saturday, Sunday, or State holiday, then the time period shall end
29 on the next following business day. With respect to any specified
30 time period pertaining to correspondence between a hospital
31 service corporation and the commissioner, the time period shall
32 commence on the date that such correspondence is postmarked or
33 submitted to a private delivery service.

34 5. ~~New section~~) a. Pursuant to the provisions of this section,
35 a hospital service corporation authorized to do business in this
36 State may file with the commissioner and use, in accordance with
37 subsection d. of this section, any contract, endorsement or
38 related form that is stipulated by the commissioner to be of a
39 kind or type eligible for file and use pursuant to subsection b. of
40 this section. The form shall be accompanied by a certification
41 memorandum which includes a statement that it is filed in
42 accordance with the provisions of this section, and which is
43 executed by a responsible officer of the hospital service
44 corporation who certifies that the form being filed is in
45 conformance with the law or regulation applicable to that type or
46 kind of form as specified in a certification form to be determined
47 by the commissioner. If the commissioner determines that the
48 form being filed does not conform with the law or regulation
49 applicable to that type or kind of form, the commissioner shall
50 notify the hospital service corporation of his objections in writing
51 and may disapprove that form for further use in New Jersey.

52 b. Contract forms, including related endorsements, riders and
53 application forms, eligible for certification pursuant to this
54 section shall include, but not be limited to, certain categories of

- 1 individual and group hospital service corporation contracts which
2 the commissioner shall define by regulation.
- 3 c. The certification memorandum shall be signed and
4 acknowledged by a responsible officer of the hospital service
5 corporation. The acknowledgement by that officer shall be done
6 in the same manner in which documents for recording instruments
7 conveying or affecting interests in real estate in this State must
8 be acknowledged to be eligible for recording, or in such other
9 manner as specified by the commissioner by regulation from
10 time to time.
- 11 d. Upon receipt of an acknowledgement from the
12 commissioner that the form and a certification memorandum
13 which conforms to the requirements of this section have been
14 received, the form so submitted may be used by the hospital
15 service corporation.
- 16 e. (1) Improper certification shall subject a hospital service
17 corporation submitting such improper certification to a fine not
18 to exceed \$50,000 and, in addition, a maximum penalty of \$1,000
19 per contract issued on a form determined to be improperly
20 certified pursuant to the provisions of this section. The
21 commissioner shall promulgate a schedule of penalties to be
22 applied pursuant to this section. In determining the amount of
23 any penalty to be imposed, the commissioner shall consider the
24 severity of the violation based upon the potential adverse impact
25 to the public and whether it is the filer's first violation of this
26 section.
- 27 (2) If, after notice and a hearing pursuant to the
28 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.), a hospital service corporation is found by the commissioner
30 to be in violation of this section, the form may be disapproved,
31 and in addition to any other penalties that may be imposed under
32 P.L.1938, c.366 (C.17:48-1 et seq.), the commissioner may bar
33 that hospital service corporation from participating in the
34 certification process pursuant to this section for a period not to
35 exceed one year.
- 36 f. The commissioner shall hold a hearing annually, or more
37 often, for the purpose of adopting regulations to define the
38 specific forms eligible for certification pursuant to this section.
39 Initial regulations shall be adopted pursuant to this section no
40 later than 180 days after enactment of this act.
- 41 g. For purposes of this section:
- 42 (1) "a responsible officer of the hospital service corporation"
43 means a corporate officer of the level of vice president or higher,
44 or of equivalent title within the hospital service corporation's
45 structure, who is either the actuary of the hospital service
46 corporation with responsibility for the type of form filed, or the
47 individual with responsibility for managing the form filing process
48 for the hospital service corporation with regard to the type of
49 form filed; and
- 50 (2) "improper certification" means providing any
51 misrepresentation or false statement material to a certification
52 form required pursuant to subsection a. of this section.
- 53 6. Section 51 of P.L.1991, c.187 (C.17:48-6.14) is amended to
54 read as follows:

- 1 51. a. A basic health care contract offered pursuant to
2 section 50 of P.L.1991, c.187 (C.17:48-6.13) shall provide:
- 3 (1) Basic hospital expense coverage for a period of 21 days in a
4 benefit year for each covered person for expenses incurred for
5 medically necessary treatment and services rendered as a result
6 of injury or sickness, including:
- 7 (a) Daily hospital room and board, including general nursing
8 care and special diets;
- 9 (b) Miscellaneous hospital services, including expenses incurred
10 for charges made by the hospital for services and supplies which
11 are customarily rendered by the hospital and provided for use
12 only during any period of confinement;
- 13 (c) Hospital outpatient services consisting of hospital services
14 on the day surgery is performed; hospital services rendered within
15 72 hours after accidental injury; and X-ray and laboratory tests
16 to the extent that benefits for such services would have been
17 provided if rendered to an inpatient of the hospital;
- 18 (2) Basic medical-surgical expense coverage for each covered
19 person for expenses incurred for medically necessary services for
20 treatment of injury or sickness for the following:
- 21 (a) Surgical services;
- 22 (b) Anesthesia services consisting of administration of
23 necessary general anesthesia and related procedures in
24 connection with covered surgical services rendered by a physician
25 other than the physician performing the surgical services;
- 26 (c) In-hospital services rendered to a person who is confined to
27 a hospital for treatment of injury or sickness other than that for
28 which surgical care is required;
- 29 (3) Maternity benefits, including cost of delivery and prenatal
30 care;
- 31 (4) Out-of-hospital physical examination, including related
32 X-rays and diagnostic tests, on the following basis:
- 33 (a) For covered minors of less than two years of age, up to six
34 examinations during the first two years of life; for covered
35 minors of two years of age or older, one examination at age 3, 6,
36 9, 12, 15 and 18 years;
- 37 (b) For covered adults of less than 40 years of age, one
38 examination every five years; for covered adults 40 or more years
39 of age but less than 60 years of age, one examination every three
40 years; and for covered adults 60 years of age or older, one
41 examination every two years.
- 42 Notwithstanding the provisions of this section to the contrary,
43 a hospital service corporation may provide alternative benefits or
44 services from those required by this subsection if they are
45 approved by the Commissioner of Insurance and are within the
46 intent of this act.
- 47 b. (1) No person who is eligible for coverage under Medicare
48 pursuant to Pub. L. 89-97 (42 U.S.C. §1395 et seq.) shall be a
49 covered person under a contract required to be offered pursuant
50 to section 50 of P.L.1991, c.187 (C.17:48-6.13).
- 51 (2) A hospital service corporation shall not sell a contract
52 required to be offered pursuant to section 50 of P.L.1991, c.187
53 (C.17:48-6.13) to a group which was covered by health benefits or
54 health insurance any time during the 12-month period

1 immediately preceding the effective date of coverage.

2 c..(1) Contracts required to be offered pursuant to section 50
3 of P.L.1991, c.187 (C.17:48-6.13) may contain or provide for
4 coinsurance or deductibles, or both; except that no deductible
5 shall be payable in excess of a total of \$250 by an individual or
6 family unit during any benefit year, no coinsurance shall be
7 payable in excess of a total of \$500 by an individual or family
8 unit during any benefit year, and neither coinsurance nor
9 deductibles shall apply to physical examinations or maternity
10 benefits covered pursuant to paragraphs (3) or (4) of subsection a.
11 of this section.

12 (2) Managed care systems may be utilized for coverages
13 required to be offered pursuant to this section, subject to the
14 review and approval of the Commissioner of Insurance.

15 d. Notwithstanding any other law to the contrary, a hospital
16 service corporation shall file copies of all forms of contracts
17 required to be offered pursuant to section 50 of P.L.1991, c.187
18 (C.17:48-6.13) for approval with the Commissioner of Insurance
19 [at least 60 days prior to becoming effective. Unless disapproved
20 by the commissioner prior to its effective date specifying in what
21 respects the form is not in compliance with the standards set
22 forth in this subsection, any such contract form filed with the
23 commissioner shall be deemed approved as of its effective date]
24 in accordance with the provisions of section 4 of P.L. , c. ,
25 (C.)(pending in the Legislature as this bill), provided, however,
26 that contract forms shall be effective only with respect to those
27 contract form filings which are accompanied by an explanation
28 and identification of the changes being made on a form
29 prescribed by the commissioner. [In his discretion, the
30 commissioner may waive the 60-day waiting period or any portion
31 thereof.]

32 Contract forms shall not be unfair, inequitable, misleading or
33 contrary to law, nor shall they produce rates that are excessive,
34 inadequate or unfairly discriminatory.

35 e. Notwithstanding any other law to the contrary, a hospital
36 service corporation shall file all rates and supplementary rate
37 information and all changes and amendments thereof for the
38 contracts required to be offered pursuant to section 50 of
39 P.L.1991, c.187 (C.17:48-6.13) for approval with the
40 commissioner at least 60 days prior to becoming effective.
41 Unless disapproved by the commissioner prior to their effective
42 date specifying in what respects the filing is not in compliance
43 with the standards set forth in this subsection, any such rates,
44 supplementary rate information, changes or amendments filed
45 with the commissioner shall be deemed approved as of their
46 effective date. In his discretion, the commissioner may waive
47 the 60-day waiting period or any portion thereof.

48 Rates shall not be excessive, inadequate or unfairly
49 discriminatory.

50 f. The commissioner shall issue regulations to establish
51 minimum standards for loss ratios under contracts required to be
52 offered pursuant to section 50 of P.L.1991, c.187 (C.17:48-6.13).

53 g. Notwithstanding any provision of law to the contrary, a
54 hospital service corporation shall not be required, in regard to

1 contracts required to be offered pursuant to section 50 of
2 P.L.1991, c.187 (C.17:48-6.13), to provide mandatory health care
3 benefits or provide benefits for services rendered by providers of
4 health care services as otherwise required by law.

5 h. The commissioner shall, pursuant to the provisions of the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.), adopt rules and regulations necessary to effectuate the
8 purposes of this section and section 50 of P.L.1991, c.187
9 (C.17:48-6.13), including standards for terms and conditions of
10 contracts required to be offered pursuant to this section and
11 section 50 of P.L.1991, c.187 (C.17:48-6.13) and schedules of
12 benefits for coverages provided for in subsection a. of this
13 section.

14 i. Every hospital service corporation shall report annually on
15 or before March 1 to the Department of Insurance the number of
16 individual and group contracts required to be offered pursuant to
17 section 50 of P.L.1991, c.187 (C.17:48-6.13) that were sold in the
18 preceding calendar year and the number of persons covered under
19 each type of contract. The department shall compile and analyze
20 this information and shall report annually on or before July 1 its
21 findings and any recommendations it may have to the Governor
22 and the Legislature.

23 (cf: P.L.1991, c.187, s.51)

24 7. (New section) No medical service corporation contract
25 subject to the provisions of P.L.1940, c.74, (C.17:48A-1 et seq.)
26 or application for that contract, if a written application is
27 required and is to be made a part of that contract, or a printed
28 rider or an endorsement for use with that contract, shall be
29 delivered or issued for delivery in this State unless its provisions
30 comply with all of the applicable requirements of P.L.1940, c.74,
31 (C.17:48A-1 et seq.) and any regulations adopted or guidelines
32 published by the Commissioner of Insurance consistent with the
33 requirements thereof. Any contract, application, rider, or
34 endorsement issued or delivered in this State that is not in
35 compliance with that law or regulations or guidelines shall be
36 deemed to be in compliance with the requirements and shall be
37 interpreted by the courts and among the persons affected by the
38 contract as if that contract form were in compliance with the
39 requirements; except that this provision shall not relieve the
40 medical service corporation from any penalty that may be
41 imposed for violation of this act or any other applicable provision
42 of P.L.1940, c.74 (C.17:48A-1 et seq.).

43 8. (New section) a. Except as otherwise provided in P.L.1992,
44 c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et
45 seq.), any contract subject to the provisions of P.L.1940, c.74
46 (C.17:48A-1 et seq.), including any application, rider, or
47 endorsement which is made a part of that contract, shall be filed
48 with the commissioner for approval as provided in this section.
49 Any such contract, and any related form, except those certified
50 pursuant to section 9 of this act, shall be filed with the
51 commissioner for approval pursuant to this section.

52 b. Any contract or related form filed with the commissioner
53 for approval pursuant to this section shall be deemed approved
54 upon the expiration of 60 days after the submission of the form

1 unless disapproved in writing by the commissioner within that
2 time. Any such disapproval shall be based only on the specific
3 provisions of applicable statutes, regulations adopted by the
4 commissioner, or guidelines published by the commissioner as of
5 the effective date of this act, with regard to forms of that type.
6 A disapproved contract or related form may be resubmitted.

7 c. Any contract or related form submitted for approval
8 pursuant to this section and disapproved by the commissioner
9 before the expiration of 60 days after its submission shall be
10 deemed withdrawn at the expiration of 60 days after the
11 transmittal of the commissioner's specific objections unless the
12 filer submits a complete written response to all of the
13 commissioner's objections regarding the submission within the 60
14 day period.

15 d. A contract or related form, resubmitted in response to the
16 commissioner's objections pursuant to subsection b. of this
17 section, shall be deemed approved upon the expiration of 30 days
18 after its resubmission unless disapproved in writing by the
19 commissioner within that time. No disapproval by the
20 commissioner of a resubmission shall be based on any objection
21 not specified by the commissioner in his initial disapproval of the
22 filing, except that the commissioner may disapprove such form
23 based upon any new provisions introduced in the resubmission or
24 if in addressing the specified objections cited in the
25 commissioner's disapproval transmission, the medical service
26 corporation modifies any substantive provisions of the form. Any
27 contract or related form resubmitted for approval pursuant to
28 this section and disapproved by the commissioner before the
29 expiration of 30 days after its submission shall be deemed
30 withdrawn at the expiration of 30 days after the transmittal of
31 the commissioner's specific objections, unless the filer submits a
32 complete written response to all of the commissioner's
33 objections regarding the submission within the 30 day period.

34 e. With respect to all types of contracts or related forms
35 required to be filed pursuant to this section and currently on file
36 with and approved by the commissioner upon enactment of this
37 act, the commissioner shall propose regulations, which may be
38 amended or modified by the commissioner from time to time
39 after adoption, concerning any actuarial or form requirements
40 consistent with applicable statutory provisions but not specified
41 therein, not later than 180 days after enactment of this act. Any
42 such regulation shall be adopted not later than 180 days after it is
43 proposed. With respect to any type of form not then on file with
44 the commissioner but filed subsequent to the enactment of this
45 act, the commissioner shall propose regulations, which may be
46 amended or modified by the commissioner from time to time
47 after adoption, concerning any actuarial or form requirements
48 consistent with applicable statutory provisions but not specified
49 therein, within 120 days after the form is approved or deemed
50 approved by the commissioner pursuant to this section. Any such
51 regulation shall be adopted not later than 180 days after it is
52 proposed. The commissioner may issue bulletins which are
53 interpretive of existing regulations consistent with statutory
54 provisions, with respect to any type of form that may be certified

1 pursuant to section 9 of this act. Nothing in this section shall
2 preclude a medical service corporation from filing a certifiable
3 contract or related form for approval by the commissioner.

4 f. Any such form which is filed with the commissioner or
5 deemed filed may be so delivered or issued for delivery until such
6 time as any subsequent withdrawal of the filing by the
7 commissioner, following an opportunity for a hearing held in
8 accordance with the "Administrative Procedure Act," P.L.1968,
9 c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder,
10 becomes final in accordance therewith.

11 g. For purposes of this section, "days" means calendar days,
12 except that when the last day of any specified time period is a
13 Saturday, Sunday, or State holiday, then the time period shall end
14 on the next following business day. With respect to any specified
15 time period pertaining to correspondence between a medical
16 service corporation and the commissioner, the time period shall
17 commence on the date that such correspondence is postmarked or
18 submitted to a private delivery service.

19 9. (New section) a. Pursuant to the provisions of this section,
20 a medical service corporation authorized to do business in this
21 State may file with the commissioner and use, in accordance with
22 subsection d. of this section, any contract, endorsement or
23 related form that is stipulated by the commissioner to be of a
24 kind or type eligible for file and use pursuant to subsection b. of
25 this section. The form shall be accompanied by a certification
26 memorandum which includes a statement that it is filed in
27 accordance with the provisions of this section, and which is
28 executed by a responsible officer of the medical service
29 corporation who certifies that the form being filed is in
30 conformance with the law or regulation applicable to that type or
31 kind of form as specified in a certification form to be determined
32 by the commissioner. If the commissioner determines that the
33 form being filed does not conform with the law or regulation
34 applicable to that type or kind of form, the commissioner shall
35 notify the medical service corporation of his objections in writing
36 and may disapprove that form for further use in New Jersey.

37 b. Contract forms, including related endorsements, riders and
38 application forms, eligible for certification pursuant to this
39 section shall include, but not be limited to, certain categories of
40 individual and group medical service corporation contracts which
41 the commissioner shall define by regulation.

42 c. The certification memorandum shall be signed and
43 acknowledged by a responsible officer of the medical service
44 corporation. The acknowledgement by that officer shall be done
45 in the same manner in which documents for recording instruments
46 conveying or affecting interests in real estate in this State must
47 be acknowledged to be eligible for recording, or in such other
48 manner as specified by the commissioner by regulation from
49 time to time.

50 d. Upon receipt of an acknowledgement from the
51 commissioner that the form and a certification memorandum
52 which conforms to the requirements of this section have been
53 received, the form so submitted may be used by the medical
54 service corporation.

1 e. (1) Improper certification shall subject a medical service
2 corporation submitting such improper certification to a fine not
3 to exceed \$50,000 and, in addition, a maximum penalty of \$1,000
4 per contract issued on a form determined to be improperly
5 certified pursuant to the provisions of this section. The
6 commissioner shall promulgate a schedule of penalties to be
7 applied pursuant to this section. In determining the amount of
8 any penalty to be imposed, the commissioner shall consider the
9 severity of the violation based upon the potential adverse impact
10 to the public and whether it is the filer's first violation of this
11 section.

12 (2) If, after notice and a hearing pursuant to the
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.), a medical service corporation is found by the commissioner
15 to be in violation of this section, the form may be disapproved,
16 and in addition to any other penalties that may be imposed under
17 P.L.1940, c.74 (C.17:48A-1 et seq.), the commissioner may bar
18 that medical service corporation from participating in the
19 certification process pursuant to this section for a period not to
20 exceed one year.

21 f. The commissioner shall hold a hearing annually, or more
22 often, for the purpose of adopting regulations to define the
23 specific forms eligible for certification pursuant to this section.
24 Initial regulations shall be adopted pursuant to this section no
25 later than 180 days after enactment of this act.

26 g. For purposes of this section:

27 (1) "a responsible officer of the medical service corporation"
28 means a corporate officer of the level of vice president or higher,
29 or of equivalent title within the medical service corporation's
30 structure, who is either the actuary of the medical service
31 corporation with responsibility for the type of form filed, or the
32 individual with responsibility for managing the form filing process
33 for the medical service corporation with regard to the type of
34 form filed; and

35 (2) "improper certification" means providing any
36 misrepresentation or false statement material to a certification
37 form required pursuant to subsection a. of this section.

38 10. Section 53 of P.L.1991, c.187 (C.17:48A-6.9) is amended to
39 read as follows:

40 53. a. A basic health care contract offered pursuant to section
41 52 of P.L.1991, c.187 (C.17:48A-6.8) shall provide:

42 (1) Basic hospital expense coverage for a period of 21 days in a
43 benefit year for each covered person for expenses incurred for
44 medically necessary treatment and services rendered as a result
45 of injury or sickness, including:

46 (a) Daily hospital room and board, including general nursing
47 care and special diets;

48 (b) Miscellaneous hospital services, including expenses incurred
49 for charges made by the hospital for services and supplies which
50 are customarily rendered by the hospital and provided for use
51 only during any period of confinement;

52 (c) Hospital outpatient services consisting of hospital services
53 on the day surgery is performed; hospital services rendered within
54 72 hours after accidental injury; and X-ray and laboratory tests

1 to the extent that benefits for such services would have been
2 provided if rendered to an inpatient of the hospital;

3 (2) Basic medical-surgical expense coverage for each covered
4 person for expenses incurred for medically necessary services for
5 treatment of injury or sickness for the following:

6 (a) Surgical services;

7 (b) Anesthesia services consisting of administration of
8 necessary general anesthesia and related procedures in
9 connection with covered surgical services rendered by a physician
10 other than the physician performing the surgical services;

11 (c) In-hospital services rendered to a person who is confined to
12 a hospital for treatment of injury or sickness other than that for
13 which surgical care is required;

14 (3) Maternity benefits, including cost of delivery and prenatal
15 care;

16 (4) Out-of-hospital physical examination, including related
17 X-rays and diagnostic tests, on the following basis:

18 (a) For covered minors of less than two years of age, up to six
19 examinations during the first two years of life; for covered
20 minors of two years of age or older, one examination at age 3, 6,
21 9, 12, 15 and 18 years;

22 (b) For covered adults of less than 40 years of age, one
23 examination every five years; for covered adults 40 or more years
24 of age but less than 60 years of age, one examination every three
25 years; and for covered adults 60 years of age or older, one
26 examination every two years.

27 Notwithstanding the provisions of this section to the contrary,
28 a medical service corporation may provide alternative benefits or
29 services from those required by this subsection if they are
30 approved by the Commissioner of Insurance and are within the
31 intent of this amendatory and supplementary act.

32 b. (1) No person who is eligible for coverage under Medicare
33 pursuant to Pub. L. 89-97 (42 U.S.C. §1395 et seq.) shall be a
34 covered person under a contract required to be offered pursuant
35 to section 52 of P.L.1991, c.187 (C.17:48A-6.8).

36 (2) A medical service corporation shall not sell a contract
37 required to be offered pursuant to section 52 of P.L.1991, c.187
38 (C.17:48A-6.8) to a group which was covered by health benefits
39 or health insurance anytime during the 12-month period
40 immediately preceding the effective date of coverage.

41 c. (1) Contracts required to be offered pursuant to section 52
42 of P.L.1991, c.187 (C.17:48A-6.8) may contain or provide for
43 coinsurance or deductibles, or both; except that no deductible
44 shall be payable in excess of a total of \$250 by an individual or
45 family unit during any benefit year, no coinsurance shall be
46 payable in excess of a total of \$500 by an individual or family
47 unit during any benefit year, and neither coinsurance nor
48 deductibles shall apply to physical examinations or maternity
49 benefits covered pursuant to paragraphs (3) or (4) of subsection a.
50 of this section.

51 (2) Managed care systems may be utilized for coverages
52 required to be offered pursuant to this section, subject to the
53 review and approval of the Commissioner of Insurance.

54 d. Notwithstanding any other law to the contrary, a medical

1 service corporation shall file copies of all forms of contracts
2 required to be offered pursuant to section 52 of P.L.1991, c.187
3 (C.17:48A-6.8) for approval with the Commissioner of Insurance
4 [at least 60 days prior to becoming effective. Unless disapproved
5 by the commissioner prior to its effective date specifying in what
6 respects the form is not in compliance with the standards set
7 forth in this subsection, any such contract form filed with the
8 commissioner shall be deemed approved as of its effective date]
9 in accordance with the provisions of section 8 of P.L. , c.
10 (C.)(pending in the Legislature as this bill), provided, however,
11 that contract forms shall be effective only with respect to those
12 contract form filings which are accompanied by an explanation
13 and identification of the changes being made on a form
14 prescribed by the commissioner. [In his discretion, the
15 commissioner may waive the 60-day waiting period or any portion
16 thereof.]

17 Contract forms shall not be unfair, inequitable, misleading or
18 contrary to law, nor shall they produce rates that are excessive,
19 inadequate or unfairly discriminatory.

20 e. Notwithstanding any other law to the contrary, a medical
21 service corporation shall file all rates and supplementary rate
22 information and all changes and amendments thereof for the
23 contracts required to be offered pursuant to section 52 of
24 P.L.1991, c.187 (C.17:48A-6.8) for approval with the
25 commissioner at least 60 days prior to becoming effective.
26 Unless disapproved by the commissioner prior to their effective
27 date specifying in what respects the filing is not in compliance
28 with the standards set forth in this subsection, any such rates,
29 supplementary rate information, changes or amendments filed
30 with the commissioner shall be deemed approved as of their
31 effective date. In his discretion, the commissioner may waive
32 the 60-day waiting period or any portion thereof.

33 Rates shall not be excessive, inadequate or unfairly
34 discriminatory.

35 f. The commissioner shall issue regulations to establish
36 minimum standards for loss ratios under contracts required to be
37 offered pursuant to section 52 of P.L.1991, c.187 (C.17:48A-6.8).

38 g. Notwithstanding any provision of law to the contrary, a
39 medical service corporation shall not be required, in regard to
40 contracts required to be offered pursuant to section 52 of
41 P.L.1991, c.187 (C.17:48A-6.8), to provide mandatory health care
42 benefits or provide benefits for services rendered by providers of
43 health care services as otherwise required by law.

44 h. The commissioner shall, pursuant to the provisions of the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.), adopt rules and regulations necessary to effectuate the
47 purposes of this section and section 52 of P.L.1991, c.187
48 (C.17:48A-6.8), including standards for terms and conditions of
49 contracts required to be offered pursuant to this section and
50 section 52 of P.L.1991, c.187 (C.17:48A-6.8) and schedules of
51 benefits for coverages provided for in subsection a. of this
52 section.

53 i. Every medical service corporation shall report annually on
54 or before March 1 to the Department of Insurance the number of

1 individual and group contracts required to be offered pursuant to
2 section 52 of P.L.1991, c.187 (C.17:48A-6.8) that were sold in the
3 preceding calendar year and the number of persons covered under
4 each type of contract. The department shall compile and analyze
5 this information and shall report annually on or before July 1 its
6 findings and any recommendations it may have to the Governor
7 and the Legislature.

8 (cf: P.L.1991, c.187, s.53)

9 11. (New section) No health service corporation contract
10 subject to the provisions of P.L.1985, c.236 (C.17:48E-1 et seq.)
11 or application for that contract, if a written application is
12 required and is to be made a part of that contract, or a printed
13 rider or an endorsement for use with that contract, shall be
14 delivered or issued for delivery in this State unless its provisions
15 comply with all of the applicable requirements P.L.1985, c.236
16 (C.17:48E-1 et seq.) and any regulations adopted or guidelines
17 published by the commissioner consistent with the requirements
18 thereof. Any contract, application, rider, or endorsement issued
19 or delivered in this State that is not in compliance with that law
20 or regulations or guidelines shall be deemed to be in compliance
21 with the requirements and shall be interpreted by the courts and
22 among the persons affected by the contract as if that contract
23 form were in compliance with the requirements; except that this
24 provision shall not relieve the health service corporation from
25 any penalty that may be imposed for violation of this act or any
26 other applicable provision of P.L.1985, c.236 (C.17:48E-1 et seq.).

27 12. (New section) a. Except as otherwise provided in
28 P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162
29 (C.17B:27A-17 et seq.), any contract subject to the provisions of
30 P.L.1985, c.236 (C.17:48E-1 et seq.), including any application,
31 rider, or endorsement which is made a part of that contract, shall
32 be filed with the commissioner for approval as provided in this
33 section. Any such contract, and any related form, except those
34 certified pursuant to section 13 of this act, shall be filed with the
35 commissioner for approval pursuant to this section.

36 b. Any contract or related form filed with the commissioner
37 for approval pursuant to this section shall be deemed approved
38 upon the expiration of 60 days after the submission of the form
39 unless disapproved in writing by the commissioner within that
40 time. Any such disapproval shall be based only on the specific
41 provisions of applicable statutes, regulations adopted by the
42 commissioner, or guidelines published by the commissioner as of
43 the effective date of this act, with regard to forms of that type.
44 A disapproved contract or related form may be resubmitted.

45 c. Any contract or related form submitted for approval
46 pursuant to this section and disapproved by the commissioner
47 before the expiration of 60 days after its submission shall be
48 deemed withdrawn at the expiration of 60 days after the
49 transmittal of the commissioner's specific objections unless the
50 filer submits a complete written response to all of the
51 commissioner's objections regarding the submission within the 60
52 day period.

53 d. A contract or related form, resubmitted in response to the
54 commissioner's objections pursuant to subsection b. of this

1 section, shall be deemed approved upon the expiration of 30 days
2 after its resubmission unless disapproved in writing by the
3 commissioner within that time. No disapproval by the
4 commissioner of a resubmission shall be based on any objection
5 not specified by the commissioner in his initial disapproval of the
6 filing, except that the commissioner may disapprove such form
7 based upon any new provisions introduced in the resubmission or
8 if in addressing the specified objections cited in the
9 commissioner's disapproval transmission, the health service
10 corporation changes or modifies any substantive provisions of the
11 form. Any contract or related form resubmitted for approval
12 pursuant to this section and disapproved by the commissioner
13 before the expiration of 30 days after its submission shall be
14 deemed withdrawn at the expiration of 30 days after the
15 transmittal of the commissioner's specific objections, unless the
16 filer submits a complete written response to all of the
17 commissioner's objections regarding the submission within the 30
18 day period.

19 e. With respect to all types of contracts or related forms
20 required to be filed pursuant to this section and currently on file
21 with and approved by the commissioner upon enactment of this
22 act, the commissioner shall propose regulations, which may be
23 amended or modified by the commissioner from time to time
24 after adoption, concerning any actuarial or form requirements
25 consistent with applicable statutory provisions but not specified
26 therein, not later than 180 days after enactment of this act. Any
27 such regulation shall be adopted not later than 180 days after it is
28 proposed. With respect to any type of form not then on file with
29 the commissioner but filed subsequent to the enactment of this
30 act, the commissioner shall propose regulations, which may be
31 amended or modified by the commissioner from time to time
32 after adoption, concerning any actuarial or form requirements
33 consistent with applicable statutory provisions but not specified
34 therein, within 120 days after the form is approved or deemed
35 approved by the commissioner pursuant to this section. Any such
36 regulation shall be adopted not later than 180 days after it is
37 proposed. The commissioner may issue bulletins which are
38 interpretive of existing regulations consistent with statutory
39 provisions, with respect to any type of form that may be certified
40 pursuant to section 13 of this act. Nothing in this section shall
41 preclude a health service corporation from filing a certifiable
42 contract or related form for approval by the commissioner.

43 f. Any such form which is filed with the commissioner or
44 deemed filed may be so delivered or issued for delivery until such
45 time as any subsequent withdrawal of the filing by the
46 commissioner, following an opportunity for a hearing held in
47 accordance with the "Administrative Procedure Act," P.L.1968,
48 c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder,
49 becomes final in accordance therewith.

50 g. For purposes of this section, "days" means calendar days,
51 except that when the last day of any specified time period is a
52 Saturday, Sunday, or State holiday, then the time period shall end
53 on the next following business day. With respect to any specified
54 time period pertaining to correspondence between a health

1 service corporation and the commissioner, the time period shall
2 commence on the date that such correspondence is postmarked or
3 submitted to a private delivery service.

4 13. (New section) a. Pursuant to the provisions of this
5 section, a health service corporation authorized to do business in
6 this State may file with the commissioner and use, in accordance
7 with subsection d. of this section, any contract, endorsement or
8 related form that is stipulated by the commissioner to be of a
9 kind or type eligible for file and use pursuant to subsection b. of
10 this section. The form shall be accompanied by a certification
11 memorandum which includes a statement that it is filed in
12 accordance with the provisions of this section, and which is
13 executed by a responsible officer of the health service
14 corporation who certifies that the form being filed is in
15 conformance with the law or regulation applicable to that type or
16 kind of form as specified in a certification form to be determined
17 by the commissioner. If the commissioner determines that the
18 form being filed does not conform with the law or regulation
19 applicable to that type or kind of form, the commissioner shall
20 notify the health service corporation of his objections in writing
21 and may disapprove that form for further use in New Jersey.

22 b. Contract forms, including related endorsements, riders and
23 application forms, eligible for certification pursuant to this
24 section shall include, but not be limited to, certain categories of
25 individual and group health service corporation contracts which
26 the commissioner shall define by regulation.

27 c. The certification memorandum shall be signed and
28 acknowledged by a responsible officer of the health service
29 corporation. The acknowledgement by that officer shall be done
30 in the same manner in which documents for recording instruments
31 conveying or affecting interests in real estate in this State must
32 be acknowledged to be eligible for recording, or in such other
33 manner as specified by the commissioner by regulation from
34 time to time.

35 d. Upon receipt of an acknowledgement from the
36 commissioner that the form and a certification memorandum
37 which conforms to the requirements of this section have been
38 received, the form so submitted may be used by the health
39 service corporation.

40 e. (1) Improper certification shall subject a health service
41 corporation submitting such improper certification to a fine not
42 to exceed \$50,000 and, in addition, a maximum penalty of \$1,000
43 per contract issued on a form determined to be improperly
44 certified pursuant to the provisions of this section. The
45 commissioner shall promulgate a schedule of penalties to be
46 applied pursuant to this section. In determining the amount of
47 any penalty to be imposed, the commissioner shall consider the
48 severity of the violation based upon the potential adverse impact
49 to the public and whether it is the filer's first violation of this
50 section.

51 (2) If, after notice and a hearing pursuant to the
52 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
53 seq.), a health service corporation is found by the commissioner
54 to be in violation of this section, the form may be disapproved,

1 and in addition to any other penalties that may be imposed under
2 P.L.1985, c.236 (C.17:48E-1 et seq.), the commissioner may bar
3 that health service corporation from participating in the
4 certification process pursuant to this section for a period not to
5 exceed one year.

6 f. The commissioner shall hold a hearing annually, or more
7 often, for the purpose of adopting regulations to define the
8 specific forms eligible for certification pursuant to this section.
9 Initial regulations shall be adopted pursuant to this section no
10 later than 180 days after enactment of this act.

11 g. For purposes of this section:

12 (1) "a responsible officer of the health service corporation"
13 means a corporate officer of the level of vice president or higher,
14 or of equivalent title within the health service corporation's
15 structure, who is either the actuary of the health service
16 corporation with responsibility for the type of form filed, or the
17 individual with responsibility for managing the form filing process
18 for the health service corporation with regard to the type of form
19 filed; and

20 (2) "improper certification" means providing any
21 misrepresentation or false statement material to a certification
22 form required pursuant to subsection a. of this section.

23 14. Section 13 of P.L.1985, c.236 (C.17:48E-13) is amended to
24 read as follows:

25 13. No health service corporation shall enter into any contract
26 with a subscriber unless it has filed with the commissioner a copy
27 of the contract or certificate and copies of all applications,
28 riders, and endorsements for use in connection with the issuance
29 or renewal thereof in accordance with the provisions of section
30 12 of P.L. , c. (C.)(pending in the Legislature as this
31 bill). [If the commissioner at any time notifies the corporation of
32 his disapproval of any form as being contrary to law, or as being
33 oppressive or calculated to mislead the public, specifying
34 particulars, it shall be unlawful for the corporation thereafter to
35 issue the form which has been disapproved.]

36 Contract forms shall not be unfair, inequitable, misleading or
37 contrary to law, nor shall they produce rates that are excessive,
38 inadequate or unfairly discriminatory.

39 (cf: P.L.1985, c.236, s.13)

40 15. (New section) No life insurance policy, health insurance
41 policy, annuity, or variable contract subject to the provisions of
42 Title 17B of the New Jersey Statutes, or application for that
43 insurance if a written application is required and is to be made a
44 part of that policy or contract, or a printed rider or an
45 endorsement for use with that policy or contract. shall be
46 delivered or issued for delivery in this State unless its provisions
47 comply with all of the applicable requirements of Title 17B of the
48 New Jersey Statutes and any regulations adopted or guidelines
49 published by the Commissioner of Insurance consistent with the
50 requirements thereof. Any policy, contract, application, rider, or
51 endorsement issued or delivered in this State that is not in
52 compliance with that law or regulations or guidelines shall be
53 deemed to be in compliance with the requirements and shall be
54 interpreted by the courts and among the persons affected by the

1 policy or contract as if that policy or contract form were in
2 compliance with the requirements; except that this provision
3 shall not relieve the insurer from any penalty that may be
4 imposed for violation of this act or any other applicable provision
5 of Title 17B of the New Jersey Statutes.

6 16. (New section) a. Except as otherwise provided in
7 P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162
8 (C.17B:27A-17 et seq.), any life insurance policy or contract,
9 health insurance policy or contract, annuity, or variable contract
10 subject to the provisions of Title 17B of the New Jersey Statutes,
11 including any application, rider, or endorsement which is made a
12 part of that policy or contract shall be filed with the
13 commissioner for approval as provided in this section. Any such
14 policy or contract and any related form, except those certified
15 pursuant to section 17 of this act, shall be filed with the
16 commissioner for approval pursuant to this section.

17 b. Any policy, contract or related form filed with the
18 commissioner for approval pursuant to this section shall be
19 deemed approved upon the expiration of 60 days after the
20 submission of the form unless disapproved in writing by the
21 commissioner within that time. Any such disapproval shall be
22 based only on the specific provisions of applicable statutes or
23 regulations adopted by the commissioner, or guidelines published
24 by the commissioner as of the effective date of this act, with
25 regard to forms of that type. A disapproved policy, contract or
26 related form may be resubmitted.

27 c. Any life insurance policy, health insurance policy, annuity,
28 or variable contract or related form submitted for approval
29 pursuant to this section and disapproved by the commissioner
30 before the expiration of 60 days after its submission shall be
31 deemed withdrawn at the expiration of 60 days after the
32 transmittal of the commissioner's specific objections unless the
33 filer submits a complete written response to all of the
34 commissioner's objections regarding the submission within the 60
35 day period.

36 d. A life insurance policy, health insurance policy, annuity, or
37 variable contract or related form, resubmitted in response to the
38 commissioner's objections pursuant to subsection b. of this
39 section, shall be deemed approved upon the expiration of 30 days
40 after its resubmission unless disapproved in writing by the
41 commissioner within that time. No disapproval by the
42 commissioner of a resubmission shall be based on any objection
43 not specified by the commissioner in his initial disapproval of the
44 filing, except that the commissioner may disapprove such form
45 based on any new provisions introduced in the resubmission or if
46 in addressing the specified objections cited in the commissioner's
47 disapproval transmission, the insurer changes or modifies any
48 substantive provisions of the form. Any policy, contract or
49 related form resubmitted for approval pursuant to this section
50 and disapproved by the commissioner before the expiration of 30
51 days after its submission shall be deemed withdrawn at the
52 expiration of 30 days after the transmittal of the commissioner's
53 specific objections, unless the filer submits a complete written
54 response to all of the commissioner's objections regarding the

1 submission within the 30 day period.

2 e. With respect to all types of policies, contracts or related
3 forms required to be filed pursuant to this section and currently
4 on file with and approved by the commissioner upon enactment of
5 this act, the commissioner shall propose regulations, which may
6 be amended or modified by the commissioner from time to time
7 after adoption, concerning any actuarial or form requirements
8 consistent with applicable statutory provisions but not specified
9 therein, not later than 180 days after enactment of this act. Any
10 such regulation shall be adopted not later than 180 days after it is
11 proposed. With respect to any type of form not then on file with
12 the commissioner but filed subsequent to the enactment of this
13 act, the commissioner shall propose regulations, which may be
14 amended or modified by the commissioner from time to time
15 after adoption, concerning any actuarial or form requirements
16 consistent with applicable statutory provisions but not specified
17 therein, within 120 days after the form is approved or deemed
18 approved by the commissioner pursuant to this section. Any such
19 regulation shall be adopted not later than 180 days after it is
20 proposed. The commissioner may issue bulletins which are
21 interpretive of existing regulations consistent with statutory
22 provisions, with respect to any type of policy or contract form
23 that may be certified pursuant to section 17 of this act. Nothing
24 in this section shall preclude an insurer from filing a certifiable
25 policy, contract or related form for approval by the commissioner.

26 f. Any such form which is filed with the commissioner or
27 deemed filed may be so delivered or issued for delivery until such
28 time as any subsequent withdrawal of the filing by the
29 commissioner, following an opportunity for a hearing held in
30 accordance with the "Administrative Procedure Act," P.L.1968,
31 c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder,
32 becomes final in accordance therewith.

33 g. For purposes of this section, "days" means calendar days,
34 except that when the last day of any specified time period is a
35 Saturday, Sunday, or State holiday, then the time period shall end
36 on the next following business day. With respect to any specified
37 time period pertaining to correspondence between an insurer and
38 the commissioner, the time period shall commence on the date
39 that such correspondence is postmarked or submitted to a private
40 delivery service.

41 17. (New section) a. Pursuant to the provisions of this
42 section, an insurer authorized to do business in this State may file
43 with the commissioner and use, in accordance with subsection d.
44 of this section, any form of life insurance policy, health insurance
45 policy, annuity, variable contract, endorsement or related form
46 that is stipulated by the commissioner to be of a kind or type
47 eligible for file and use pursuant to subsection b. of this section.
48 The form shall be accompanied by a certification memorandum
49 which includes a statement that it is filed in accordance with the
50 provisions of this section, and which is executed by a responsible
51 officer of the insurer who certifies that the form being filed is in
52 conformance with the law and regulation applicable to that type
53 or kind of form as specified in a certification form to be
54 determined by the commissioner. If the commissioner determines

1 that the form being filed does not conform with the law or
2 regulation applicable to that type or kind of form, the
3 commissioner shall notify the insurer of his objections in writing
4 and may disapprove that form for further use in New Jersey.

5 b. Policy and contract forms, including related endorsements,
6 riders and application forms, eligible for certification pursuant to
7 this section shall include, but not be limited to certain categories
8 of individual life, individual annuity, group annuity, group life,
9 group health, individual health and variable contracts which the
10 commissioner shall define by regulation.

11 c. The certification memorandum shall be signed and
12 acknowledged by a responsible officer of the insurer. The
13 acknowledgement by that officer shall be done in the same
14 manner in which documents for recording instruments conveying
15 or affecting interests in real estate in this State must be
16 acknowledged to be eligible for recording, or in such other
17 manner as specified by the commissioner by regulation from
18 time to time.

19 d. Upon receipt of an acknowledgement from the
20 commissioner that the form and a certification memorandum
21 which conforms to the requirements of this section have been
22 received, the form so submitted may be used by the insurer.

23 e. (1) Improper certification shall subject an insurer
24 submitting such improper certification to a fine not to exceed
25 \$50,000 and, in addition, a maximum penalty of \$1,000 per policy
26 issued on a form determined to be improperly certified pursuant
27 to the provisions of this section. The commissioner shall
28 promulgate a schedule of penalties to be applied pursuant to this
29 section. In determining the amount of any penalty to be imposed,
30 the commissioner shall consider the severity of the violation
31 based upon the potential adverse impact to the public and
32 whether it is the filer's first violation of this section.

33 (2) If after notice and a hearing pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), an insurer is found by the commissioner to be in violation of
36 this section, the form may be disapproved, and in addition to any
37 other penalties that may be imposed under Title 17B of the New
38 Jersey Statutes, the commissioner may bar that insurer from
39 participating in the certification process pursuant to this section
40 for a period not to exceed one year.

41 f. The commissioner shall hold a hearing annually, or more
42 often, for the purpose of adopting regulations to define the
43 specific forms eligible for certification pursuant to this section.
44 Initial regulations shall be adopted pursuant to this section no
45 later than 180 days after enactment of this act.

46 g. For purposes of this section:

47 (1) "a responsible officer of the insurer" means a corporate
48 officer of the level of vice president or higher, or of equivalent
49 title within the insurer's structure, who is either the actuary of
50 the insurer with responsibility for the type of form filed, or the
51 individual with responsibility for managing the form filing process
52 for the insurer with regard to the type of form filed; and

53 (2) "improper certification" means providing any
54 misrepresentation or false statement material to a certification

1 form required pursuant to subsection a. of this section.

2 18. N.J.S.17B:25-18 is amended to read as follows:

3 17B:25-18. a. No life insurance policy, or application [where] ,
4 if a written application is required and is to be made a part of
5 [such] the policy, or printed rider or endorsement for use with
6 [such] the policy, shall be delivered or issued for delivery in this
7 State unless the form [thereof] has been [submitted to and] filed
8 [by] with the commissioner for approval in accordance with the
9 provisions of section 16 of P.L. , c. (C.)(pending in the
10 Legislature as this bill). This section shall not apply to policies of
11 group life insurance and applications, printed riders or
12 endorsements for use with such policies.

13 b. [At the expiration of 30 days after submission the form shall
14 be deemed filed unless prior thereto it has been affirmatively
15 filed or disapproved for filing by the commissioner.] (Deleted by
16 amendment, P.L. , c. .)

17 c. If [any such] a form is disapproved [for filing] by the
18 commissioner during [said 30-day] that 60-day period, it may not
19 be [so] delivered or issued for delivery unless [and until such
20 disapproval for filing is withdrawn] it is resubmitted and approved
21 in accordance with the provisions of subsections b., c., and d. of
22 section 16 of P.L. , c. (C.)(pending in the Legislature
23 as this bill). Such disapproval shall be subject to review in
24 accordance with the procedure described in the [Administrative
25 Procedure Act (P.L.1968, c. 410)] "Administrative Procedure
26 Act," P.L.1968, c. 410 (C.52:14B-1 et seq.) and any rules adopted
27 thereunder. Any such form which is filed by the commissioner or
28 deemed filed may be so delivered or issued for delivery until such
29 time as any subsequent withdrawal of the filing by the
30 commissioner, following an opportunity for a hearing held in
31 accordance with the [Administrative Procedure Act (P.L.1968, c.
32 410)] "Administrative Procedure Act," P.L.1968, c.410
33 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes
34 final in accordance therewith.

35 d. [The commissioner may extend the 30-day period referred
36 to above for not more than 30 additional days by giving written
37 notice of such extension before the expiration of the initial
38 30-day period. In the event of such extension all the provisions of
39 this section, except this provision for extension, relating to the
40 initial 30-day period shall apply to the extended period instead of
41 such initial 30-day period.] (Deleted by amendment, P.L. ,
42 c. .)

43 e. [The disapproval for filing or the withdrawal of the filing of
44 any such form by the commissioner must state in writing the
45 grounds therefor in such detail as reasonable to inform the
46 insurer thereof.] (Deleted by amendment, P.L. , c. .)

47 f. This section shall not apply to documents which relate only
48 to the manner of distribution of benefits or to the reservation of
49 rights and benefits under life insurance policies and which are
50 used at the request of the individual policyholder.

51 g. The commissioner may exempt from the requirements of
52 this section for so long as he deems proper any insurance
53 document or form or type thereof to which, in his opinion, this
54 section may not practicably be applied, or the filing of which is,

1 in his opinion, not desirable or necessary for the protection of the
2 public.

3 h. The disapproval by the commissioner of any such form may
4 be on the ground that [such] the form contains provisions which
5 are unjust, unfair, inequitable, misleading, contrary to law or to
6 the public policy of this State.

7 (cf: N.J.S.17B:25-18)

8 19. N.J.S.17B:26-1 is amended to read as follows:

9 17B:26-1. a. No health insurance policy, or application
10 [where] , if a written application is required and is to be made a
11 part of [such] the policy, or printed rider or endorsement for use
12 with [such] the policy, shall be delivered or issued for delivery in
13 this State unless the form [thereof] has been [submitted to and]
14 filed [by] with the commissioner for approval in accordance with
15 the provisions of section 16 of P.L. , c. (C.)(pending in
16 the Legislature as this bill).

17 b. [At the expiration of 30 days after submission the form shall
18 be deemed filed unless prior thereto it has been affirmatively
19 filed or disapproved for filing by the commissioner.] (Deleted by
20 amendment, P.L. , c. .)

21 c. If [any such] a form is disapproved [for filing] by the
22 commissioner during [said 30-day] the 60-day period, it may not
23 be [so] delivered or issued for delivery unless [and until such
24 disapproval for filing is withdrawn] it is resubmitted and approved
25 in accordance with the provisions of subsections b., c., and d., of
26 section 16 of P.L. , c. (C.)(pending in the Legislature as
27 this bill). Such disapproval shall be subject to review in
28 accordance with the procedure described in the [Administrative
29 Procedure Act (P.L.1968, c. 410)] "Administrative Procedure
30 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted
31 thereunder. Any such form which is filed by the commissioner or
32 deemed filed may be so delivered or issued for delivery until such
33 time as any subsequent withdrawal of the filing by the
34 commissioner, following an opportunity for a hearing held in
35 accordance with the [Administrative Procedure Act (P.L.1968, c.
36 410)] "Administrative Procedure Act," P.L.1968, c.410
37 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes
38 final in accordance therewith.

39 d. [The commissioner may extend the 30-day period referred
40 to above for not more than 30 additional days by giving written
41 notice of such extension before the expiration of the initial
42 30-day period. In the event of such extension all the provisions of
43 this section, except this provision for extension, relating to the
44 initial 30-day period shall apply to the extended period instead of
45 such initial 30-day period.] (Deleted by amendment, P.L. ,
46 c. .)

47 e. [The disapproval for filing or the withdrawal of the filing of
48 any such form by the commissioner must state in writing the
49 grounds therefor in such detail as reasonable to inform the
50 insurer thereof.] (Deleted by amendment, P.L. , c. .)

51 f. This section shall not apply to documents which relate only
52 to the manner of distribution of benefits or to the reservation of
53 rights and benefits under health insurance policies and which are
54 used at the request of the individual policyholder.

1 g. No form shall be filed by the commissioner in accordance
 2 with this section until the classification of risks and premium
 3 rates, if any, pertaining to such form have been submitted to the
 4 commissioner. [Where] If such a classification of risks and
 5 premium rates are submitted to the commissioner later than the
 6 submission of the form to which they pertain, the [30-day] 60-day
 7 period specified [above] in subsection c. of this section shall
 8 commence with the date such classification of risks and premium
 9 rates are submitted to the commissioner.

10 h. The disapproval by the commissioner of any [such] form may
 11 be on the ground that:

12 (1) the benefits are unreasonable in relation to the premium
 13 charged, or

14 (2) such form contains provisions which are unjust, unfair,
 15 inequitable, misleading, contrary to law or to the public policy of
 16 this State, or

17 (3) the policy is sold in such a manner as to mislead the insured,
 18 or

19 (4) insurance under such policy is being solicited by means of
 20 advertising, communication or dissemination of information
 21 which involves misleading or inadequate description of the
 22 provisions of the policy, specifying particulars.

23 i. The commissioner may exempt from the requirements of
 24 this section for so long as he deems proper any insurance
 25 document or form or type thereof to which, in his opinion, this
 26 section may not practicably be applied, or the filing of which is,
 27 in his opinion, not desirable or necessary for the protection of the
 28 public.

29 (cf: N.J.S.17B:26-1)

30 20. N.J.S.17B:27-25 is amended to read as follows:

31 17B:27-25. a. No group life insurance policy, or application
 32 [~~where~~], if a written application is required and is to be made a
 33 part of [such] the policy, certificate, printed rider or
 34 endorsement for use with [such] the policy, shall be delivered or
 35 issued for delivery in this State unless the form [thereof] has been
 36 [submitted to and] filed [by] with the commissioner for approval
 37 in accordance with the provisions of section 16 of P.L. , c.
 38 (C.)(pending in the Legislature as this bill).

39 b. At the expiration of 30 days after submission the form shall
 40 be deemed filed unless prior thereto it has been affirmatively
 41 filed or disapproved for filing by the commissioner.] (Deleted by
 42 amendment, P.L. , c. .)

43 c. If [any such] a form is disapproved for filing by the
 44 commissioner during [said 30-day] the 60-day period, it may not
 45 be [so] delivered or issued for delivery unless [and until such
 46 disapproval for filing is withdrawn] it is resubmitted and approved
 47 in accordance with the provisions of subsections b., c., and d., of
 48 section 16 of P.L. , c. (C.)(pending in the Legislature as
 49 this bill. Such disapproval shall be subject to review in
 50 accordance with the procedure described in the [Administrative
 51 Procedure Act (P.L.1968, c. 410)] "Administrative Procedure
 52 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted
 53 thereunder.

54 Any such form which is filed by the commissioner or deemed

1 filed may be so delivered or issued for delivery until such time as
 2 any subsequent withdrawal of the filing by the commissioner,
 3 following an opportunity for a hearing held in accordance with
 4 the [Administrative Procedure Act (P.L.1968, c. 410)]
 5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 6 seq.) and any rules adopted thereunder, becomes final in
 7 accordance therewith.

8 d. [The commissioner may extend the 30-day period referred
 9 to above for not more than 30 additional days by giving written
 10 notice of such extension before the expiration of the initial
 11 30-day period. In the event of such extension all the provisions of
 12 this section, except this provision for extension, relating to the
 13 initial 30-day period shall apply to the extended period instead of
 14 such initial 30-day period.] (Deleted by amendment, P.L. , c. .)

15 e. [The disapproval for filing or the withdrawal of the filing of
 16 any such form by the commissioner must state in writing the
 17 grounds therefor in such detail as reasonable to inform the
 18 insurer thereof.] (Deleted by amendment, P.L. , c. .)

19 f. This section shall not apply to documents which relate only
 20 to the manner of distribution of benefits or to the reservation of
 21 rights and benefits under such policies and which are used at the
 22 request of the individual insured or policyholder.

23 g. The disapproval by the commissioner of any such form may
 24 be on the ground that such form contains provisions which are
 25 unjust, unfair, inequitable, misleading, contrary to law or to the
 26 public policy of this State.

27 (cf: N.J.S.17B:27-25)

28 21. N.J.S.17B:27-49 is amended to read as follows:

29 17B:27-49. a. No group health insurance policy, or blanket
 30 insurance policy, or ~~application~~ [where] , if a written application
 31 is required and is to be made a part of [such] the policy,
 32 certificate, printed order or endorsement for use with [such] the
 33 policy, shall be delivered or issued for delivery in this State
 34 unless the form [thereof] has been [submitted to and] filed [by]
 35 with the commissioner in accordance with the provisions of
 36 section 16 of P.L. , c. (C.)(pending in the Legislature as
 37 this bill).

38 b. [At the expiration of 30 days after submission the form shall
 39 be deemed filed unless prior thereto it has been affirmatively
 40 filed or disapproved for filing by the commissioner.] (Deleted by
 41 amendment, P.L. , c. .)

42 c. If [any such] a form is disapproved for filing by the
 43 commissioner during [said 30-day] the 60-day period, it may not
 44 be [so] delivered or issued for delivery unless [and until such
 45 disapproval for filing is withdrawn] it is resubmitted and approved
 46 in accordance with the provisions of subsections b., c., and d., of
 47 section 16 of P.L. , c. (C.)(pending in the Legislature as
 48 this bill). Such disapproval shall be subject to review in
 49 accordance with the procedure described in the [Administrative
 50 Procedure Act (P.L.1968, c. 410)] "Administrative Procedure
 51 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted
 52 thereunder. Any such form which is filed by the commissioner or
 53 deemed filed may be so delivered or issued for delivery until such
 54 time as any subsequent withdrawal of the filing by the

1 commissioner, following an opportunity for a hearing held in
 2 accordance with the [Administrative Procedure Act (P.L.1968, c.
 3 410)] "Administrative Procedure Act," P.L.1968, c.410
 4 (C.52:14B-1 et seq.) and any rules adopted thereunder, becomes
 5 final in accordance therewith

6 d. [The commissioner may extend the 30-day period referred
 7 to above for not more than 30 additional days by giving written
 8 notice of such extension before the expiration of the initial
 9 30-day period. In the event of such extension all the provisions of
 10 this section, except this provision for extension, relating to the
 11 initial 30-day period shall apply to the extended period instead of
 12 such initial 30-day period.] (Deleted by amendment, P.L. ,
 13 c. .)

14 e. [The disapproval for filing or the withdrawal of the filing of
 15 any such form by the commissioner must state in writing the
 16 grounds therefor in such detail as reasonable to inform the
 17 insurer thereof.] (Deleted by amendment, P.L. , c. .)

18 f. This section shall not apply to documents which relate only
 19 to the manner of distribution of benefits or to the reservation of
 20 rights and benefits under such policies and which are used at the
 21 request of the individual insured or policyholder.

22 g. The disapproval by the commissioner of any such form may
 23 be on the ground that such form contains provisions which are
 24 unjust, unfair, inequitable, misleading, contrary to law or to the
 25 public policy of this State.

26 (cf: N.J.S.17B:27-49)

27 22. N.J.S 17B:28-5 is amended to read as follows:

28 17B:28-5. (a) No contract on a variable basis shall be delivered
 29 or issued for delivery in this State by any insurer until a copy of
 30 the form [thereof] (and, in the case of a contract on a group
 31 basis, the form of any certificate evidencing variable benefits
 32 issued pursuant thereto) and any form of application for such
 33 contract shall have been filed with the commissioner in
 34 accordance with the provisions of section 16 of P.L. , c. .
 35 (C.)(pending in the Legislature as this bill). [No such form
 36 shall be issued or used until the commissioner shall give his prior
 37 written acknowledgment of the filing of such form.] The
 38 commissioner shall disapprove or withdraw approval of any [such]
 39 contract form, application or certificate if:

40 (i) [Such] The form contains provisions which are unjust, unfair,
 41 inequitable, ambiguous, misleading, likely to result in
 42 misrepresentation or contrary to law, or

43 (ii) Sales of contracts in such form are being solicited by any
 44 means of advertising, communication or dissemination of
 45 information which involves misleading or inadequate description
 46 of the provisions of the contract.

47 He shall notify the insurer, specifying particulars, of his
 48 disapproval. It shall be unlawful for such insurer thereafter to
 49 issue any contract or certificate thereunder or use any
 50 application in the form so disapproved unless it is resubmitted
 51 and approved in accordance with the provisions of subsections b.,
 52 c., and d., of section 16 of P.L. , c. (C.) (pending in the
 53 Legislature as this bill. Such disapproval of the commissioner
 54 shall be subject to review [by the Superior Court in a proceeding

1 in lieu of prerogative writ] in accordance with the procedure
2 described in the "Administrative Procedure Act" P.L.1968, c.410
3 (C.52:14B-1 et seq.) and any rules adopted thereunder. Any such
4 form which is filed by the commissioner or deemed filed may be
5 so delivered or issued for delivery until such time as any
6 subsequent withdrawal of the filing by the commissioner,
7 following an opportunity for a hearing held in accordance with
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
9 et seq.) and any rules adopted thereunder, becomes final in
10 accordance therewith.

11 (b) Illustrations of benefits payable under any contract on a
12 variable basis shall not involve projections of past investment
13 experience into the future and shall conform with reasonable
14 regulations promulgated by the commissioner.

15 (c) No individual annuity contract on a variable basis shall be
16 delivered or issued for delivery in this State unless it contains in
17 substance the following provisions:

18 (i) That, in the event of default in the payment of any
19 consideration beyond the period of grace allowed by the contract
20 for the payment thereof, the insurer will make payment of the
21 value of the contract, in accordance with a plan provided by the
22 contract, commencing not later than the date contractual
23 payments by the insurer were otherwise to have commenced in
24 accordance with the contract;

25 (ii) That, upon request of the contract holder received by the
26 insurer at least 4 months prior to the date contractual payments
27 by the insurer were otherwise to have commenced, the insurer
28 will make payment of the value of the contract in accordance
29 with a plan provided by the contract and selected by the contract
30 holder, commencing as of the first day of the first month which is
31 at least 4 months after the date of receipt of such request, unless
32 another date of commencement is requested by the contract
33 holder and agreed to by the insurer;

34 (iii) That the insurer will mail to the contract holder at least
35 once in each contract year after the first, at his last address
36 known to the insurer, a report in a form approved by the
37 commissioner, which shall include a statement of the number of
38 units credited to such contract and the dollar value of a unit as of
39 a date not more than 2 months previous to the date of mailing
40 and a statement in a form and of a date approved by the
41 commissioner of the investments held in the variable contract
42 account designated in such contract.

43 (d) Any individual contract on a variable basis delivered or
44 issued for delivery in this State shall stipulate the investment
45 increment factors to be used in computing the dollar amount of
46 variable benefits or other contractual payments or values
47 thereunder, and shall guarantee that expense and mortality
48 results shall not adversely affect such dollar amounts, except
49 that such guarantee need not apply to any investment
50 management fee which is subject to change with the approval by
51 vote of the persons having beneficial interests in the variable
52 contract account in which such contract participates. The
53 mortality and investment increment factors used in computing
54 the dollar amount of variable benefits or other contractual

1 payments or values under an individual annuity contract on a
2 variable basis shall not produce a larger initial payment than
3 would be produced by the use of the mortality table or tables
4 specified in N.J.S. 17B:19-8 (the Standard Valuation Law), as
5 amended, and as such provision may be amended from time to
6 time, as acceptable minimum mortality standards for the
7 valuation of the reserve liabilities of individual annuity and pure
8 endowment contracts, and an annual investment increment
9 assumption of 5%.

10 Any group contract on a variable basis delivered or issued for
11 delivery in the State shall stipulate the expense, mortality and
12 investment increment factors to be used in computing the dollar
13 amount payable with respect to a unit of variable benefits
14 purchased thereunder and shall guarantee that expense and
15 mortality results shall not adversely affect such dollar amounts,
16 except that such guarantee need not apply to any investment
17 management fee which is subject to change with the approval by
18 vote of the persons having beneficial interests in the variable
19 contract account in which such contract participates.

20 "Expense," as used in this subsection (d), may exclude some or
21 all taxes, as stipulated in the contract.

22 (e.) [Deleted by amendment]

23 (cf: P.L.1977, c.37, s.3)

24 23. N.J.S. 17B:29-7 is amended to read as follows:

25 17B:29-7. a. All forms of policies, certificates of insurance,
26 notice of proposed insurance, applications for insurance,
27 endorsements and riders delivered or issued for delivery in this
28 State and the schedules of premium rates pertaining thereto shall
29 be [submitted to] filed with the commissioner [for filing] in
30 accordance with the provisions of subsection g. of this section.

31 b. [At the expiration of 30 days after submission the form or
32 the schedule of premium rates shall be deemed filed unless prior
33 thereto it has been affirmatively filed or disapproved by order of
34 the commissioner.] (Deleted by amendment, P.L. _____, c. _____.)

35 c. If [any such] a form or the schedule of premium rates
36 pertaining thereto is disapproved by the commissioner during
37 [said 30-day] the 60-day period, the form may not be [so:
38 delivered or issued for delivery unless [and until such disapproval
39 is withdrawn or reversed] the form or schedule of premium rates
40 is resubmitted in accordance with paragraphs (2), (3) and (4) of
41 subsection g. of this section. A form or schedule of rates that is
42 disapproved shall be subject to review in accordance with the
43 procedure described in the [Administrative Procedure Act
44 (P.L.1968, c. 410)] "Administrative Procedure Act," P.L.1968,
45 c.410 (C.52:14B-1 et seq.) and any rules adopted thereunder. Any
46 such form which is filed by the commissioner or deemed filed
47 may be so delivered or issued for delivery until such time as any
48 subsequent withdrawal of the filing by the commissioner,
49 following an opportunity for a hearing held in accordance with
50 the [Administrative Procedure Act (P.L.1968, c. 410)]
51 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
52 seq.) and any rules adopted thereunder, becomes final in
53 accordance therewith.

54 d. [The commissioner may extend the 30-day period referred

1 to above not more than 30 additional days by giving written
2 notice of such extension before the expiration of the initial
3 30-day period. In the event of such extension all the provisions of
4 this section relating to the 30-day period, except this provision
5 for extension, shall apply to the extended period instead of to the
6 30-day period.] (Deleted by amendment, P.L. , c. .)

7 e. [The disapproval for filing or the withdrawal of the filing of
8 any such form or schedule of premium rates by the commissioner
9 must state in writing the grounds therefor in such detail as
10 reasonable to inform the insurer thereof.] The disapproval for
11 filing or the withdrawal of the filing of any such form or schedule
12 of premium rates may only be on one or both of the following
13 grounds that may be applicable:

14 (1) the premium rates charged or to be charged are excessive in
15 relation to benefits, or

16 (2) such form contains provisions which are unjust, unfair,
17 inequitable, misleading, deceptive, or encourage
18 misrepresentation of the coverage, or are contrary to any
19 provision of this code or of any rule or regulation promulgated
20 thereunder.

21 f. If a group policy of credit life insurance or credit health
22 insurance

23 (1) has been delivered in this State before the effective date of
24 this chapter, or

25 (2) has been or is delivered in another State before or after the
26 effective date of this chapter,

27 the insurer shall be required to submit for filing only the group
28 certificate and notice of proposed insurance delivered or issued
29 for delivery in this State as specified in subsections b. and d. of
30 [section] N.J.S. 17B:29-6 [of this chapter] and such forms shall be
31 filed by the commissioner if they conform with the requirements
32 specified in said subsections and if the schedules of premium
33 rates applicable to the insurance evidenced by such certificate or
34 notice are not in excess of the insurer's schedules of premium
35 rates filed with the commissioner.

36 g. (1) Any form or schedule of premium rates subject to the
37 provisions of N.J.S.17B:29-1 et seq. shall be filed with the
38 commissioner for approval as provided in this subsection. Any
39 form, except those certified pursuant to section 17 of P.L. ,
40 c. (C.)(pending in the Legislature as this bill), and any
41 schedule of premium rates pertaining thereto, shall be filed with
42 the commissioner for approval pursuant to the provisions this
43 subsection.

44 (2) Any form or schedule of premium rates pertaining thereto
45 filed with the commissioner for approval pursuant to this
46 subsection shall be deemed approved upon the expiration of 60
47 days after the submission of the form or schedule of premium
48 rates unless disapproved in writing by the commissioner within
49 that time. Any such disapproval shall be based only on the
50 specific provisions of applicable statutes, regulations adopted by
51 the commissioner, or guidelines published by the commissioner as
52 of the effective date of P.L. , c. (C.)(pending in the
53 Legislature as this bill) with regard to forms of that type or the
54 schedules of premium rates pertaining thereto. A disapproved

1 form or schedule of premium rates pertaining thereto may be
2 resubmitted.

3 (3) Any form or schedule of premium rates submitted for
4 approval pursuant to this subsection and disapproved by the
5 commissioner before the expiration of 60 days after its
6 submission, shall be deemed withdrawn at the expiration of 60
7 days after the transmittal of the commissioner's specific
8 objections unless the filer submits a complete written response to
9 all of the commissioner's objections regarding the submission
10 within the 60 day period.

11 (4) A form or schedule of premium rates, resubmitted in
12 response to the commissioner's objections pursuant to
13 paragraph (2) of this subsection, shall be deemed approved upon
14 the expiration of 30 days after its resubmission unless
15 disapproved in writing by the commissioner within that time. No
16 disapproval by the commissioner of a resubmission shall be based
17 on any objection not specified by the commissioner in his initial
18 disapproval of the filing, except that the commissioner may
19 disapprove the form or schedule of premium rates based on any
20 new provisions introduced in the resubmission or if in addressing
21 the specified objections cited in the commissioner's disapproval
22 transmission, the insurer changes or modifies any substantive
23 provisions of the form or schedule of premium rates. Any form
24 or schedule of premium rates resubmitted for approval pursuant
25 to this subsection and disapproved by the commissioner before
26 the expiration of 30 days after its submission, shall be deemed
27 withdrawn at the expiration of 30 days after the transmittal of
28 the commissioner's specific objections unless the filer submits a
29 complete written response to all of the commissioner's
30 objections regarding the submission within the 30 day period.

31 (5) With respect to all types of forms or schedules of premium
32 rates to be filed pursuant to this subsection and currently on file
33 with and approved by the commissioner upon enactment of
34 P.L. , c. (C.)(pending in the Legislature as this bill), the
35 commissioner shall propose regulations which may be amended or
36 modified by the commissioner from time to time after adoption,
37 concerning any actuarial or form requirements consistent with
38 applicable statutory provisions but not specified therein, not later
39 than 180 days after enactment of P.L. , c. (C.)(pending
40 in the Legislature as this bill). Any such regulation shall be
41 adopted not later than 180 days after it is proposed. With respect
42 to any type of form or schedule of premium rates not then on file
43 with the commissioner but filed subsequent to the enactment of
44 P.L. , c. (C.)(pending in the Legislature as this bill) the
45 commissioner shall propose regulations, which may be amended or
46 modified by the commissioner from time to time after adoption,
47 concerning any actuarial or form requirements consistent with
48 applicable statutory provisions but not specified therein, within
49 120 days after the form is approved or deemed approved by the
50 commissioner pursuant to this subsection. Any such regulation
51 shall be adopted not later than 180 days after it is proposed. The
52 commissioner may issue bulletins which are interpretive of
53 existing regulations consistent with statutory provisions, with
54 respect to any type of policy form that may be certified pursuant

1 to section 17 of P.L. c. (C.)(pending in the Legislature as
2 this bill). Nothing in this subsection shall preclude an insurer
3 from filing a certifiable form or schedule of premium rates for
4 approval by the commissioner.

5 (6) For purposes of this subsection, "days" means calendar
6 days, except that when the last day of any specified time period
7 is a Saturday, Sunday, or State holiday, then the time period shall
8 end on the next following business day. With respect to any
9 specified time period pertaining to correspondence between an
10 insurer and the commissioner, the time period shall commence on
11 the date that such correspondence is postmarked or submitted to
12 a private delivery service.

13 h. For purposes of subsection b. of section 17 of P.L. , c.
14 (C.)(pending in the Legislature as this bill), credit life and
15 credit health insurance shall be considered a category of
16 individual or group life or health insurance.

17 (cf: N.J.S.17B:29-7)

18 24. (New section) No health maintenance organization
19 contract, evidence of coverage, or other form subject to the
20 filing requirements of P.L.1973, c.337 (C.26:2J-1 et seq.) or
21 application for that coverage, if a written application is required
22 and is to be made a part of that contract or evidence of
23 coverage, or a printed rider or an endorsement for use with that
24 contract or evidence of coverage, shall be delivered or issued for
25 delivery in this State unless its provisions comply with all of the
26 requirements of P.L.1973, c.337 (C.26:2J-1 et seq.) and any
27 regulations adopted or guidelines published by the Commissioner
28 of Insurance consistent with the requirements thereof. Any
29 contract, evidence of coverage, application, rider, or
30 endorsement issued or delivered in this State that is not in
31 compliance with that law or regulations or guidelines shall be
32 deemed to be in compliance with the requirements and shall be
33 interpreted by the courts and among the persons affected by the
34 contract or evidence of coverage as if that form were in
35 compliance with the requirements; except that this provision
36 shall not relieve the health maintenance organization from any
37 penalty that may be imposed for violation of this act or any
38 provision of P.L.1973, c.337 (C.26:2J-1 et seq.).

39 25. a. (New section) Except as otherwise provided in
40 P.L.1992, c.161 (C.17B:27A-2 et seq.) and P.L.1992, c.162
41 (C.17B:27A-17 et seq.), any health maintenance organization
42 contract or evidence of coverage or related form subject to the
43 provisions of P.L.1973, c.337 (C.26:2J-1 et seq), including any
44 application, rider, or endorsement which is made a part of those
45 contracts or evidences of coverage shall be filed with the
46 Commissioner of Insurance for approval as provided in this
47 section. Any such contract or evidence of coverage, and any
48 related form, except those certified pursuant to section 26 of this
49 act, shall be filed with the Commissioner of Insurance for
50 approval pursuant to this section.

51 b. Any contract, evidence of coverage or related form filed
52 with the Commissioner of Insurance for approval pursuant to this
53 section shall be deemed approved upon the expiration of 60 days
54 after the submission of the form unless disapproved in writing by

1 the Commissioner of Insurance within that time. Any such
2 disapproval shall be based only on the specific provisions of
3 applicable statutes, regulations adopted by the Commissioner of
4 Insurance, or guidelines published by the Commissioner of
5 Insurance as of the effective date of this act, with regard to
6 forms of that type. A disapproved contract, evidence of
7 coverage or related form may be resubmitted.

8 c. Any contract, evidence of coverage or related form filed
9 for approval pursuant to this section and disapproved by the
10 Commissioner of Insurance before the expiration of 60 days after
11 its submission shall be deemed withdrawn at the expiration of 60
12 days after the transmittal of the specific objections of the
13 Commissioner of Insurance unless the filer submits a complete
14 written response to all of the objections of the Commissioner of
15 Insurance within the 60 day period.

16 d. A contract, evidence of coverage or related form,
17 resubmitted in response to the objections of the Commissioner of
18 Insurance pursuant to subsection b. of this section, shall be
19 deemed approved upon the expiration of 30 days after its
20 resubmission unless disapproved in writing by the Commissioner
21 of Insurance within that time. No disapproval by the
22 Commissioner of Insurance of a resubmission shall be based on
23 any objection not specified by the Commissioner of Insurance in
24 the initial disapproval of the filing, except that the Commissioner
25 of Insurance may disapprove that form based upon any new
26 provisions introduced in the resubmission or if in addressing the
27 specified objections cited in the disapproval transmission of the
28 Commissioner of Insurance, the health maintenance organization
29 changes or modifies any substantive provisions of the form. Any
30 form resubmitted for approval pursuant to this section and
31 disapproved by the Commissioner of Insurance before the
32 expiration of 30 days after its submission shall be deemed
33 withdrawn at the expiration of 30 days after the transmittal of
34 the specific objections of the Commissioner of Insurance, unless
35 the filer submits a complete written response to all of the
36 objections of the Commissioner of Insurance regarding the
37 submission within the 30 day period.

38 e. With respect to all types of contracts, evidences of
39 coverage or related forms required to be filed pursuant to this
40 section and currently on file with and approved by the
41 Commissioner of Insurance upon enactment of this act, the
42 Commissioner of Insurance shall propose regulations, which may
43 be amended or modified by the Commissioner of Insurance from
44 time to time after adoption, concerning any actuarial or form
45 requirements consistent with applicable statutory provisions but
46 not specified therein, not later than 180 days after enactment of
47 this act. Any such regulation shall be adopted not later than 180
48 days after it is proposed. With respect to any type of form not
49 then on file with the Commissioner of Insurance but filed
50 subsequent to enactment of this act, the Commissioner of
51 Insurance shall propose regulations, which may be amended or
52 modified by the Commissioner of Insurance from time to time
53 after adoption, concerning any actuarial or form requirements
54 consistent with applicable statutory provisions but not specified

1 therein within 120 days after the form is approved or deemed
2 approved by the Commissioner of Insurance pursuant to this
3 section. Any such regulation shall be adopted not later than 180
4 days after it is proposed. The Commissioner of Insurance may
5 issue bulletins which are interpretive of existing regulations
6 consistent with statutory provisions, with respect to any type of
7 contract or evidence of coverage form that may be certified
8 pursuant to section 26 of this act. Nothing in this section shall
9 preclude a health maintenance organization from filing a
10 certifiable contract or evidence of coverage or related form for
11 approval by the Commissioner of Insurance.

12 f. Any such form which is filed with the Commissioner of
13 Insurance or deemed filed may be so delivered or issued for
14 delivery until such time as any subsequent withdrawal of the
15 filing by the Commissioner of Insurance, following an opportunity
16 for a hearing held in accordance with the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and any
18 rules adopted thereunder, becomes final in accordance therewith.

19 g. For purposes of this section: "days" means calendar days,
20 except that when the last day of any specified time period is a
21 Saturday, Sunday, or State holiday, then the time period shall end
22 on the next following business day. With respect to any specified
23 time period pertaining to correspondence between a health
24 maintenance organization and the Commissioner of Insurance, the
25 time period shall commence on the date that such correspondence
26 is postmarked or submitted to a private delivery service.

27 h. The Commissioner of Insurance, in consultation with the
28 Commissioner of Health, pursuant to the "Administrative
29 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
30 rules and regulations as may be necessary to effectuate the
31 purposes of this section.

32 26. a. (New section) Pursuant to the provisions of this
33 section, a health maintenance organization authorized to do
34 business in this State may file with the Commissioner of
35 Insurance and use, in accordance with subsection d. of this
36 section, any health maintenance organization contract, evidence
37 of coverage or related form that is stipulated by the
38 Commissioner of Insurance to be of a kind or type eligible for file
39 and use pursuant to subsection b. of this section. The form shall
40 be accompanied by a certification memorandum which includes a
41 statement that it is filed in accordance with the provisions of this
42 section, and which is executed by a responsible officer of the
43 health maintenance organization who certifies that the form
44 being filed is in conformance with the law and regulation
45 applicable to that type or kind of form as specified in a
46 certification form to be determined by the Commissioner of
47 Insurance. If the Commissioner of Insurance determines that the
48 form being filed does not conform with the law or regulation
49 applicable to that type or kind of form, the Commissioner of
50 Insurance shall notify the health maintenance organization of his
51 objections in writing and may disapprove that form for further
52 use in New Jersey.

53 b. Contracts and evidence of coverage forms, including related

1 endorsements, riders and application forms, eligible for
2 certification pursuant to this section shall include, but not be
3 limited to, certain categories of individual and group health
4 maintenance organization contracts and evidences of coverage
5 which the Commissioner of Insurance shall define by regulation.

6 c. The certification memorandum shall be signed and
7 acknowledged by a responsible officer of the health maintenance
8 organization. The acknowledgement by that officer shall be done
9 in the same manner in which documents for recording instruments
10 conveying or affecting interests in real estate in this State must
11 be acknowledged to be eligible for recording, or in such other
12 manner as specified by the Commissioner of Insurance by
13 regulation from time to time.

14 d. Upon receipt of an acknowledgement from the
15 Commissioner of Insurance that the form and a certification
16 memorandum which conforms to the requirements of this section
17 have been received, the form so submitted may be used by the
18 health maintenance organization.

19 e. (1) Improper certification shall subject a health
20 maintenance corporation submitting such improper certification
21 to a fine not to exceed \$50,000 and, in addition, a maximum
22 penalty of \$1,000 per contract or evidence of coverage issued on
23 a form determined to be improperly certified pursuant to the
24 provisions of this section. The Commissioner of Insurance shall
25 promulgate a schedule of penalties to be applied pursuant to this
26 section. In determining the amount of any penalty to be imposed,
27 the Commissioner of Insurance shall consider the severity of the
28 violation based upon the potential adverse impact to the public
29 and whether it is the filer's first violation of this section.

30 (2) If, after notice and a hearing pursuant to the
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.), a health maintenance organization is found by the
33 Commissioner of Insurance to be in violation of this section, the
34 form may be disapproved, and in addition to any other penalties
35 that may be imposed pursuant to P.L.1973, c.337 (C.26:2J-1 et
36 seq.), the Commissioner of Insurance may bar that health
37 maintenance organization from participating in the certification
38 process pursuant to this section for a period not to exceed one
39 year.

40 f. The Commissioner of Insurance shall hold a hearing
41 annually, or more often, for the purpose of adopting regulations
42 to define the specific forms eligible for certification pursuant to
43 this section. Initial regulations shall be adopted pursuant to this
44 section no later than 180 days after enactment of this act.

45 g. For purposes of this section:

46 (1) "a responsible officer of the health maintenance
47 organization" means a corporate officer of the level of vice
48 president or higher, or of equivalent title within the health
49 maintenance organization's structure, who is either the actuary
50 of the health maintenance organization with responsibility for the
51 type of form filed, or the individual with responsibility for
52 managing the form filing process for the health maintenance
53 organization with regard to the type of form filed; and

54 (2) "improper certification" means providing any

1 misrepresentation or false statement material to a certification
2 form required pursuant to subsection a. of this section.

3 27. Section 59 of P.L.1991, c.187 (C.26:2J-4.3) is amended to
4 read as follows:

5 59. a. The coverages for basic health care services offered
6 pursuant to section 58 of P.L.1991, c.187 (C.26:2J-4.2) shall be
7 limited to the following services:

8 (1) Basic hospital expense coverage for a period of 21 days in a
9 benefit year for each enrollee for services provided for medically
10 necessary treatment and services rendered as a result of injury or
11 sickness, including:

12 (a) Daily hospital room and board, including general nursing
13 care and special diets;

14 (b) Miscellaneous hospital services, including services and
15 supplies which are customarily rendered by the hospital and
16 provided for use only during any period of confinement;

17 (c) Hospital outpatient services consisting of hospital services
18 on the day surgery is performed; hospital services rendered within
19 72 hours after accidental injury; and X-ray and laboratory tests
20 to the extent that benefits for such services would have been
21 provided if rendered to an inpatient of the hospital;

22 (2) Basic medical-surgical services for each enrollee for
23 medically necessary services for treatment of injury or sickness
24 for the following:

25 (a) Surgical services;

26 (b) Anesthesia services consisting of administration of
27 necessary general anesthesia and related procedures in
28 connection with covered surgical services rendered by a physician
29 other than the physician performing the surgical services;

30 (c) In-hospital services rendered to a person who is confined to
31 a hospital for treatment of injury or sickness other than that for
32 which surgical care is required;

33 (3) Maternity services, including delivery and prenatal care;

34 (4) Out-of-hospital physical examination, including related
35 X-rays and diagnostic tests, on the following basis:

36 (a) For enrollees who are less than two years of age, up to six
37 examinations during the first two years of life; for enrollees who
38 are minors of two years of age or older, one examination at age
39 3, 6, 9, 12, 15 and 18 years;

40 (b) For enrollees who are adults less than 40 years of age, one
41 examination every five years; for enrollees who are 40 or more
42 years of age but less than 60 years of age, one examination every
43 three years; and for enrollees who are 60 years of age or older,
44 one examination every two years.

45 Notwithstanding the provisions of this section to the contrary,
46 a health maintenance organization may provide alternative
47 coverage for services from those required by this subsection if
48 they are approved by the Commissioner of Insurance and are
49 within the intent of this amendatory and supplementary act.

50 b. (1) No person who is eligible for coverage under Medicare
51 pursuant to Pub. L. 89-97 (42 U.S.C. §1395 et seq.) shall be an
52 enrollee under coverage required to be offered pursuant to
53 section 58 of P.L.1991, c.187 (C.26:2J-4.2).

54 (2) A health maintenance organization shall not provide

1 coverage for services required to be offered pursuant to section
2 58 of P.L.1991, c.187 (C.26:2J-4.2) to a group which was covered
3 by health benefits or health insurance anytime during the
4 12-month period immediately preceding the effective date of
5 coverage.

6 c. (1) Coverage for services required to be offered pursuant to
7 section 58 of P.L.1991, c.187 (C.26:2J-4.2) may contain or
8 provide coinsurance or deductibles, or both; except that no
9 deductible shall be payable in excess of a total of \$250 by an
10 individual or family unit during any benefit year, no coinsurance
11 shall be payable in excess of a total of \$500 by an individual or
12 family unit during any benefit year, and neither coinsurance nor
13 deductibles shall apply to physical examinations or maternity
14 services covered pursuant to paragraphs (3) or (4) of subsection a.
15 of this section.

16 (2) Managed care systems may be utilized for coverage of
17 services required to be offered pursuant to section 58 of
18 P.L.1991, c.187 (C.26:2J-4.2), subject to the review and approval
19 of the Commissioner of Insurance.

20 d. Notwithstanding any other law to the contrary, a health
21 maintenance organization shall file copies of all forms for
22 coverages required to be offered pursuant to section 58 of
23 P.L.1991, c.187 (C.26:2J-4.2) for approval with the Commissioner
24 of Insurance [at least 60 days prior to becoming effective. Unless
25 disapproved by the commissioner prior to its effective date
26 specifying in what respects the form is not in compliance with
27 the standards set forth in this subsection, any such coverage form
28 filed with the commissioner shall be deemed approved as of its
29 effective date.] in accordance with the provisions of section 26 of
30 P.L. , c. (C.)(pending in the Legislature as this bill)
31 provided, however, that coverage forms shall be effective only
32 with respect to those coverage form filings which are
33 accompanied by an explanation and identification of the changes
34 being made on a form prescribed by the commissioner. [In his
35 discretion, the commissioner may waive the 60-day waiting
36 period or any portion thereof.]

37 These forms shall not be unfair, inequitable, misleading or
38 contrary to law, nor shall they produce rates that are excessive,
39 inadequate or unfairly discriminatory.

40 e. Notwithstanding any other law to the contrary, a health
41 maintenance organization shall file all rates and supplementary
42 rate information and all changes and amendments thereof for the
43 coverages required to be offered pursuant to section 58 of
44 P.L.1991, c.187 (C.26:2J-4.2) for approval with the Commissioner
45 of Insurance at least 60 days prior to becoming effective. Unless
46 disapproved by the commissioner prior to their effective date
47 specifying in what respects the filing is not in compliance with
48 the standards set forth in this subsection, any such rates,
49 supplementary rate information, changes or amendments filed
50 with the commissioner shall be deemed approved as of their
51 effective date. [In his discretion, the commissioner may waive
52 such 60-day waiting period or any portion thereof.]

53 Rates shall not be excessive, inadequate or unfairly
54 discriminatory.

1 f. The Commissioner of Insurance shall issue regulations to
2 establish minimum standards for loss ratios under coverages
3 required to be offered pursuant to section 58 of P.L.1991, c.187
4 (C.26:2J-4.2).

5 g. Notwithstanding any provision of law to the contrary, a
6 health maintenance organization shall not be required, in regard
7 to coverages required to be offered pursuant to section 58 of
8 P.L.1991, c.187 (C.26:2J-4.2), to provide mandatory health care
9 benefits or services or provide benefits for services rendered by
10 providers of health care services as otherwise required by law.

11 h. The Commissioner of Insurance and the Commissioner of
12 Health shall, pursuant to the provisions of the "Administrative
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules
14 and regulations necessary to effectuate the purposes of this
15 section and section 58 of P.L.1991, c.187 (C.26:2J-4.2), including
16 standards for terms and conditions of health care service
17 coverages required to be offered pursuant to this section and
18 section 58 of P.L.1991, c.187 (C.26:2J-4.2) and schedules of
19 benefits for coverage of services provided for in subsection a. of
20 this section.

21 i. Every health maintenance organization shall report annually
22 on or before March 1 to the Department of Insurance the number
23 of individual and group coverages required to be offered pursuant
24 to section 58 of P.L.1991, c.187 (C.26:2J-4.2) that were sold in
25 the preceding calendar year and the number of enrollees under
26 each type of coverage. The department shall compile and
27 analyze this information and shall report annually on or before
28 July 1 its findings and any recommendations it may have to the
29 Governor and the Legislature.

30 j. A health maintenance organization which complies with the
31 basic health benefits, underwriting and rating standards
32 established by the federal government pursuant to subchapter XI
33 of Pub.L. 93-222 (42 U.S.C. §300e et seq.), shall be deemed in
34 compliance with this section and section 58 of P.L.1991, c.187
35 (C.26:2J-4.2).

36 (cf: P.L.1991, c.187, s.59)

37 28. Section 8 of P.L.1973, c.337 (C.26:2J-8) is amended to
38 read as follows:

39 8. Evidence of coverage. a. (1) Enrollees are entitled to
40 receive evidence of coverage and evidence of the total amount of
41 payment which the enrollee is obligated to prepay for health care
42 services and, where applicable, for indemnity benefits. If an
43 enrollee obtains coverage through an insurance policy or through
44 a contract issued by a hospital or medical service corporation or
45 health service corporation, whether by option or otherwise, the
46 insurer or the hospital or medical service corporation or health
47 service corporation shall issue the evidence of coverage.
48 Otherwise, the health maintenance organization shall issue the
49 evidence of coverage.

50 (2) No evidence of coverage, or amendment thereto, shall be
51 issued or delivered to any person until a copy of the form of the
52 evidence of coverage, or amendment thereto, has been filed with
53 the commissioner or, where applicable, with the Commissioner of
54 Insurance.

1 (3) An evidence of coverage shall contain:

2 (a) provisions or statements which are not unjust, unfair,
3 inequitable, misleading, deceptive, or which encourage
4 misrepresentation, or which are untrue, misleading or deceptive
5 as defined in subsection a. of section 15 of P.L.1973, c.337
6 (C.26:2J-15); and

7 (b) a clear and complete statement, if a contract, or a
8 reasonably complete summary, if a certificate, of:

9 (i) the health care services and where applicable the insurance
10 or other benefits, if any, to which enrollees are entitled;

11 (ii) any limitations on the services, kind of services, benefits,
12 or kind of benefits, to be provided, including any deductible or
13 co-payment feature;

14 (iii) where and in what manner information is available as to
15 how services may be obtained;

16 (iv) a clear and understandable description of the health
17 maintenance organization's method for resolving enrollee
18 complaints; and

19 (v) the total amount of payment for health care services and
20 the indemnity or service benefits, if any, which the enrollee is
21 obligated to pay with respect to individual contracts, or an
22 indication whether the plan is contributory or non-contributory
23 with respect to group certificates.

24 (4) Any subsequent change may be evidenced in a separate
25 document issued to the enrollee.

26 b. (1) no schedule of charges for enrollee coverage for health
27 care services, or amendment thereto, may be used by a health
28 maintenance organization until a copy of such schedule, or
29 amendment thereto, has been filed with the Commissioner of
30 Insurance for informational purposes; provided, however, that the
31 Commissioner of Insurance may bring an enforcement action
32 pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) if the
33 commissioner has reason to believe that the rates are excessive,
34 inadequate or unfairly discriminatory.

35 (2) such charges may be established in accordance with
36 actuarial principles for various categories of enrollees, provided
37 that charges applicable to an enrollee shall not be individually
38 determined based on the status of his health. However, the
39 charges shall not be excessive, inadequate, or unfairly
40 discriminatory. A certification, by a qualified actuary, to the
41 appropriateness of the charges, based on reasonable assumptions,
42 shall accompany the filing.

43 c. [The] In accordance with the provisions of section 26 of
44 P.L. , c. (C.)(pending in the Legislature as this bill), the
45 commissioner or, where applicable, the Commissioner of
46 Insurance shall approve any form if the requirements of
47 subsection a. of this section are met. It shall be unlawful to issue
48 such form until approved. [If the commissioner or Commissioner
49 of Insurance, where applicable, disapproves such filing, he shall
50 notify the filer. In the notice, the commissioner or Commissioner
51 of Insurance, where applicable, shall specify the reasons for his
52 disapproval. A hearing will be granted within 20 days after a
53 request in writing by the person filing. If the commissioner or
54 Commissioner of Insurance, where applicable, does not approve

1 any form within 30 days of the filing of such forms, they shall be
2 deemed approved.] A form that is disapproved may be
3 resubmitted for approval in accordance with subsections b., c.,
4 and d. of section 25 of P.L. , c. (C.)(pending in the
5 Legislature as this bill) and shall be subject to review in
6 accordance with the procedure described in the "Administrative
7 Procedure Act" P.L.1968, c.410 (C.52:14B-1 et seq.) and any
8 rules adopted thereunder. Any such form which is filed by the
9 commissioner or deemed filed may be so delivered or issued for
10 delivery until such time as any subsequent withdrawal of the
11 filing by the commissioner, following an opportunity for a hearing
12 held in accordance with the "Administrative Procedure Act"
13 P.L.1968, c.410 (C.52:14B-1 et seq.) and any rules adopted
14 thereunder, becomes final in accordance therewith.

15 d. The commissioner or Commissioner of Insurance, where
16 applicable, may require the submission of whatever relevant
17 information he deems necessary in determining whether to
18 approve or disapprove a filing made pursuant to subsection a. of
19 this section.

20 (cf: P.L.1994, c.11, s.11)

21 29. This act shall take effect immediately.

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STATEMENT

25

26 This bill, an Assembly Substitute for the Assembly Committee
27 Substitute for Assembly, No. 1885, requires every life and health
28 insurance policy, contract or evidence of coverage, including
29 annuities, hospital, medical or health service corporation
30 contracts, and health maintenance organization contracts, to
31 comply with applicable statutes, regulations, and published
32 guidelines, and if not, the policy, contract or evidence of
33 coverage will be deemed in compliance with the law with respect
34 to persons affected by the policy, contract or evidence of
35 coverage. However, the fact that the policy, contract or
36 evidence of coverage is deemed in compliance would not relieve
37 an insurer from liability for any penalties imposed under current
38 law for noncompliance.

39 The bill provides that, except as otherwise provided under the
40 New Jersey Individual Health Coverage Program and the Small
41 Employer Health Benefits Program, any such policy, contract or
42 evidence of coverage form used in New Jersey, except those
43 certified pursuant to this bill, must be filed for approval by the
44 Commissioner of Insurance, and that any such policy, contract or
45 evidence of coverage form filed for approval shall be deemed
46 approved 60 days after submission unless disapproved in writing
47 by the commissioner. Any disapproval must be based on a
48 specific statute, regulation or guideline published by the
49 commissioner which is applicable to that type of form. If the
50 form is resubmitted in response to the commissioner's objections,
51 it shall be deemed approved upon the expiration of 30 days unless
52 disapproved in writing by the commissioner within that time.
53 Disapproval of a resubmission must be based on objections
54 specified in the initial disapproval, except that the commissioner

1 may disapprove a form based upon any new provisions introduced
2 in the resubmission, or if in addressing the specified objections
3 cited in the commissioner's disapproval transmission, the insurer
4 changes or modifies any substantive provisions of the form.

5 The bill requires the commissioner to propose regulations for
6 all types of forms currently on file within 180 days after the
7 enactment of this bill and to adopt those regulations within 180
8 days after the regulations are proposed. The bill requires the
9 commissioner to propose regulations for all new types of forms
10 within 120 days after the form is approved or deemed approved
11 by the commissioner and to adopt those regulations within 180
12 days after the regulations are proposed.

13 The bill establishes a certification process for eligible forms.
14 The certification process permits insurers to file with the
15 commissioner a certification memorandum, signed by a
16 responsible officer of the insurer and stating in substance that
17 the form submitted conforms to all laws and regulations
18 applicable to that type of form. Upon an acknowledgement by
19 the commissioner that the form and certification memorandum
20 have been received, the form may be used. Upon notifying the
21 insurer of objections to the form based on law or regulation, the
22 commissioner may disapprove that form for further use in New
23 Jersey. The bill requires the commissioner to hold a hearing
24 annually, or more often, for the purpose of adopting regulations
25 to define the specific forms eligible for certification.

26 Finally, the bill provides that an improper certification is
27 subject to penalties which include a fine not to exceed \$50,000,
28 and, in addition, a maximum penalty of \$1,000 per policy,
29 contract, or evidence of coverage issued on a form improperly
30 certified. The commissioner may also prohibit the insurer from
31 utilizing the certification file and use system for up to one year
32 for an improper certification.

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37 "Life and Health Insurance and Health Maintenance Organization
38 Form Approval Reform Act."

ASSEMBLY, No. 1885

STATE OF NEW JERSEY

INTRODUCED JUNE 16, 1994

By Assemblyman BAGGER

1 AN ACT concerning the deregulation of certain life and health
2 insurance and health maintenance organization forms.

3

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

6 1. This act shall be known and may be cited as the "Life and
7 Health Insurance and Health Maintenance Organization Form
8 Deregulation Act."

9 2. No life insurance policy, health insurance policy, annuity, or
10 variable contract subject to the provisions of Title 17B of the
11 New Jersey Statutes, or application for such insurance where a
12 written application is required and is to be made a part of that
13 policy, or a printed rider or an endorsement for use with that
14 policy, shall be delivered or issued for delivery in this State
15 unless its provisions comply with all of the requirements of Title
16 17B of the New Jersey Statutes and any regulations adopted or
17 guidelines published by the commissioner consistent with the
18 requirements of Title 17B of the New Jersey Statutes. Any such
19 policy, application, rider, or endorsement issued or delivered in
20 this State that is not in compliance with those requirements shall
21 be deemed to be in compliance with the requirements and shall be
22 interpreted by the courts and among the persons affected by the
23 policy or contract as if such policy form were in compliance with
24 the requirements; provided, however, that this provision shall not
25 relieve the insurer from any penalty that may be imposed for
26 violation of this act or any other provision of Title 17B of the
27 New Jersey Statutes.

28 3. Except as otherwise provided in P.L.1992, c.151
29 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.),
30 any life insurance policy, health insurance policy, annuity, or
31 variable contract subject to the provisions of Title 17B of the
32 New Jersey Statutes, including any application, rider, or
33 endorsement for use with such policies or contracts may be filed
34 with the commissioner for approval as provided in this section.
35 Any such policy or contract, annuity, variable contract, and any
36 related form, except those exempted pursuant to section 4 of this
37 act, shall be filed with the commissioner for approval pursuant to
38 this section.

39 a. Any policy or contract, annuity, variable contract, or
40 related form filed with the commissioner for approval pursuant to
41 this section shall be deemed approved upon the expiration of 35
42 days after the submission of the form unless affirmatively
43 disapproved in writing by the commissioner within that time.
44 Any such disapproval shall be based only on the specific
45 provisions of applicable statutes, adopted regulations, or
46 guidelines published by the commissioner with regard to insurance

1 forms of that type. A disapproved policy or contract, annuity,
2 variable contract, or related form may be resubmitted pursuant
3 to subsection c. of this section.

4 b. Any life insurance policy, health insurance policy, annuity,
5 variable contract, or related form submitted for approval
6 pursuant to this section and disapproved by the commissioner
7 before the expiration of 35 days after its submission, shall be
8 deemed withdrawn at the expiration of 35 days after the
9 transmittal of the commissioner's specific objections unless the
10 filer submits a written response to the commissioner's objections
11 regarding the submission within the 35 day period.

12 c. A life insurance policy, health insurance policy, annuity,
13 variable contract, or related form may be resubmitted in
14 response to the commissioner's objections pursuant to subsection
15 b. of this section and shall be deemed approved upon the
16 expiration of 35 days after its resubmission unless disapproved as
17 provided in subsections a. and b. of this section, respectively. No
18 disapproval by the commissioner of a resubmission shall be based
19 on any objection not specified by the commissioner in his initial
20 disapproval of the filing.

21 d. With respect to all types of policies, annuities, contracts, or
22 related forms required to be filed pursuant to this section and
23 currently on file with and approved by the commissioner upon
24 enactment of this act, the commissioner shall adopt regulations
25 or publish guidelines, which may be amended or modified by the
26 commissioner from time to time thereafter, concerning any
27 actuarial or form requirements consistent with applicable
28 statutory provisions but not specified therein, not later than 180
29 days after enactment of this act. With respect to any types of
30 policy forms not then on file with the commissioner but filed
31 subsequent to the enactment of this act, the commissioner shall
32 adopt regulations or publish guidelines, which may be amended or
33 modified by the commissioner from time to time thereafter,
34 concerning any actuarial or form requirements consistent with
35 applicable statutory provisions but not specified therein within
36 120 days after the first filing of such a form.

37 e. For purposes of this section, "days" means calendar days,
38 except that when the last day of any specified time period is a
39 Saturday, Sunday, or State holiday, then the time period shall end
40 on the next following business day. With respect to any specified
41 time period pertaining to correspondence between an insurer and
42 the commissioner, the time period shall commence on the date
43 that such correspondence is postmarked or submitted to a private
44 delivery service.

45 4. a. Subject to the requirements of this section, the following
46 types of insurance policies, annuities, variable contracts and
47 related forms are exempt from any otherwise applicable filing
48 requirements of Title 17B of the New Jersey Statutes, provided
49 that such documents first have been approved, deemed approved
50 or filed by the insurer's domicile as required by the laws of that
51 state:

- 52 (1) Individual life policies including:
53 (a) ordinary whole life;
54 (b) limited pay life;

- 1 (c) life paid up at certain ages;
- 2 (d) endowments;
- 3 (e) level or decreasing term and renewable term;
- 4 (f) joint life without survivorship benefits;
- 5 (g) single premium life and endowments;
- 6 (h) immediate annuities and single premium or flexible
- 7 premium deferred annuities;
- 8 (i) industrial life;
- 9 (j) all variable contracts that provide insurance or annuity
- 10 benefits according to investment experience of a separate
- 11 account subject to federal regulation;
- 12 (k) modified benefit whole life which decreases in face
- 13 amount at a certain age;
- 14 (2) Group life policies including:
- 15 (a) group term life insurance;
- 16 (b) group permanent insurance;
- 17 (c) group annuities;
- 18 (3) Individual and group life riders, amendments and
- 19 endorsements including:
- 20 (a) term rider;
- 21 (b) family or survivor income benefits;
- 22 (c) family insurance;
- 23 (d) children's insurance;
- 24 (e) total and permanent disability waiver of premium;
- 25 (f) guaranteed insurability;
- 26 (g) IRS endorsements;
- 27 (4) Individual and group disability policies including:
- 28 (a) long term disability income;
- 29 (b) short term disability income;
- 30 (c) prescription drugs;
- 31 (d) accident only;
- 32 (e) travel accident;
- 33 (f) accidental death and dismemberment;
- 34 (g) overhead expense disability income;
- 35 (5) Credit insurance plans corresponding to policies listed
- 36 above, including credit unemployment insurance; and
- 37 (6) Any other types of policies, annuities, variable contracts,
- 38 or related forms that the commissioner deems to be exempt
- 39 pursuant to regulations adopted or guidelines published by him
- 40 from time to time. The commissioner shall hold a hearing
- 41 annually, or more often, for the purpose of determining additional
- 42 life or health forms to be added to the exempt list. At the first
- 43 hearing, which shall take place within 180 days after the
- 44 enactment of this act, the commissioner shall consider public
- 45 comments regarding the desirability of exemptions of universal
- 46 life, interest sensitive whole life, indeterminate premium term
- 47 life, reentry term life, group health maintenance organization
- 48 contracts covering more than 49 lives, Medicare supplement, and
- 49 CHAMPUS supplement insurance forms. In determining whether
- 50 an additional type of form shall be included on the exempt list,
- 51 the commissioner shall consider and compare the departmental
- 52 costs and consumer benefits, if any, associated with the formal
- 53 review and prior approval of such policy forms in comparison to
- 54 other possible administrative procedures and remedies available

1 to the commissioner to ensure that forms used in this State
2 comply with applicable law.

3 b. Annually on or before January 31 every insurer that issued
4 or delivered in this State any policy or related form exempt from
5 filing pursuant to this section during the preceding year shall file
6 a certification on a form prescribed by the commissioner
7 identifying the exempt form issued or delivered by the insurer
8 during that year. The certification shall include the title and
9 number of each such exempt form, the date upon which the form
10 was first issued in this State, and a brief explanation of the
11 coverage provided, if such information is not clear from the
12 form's descriptive title. The certification shall also identify all
13 exempt riders and endorsements used with such exempt forms,
14 and shall be executed by an officer of the insurer.

15 c. The commissioner at any time may request from an insurer,
16 and the insurer promptly shall provide for the commissioner's
17 review, a copy of any form, application, rider, or endorsement
18 exempt from filing pursuant to this section to determine its
19 compliance with specific statutory provisions, regulations, or
20 published guidelines, and upon notifying the insurer of his
21 objections based on such requirements, he may disapprove such
22 form for further use in New Jersey. If after notice and a hearing
23 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
24 (C.52:14B-1 et seq.), an insurer is found by the commissioner to
25 have engaged in a pattern or practice of issuing or delivering
26 more than one type of form in New Jersey in violation of this act,
27 in addition to any other penalties that may be imposed under
28 Title 17B of the New Jersey Statutes, the commissioner may bar
29 that insurer from the exemption from filing pursuant to this
30 section.

31 d. The commissioner may adopt regulations pursuant to the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.), or publish guidelines, consistent with statutory provisions,
34 with respect to any type of policy form exempt from filing
35 pursuant to this section.

36 e. Nothing in this section shall preclude an insurer from filing
37 an exempt policy or related form for approval by the
38 commissioner pursuant to section 3 of this act.

39 5. No health maintenance organization contract, evidence of
40 coverage, or other forms subject to the filing requirements of
41 P.L.1973, c.337 (C.26:2J-1 et seq.) or application for such
42 coverage where a written application is required and is to be
43 made a part of that contract or evidence of coverage, or a
44 printed rider or an endorsement for use with that contract or
45 evidence of coverage, shall be delivered or issued for delivery in
46 this State unless its provisions comply with all of the
47 requirements of P.L.1973, c.337 (C.26:2J-1 et seq.) and any
48 regulations adopted or guidelines published by the Commissioner
49 of Insurance pursuant to those requirements. Any such contract,
50 evidence of coverage, application, rider, or endorsement issued or
51 delivered in this State that is not in compliance with those
52 requirements shall be deemed to be in compliance with the
53 requirements and shall be interpreted by the courts and among
54 the persons affected by the contract or evidence of coverage as

1 if such contract or evidence of coverage form were in compliance
2 with the requirements; provided, however, that this provision
3 shall not relieve the health maintenance organization from any
4 penalty that may be imposed for violation of P.L. , c. (C.)
5 (pending in the Legislature as this bill) or any other provision of
6 P.L.1973, c.337 (C.26:2J-1 et seq.).

7 6. Except as otherwise provided in P.L.1992, c.161
8 (C.17B:27A-2 et seq.) and P.L.1992, c.162 (C.17B:27A-17 et seq.),
9 any health maintenance organization contract or evidence of
10 coverage subject to the provisions of P.L.1973, c.337 (C.26:2J-1
11 et seq), including any application, rider, or endorsement for use
12 with such contracts or evidences of coverage may be filed with
13 the Commissioner of Insurance for approval as provided in this
14 section. Any such contract or evidence of coverage, and any
15 related form, except those exempted pursuant to section 4 of
16 P.L. , c. (C.) (pending in the Legislature as this bill) shall
17 be filed with the Commissioner of Insurance for approval
18 pursuant to this section.

19 a. Any contract, evidence of coverage or related form filed
20 with the Commissioner of Insurance for approval pursuant to this
21 section shall be deemed approved upon the expiration of 35 days
22 after the submission of the form unless affirmatively disapproved
23 in writing by the Commissioner of Insurance within that time.
24 Any such disapproval shall be based only on the specific
25 provisions of applicable statutes, adopted regulations, or
26 guidelines published by the Commissioner of Insurance with
27 regard to coverage forms of that type. A disapproved contract,
28 evidence of coverage or related form may be resubmitted
29 pursuant to subsection c. of this section.

30 b. Any contract, evidence of coverage or related form filed
31 for approval pursuant to this section and disapproved by the
32 Commissioner of Insurance before the expiration of 35 days after
33 its submission, shall be deemed withdrawn at the expiration of 35
34 days after the transmittal of the Commissioner of Insurance's
35 specific objections unless the filer submits a written response to
36 the Commissioner of Insurance's objections within the 35 day
37 period.

38 c. A contract, evidence of coverage or related form may be
39 resubmitted in response to the objections of the Commissioner of
40 Insurance pursuant to subsection b. of this section and shall be
41 deemed approved upon the expiration of 35 days after its
42 resubmission unless disapproved as provided in subsections a. and
43 b. of this section, respectively. No disapproval by the
44 Commissioner of Insurance of a resubmission shall be based on
45 any objection not specified in the initial disapproval of the filing.

46 d. With respect to all types of contracts, evidences of
47 coverage or related forms required to be filed pursuant to this
48 section and currently on file with and approved by the
49 Commissioner of Insurance upon enactment of this act, the
50 Commissioner of Insurance shall adopt regulations or publish
51 guidelines, which may be amended or modified by the
52 Commissioner of Insurance from time to time thereafter,
53 concerning any actuarial or form requirements consistent with
54 applicable statutory provisions but not specified therein not later

1 than 180 days after enactment of this act. With respect to any
2 types of policy forms not then on file with the Commissioner of
3 Insurance but filed subsequent to enactment of this act, the
4 Commissioner of Insurance shall adopt regulations or publish
5 guidelines, which may be amended or modified by the
6 commissioner from time to time thereafter, concerning any
7 actuarial or form requirements consistent with applicable
8 statutory provisions but not specified therein within 120 days
9 after the first filing of such a form.

10 e. For purposes of this section: "days" means calendar days,
11 except that when the last day of any specified time period is a
12 Saturday, Sunday, or State holiday, then the time period shall end
13 on the next following business day. With respect to any specified
14 time period pertaining to correspondence between an insurer and
15 the commissioner, the time period shall commence on the date
16 that such correspondence is postmarked or submitted to a private
17 delivery service.

18 f. The Commissioner of Insurance, in consultation with the
19 Commissioner of Health, pursuant to the "Administrative
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
21 rules and regulations as may be necessary to effectuate the
22 purposes of this section.

23 7. a. Annually on or before January 31 every health
24 maintenance organization that issued or delivered in this State
25 any contract, evidence of coverage or related form exempt from
26 filing pursuant to section 4 of P.L. , c. (C.) (pending in
27 the Legislature as this bill) during the preceding year shall file a
28 certification on a form prescribed by the Commissioner of
29 Insurance identifying the exempt form issued or delivered by the
30 health maintenance organization during that year. The
31 certification shall include the title and number of each such
32 exempt form, the date upon which the form was first issued in
33 this State, and a brief explanation of the coverage provided, if
34 such information is not clear from the form's descriptive title.
35 The certification shall also identify all exempt riders and
36 endorsements used with such exempt forms, and shall be executed
37 by an officer of the health maintenance organization.

38 b. The Commissioner of Insurance at any time may request
39 from a health maintenance organization, and the health
40 maintenance organization promptly shall provide for the
41 commissioner's review, a copy of any form, application, rider, or
42 endorsement exempt from filing pursuant to section 4 of P.L. ,
43 c. (C.) (pending in the Legislature as this bill) to determine
44 its compliance with specific statutory provisions, regulations, or
45 published guidelines, and upon notifying the health maintenance
46 organization of his objections based on such requirements, he may
47 disapprove such form for further use in New Jersey. If after
48 notice and a hearing pursuant to the "Administrative Procedure
49 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a health maintenance
50 organization is found by the commissioner to have engaged in a
51 pattern or practice of issuing or delivering more than one type of
52 form in New Jersey in violation of this act, in addition to any
53 other penalties that may be imposed under P.L.1973, c.337
54 (C.26:2J-1 et seq.), the Commissioner of Insurance may bar that

1 health maintenance organization from the exemption from filing
2 pursuant to this section.

3 c. The Commissioner of Insurance, in consultation with the
4 Commissioner of Health, may adopt regulations pursuant to the
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.), or publish guidelines, consistent with statutory provisions,
7 with respect to any type of policy form exempt from filing
8 pursuant to this section.

9 d. Nothing in this section shall preclude a health maintenance
10 organization from filing an exempt policy or related form for
11 approval by the commissioner pursuant to section 5 of this act.

12 8. This act shall take effect immediately.

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STATEMENT

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17 This bill requires every life and health insurance policy or
18 contract, including health maintenance organization contracts
19 and evidences of coverage, to comply with applicable statutes,
20 regulations, and published guidelines, and if not, the policy,
21 contract or evidence of coverage will be deemed in compliance
22 with the law with respect to persons affected by the policy,
23 contract or evidence of coverage. The fact that the policy,
24 contract or evidence of coverage is deemed in compliance will
25 not relieve an insurer or health maintenance organization of
26 liability for any penalties imposed under current law for
27 noncompliance, however.

28 The bill provides that, except as otherwise provided under the
29 New Jersey Individual Health Coverage Program and the Small
30 Employer Health Benefits Program, any policy or contract form
31 used in New Jersey, except those specifically exempted, must be
32 filed for approval by the Commissioner of Insurance. The bill
33 provides a timetable of 35 day periods for responses by the
34 commissioner to submissions and responses by filers to
35 disapprovals. A failure by either party to meet the prescribed
36 timetable terminates the process either by a "deemed" approval
37 or a "deemed" withdrawal. The bill provides that any disapproval
38 must be based on a specific statute, regulation, or published
39 guideline, and that any subsequent disapproval must be based on
40 objections specified in the initial disapproval. The bill requires
41 the commissioner to adopt regulations or publish guidelines for all
42 types of forms currently on file within six months, and for all new
43 types of forms within four months after an initial submission.

44 The bill exempts a list of certain standard policy and contract
45 forms from the prior approval process and permits the
46 commissioner to exempt additional types of forms pursuant to
47 regulations or published guidelines. The bill requires the
48 commissioner to hold an annual hearing to consider the exemption
49 of additional forms and to hold a public hearing within six months
50 after the enactment of this bill to consider the possible
51 exemption of certain specified types of forms. Additionally, the
52 bill requires every insurer using exempt forms to file an annual
53 certification identifying those forms.

1 The bill provides that the commissioner may demand and
2 review exempt forms used by an insurer or health maintenance
3 organization at any time for compliance with statutes,
4 regulations, and published guidelines, and upon objection, he may
5 disapprove the further use of such forms. Under the provisions of
6 the bill, any insurer or health maintenance organization found to
7 have engaged in a pattern of using exempt forms not in
8 compliance with law, in addition to other penalties, may be
9 barred from further use of the exemption provisions.

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14 "Life and Health Insurance and Health Maintenance Organization
15 Form Deregulation Act."

ASSEMBLY INSURANCE COMMITTEE
STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1885
STATE OF NEW JERSEY

DATED: NOVEMBER 21, 1994

The Assembly Insurance Committee reports favorably the Assembly Committee Substitute for Assembly, No. 1885.

This bill, a Assembly Committee Substitute for Assembly, No. 1885, requires every life and health insurance company (including hospital service corporations, medical service corporations and health service corporations) and health maintenance organization policy, contract or evidence of coverage, such as life and health insurance policies or contracts, annuities, hospital, medical or health service corporation contracts, and health maintenance organization contracts and evidences of coverage, to comply with applicable statutes, regulations, and published guidelines, and if not, the policy, contract or evidence of coverage will be deemed in compliance with the law with respect to persons affected by the policy, contract or evidence of coverage. However, the fact that the policy, contract or evidence of coverage is deemed in compliance would not relieve an insurer or health maintenance organization from liability for any penalties imposed under current law for noncompliance.

The bill provides that, except as otherwise applied under the New Jersey Individual Health Coverage Program and the Small Employer Health Benefits Program, any such policy, contract or evidence of coverage form used in New Jersey, except those certified pursuant to this bill, must be filed for approval by the Commissioner of Insurance, and that any such policy, contract or evidence of coverage form filed for approval shall be deemed approved 60 days after submission unless affirmatively disapproved in writing by the commissioner. Any disapproval must be based on a specific statute or regulation adopted by the commissioner which is applicable to that type of form. If the form is resubmitted in response to the commissioner's objections, any subsequent disapproval must be based on objections specified in the initial disapproval, except that the commissioner may disapprove a form based upon any new provisions introduced in the resubmission, or if in addressing the specified objections cited in the commissioner's disapproval transmission, the insurer or health maintenance organization changes or modifies any substantive provisions of the policy or contract form.

The bill requires the commissioner to propose regulations or publish guidelines for all types of forms currently on file within 180 days after the enactment of this bill and to adopt those regulations within 180 days after the regulations are proposed. The bill requires the commissioner to propose regulations for all new types of forms within 120 days after an initial submission and to adopt those regulations within 180 days after the regulations are proposed.

The bill requires the commissioner to hold a hearing annually, or more often, for the purpose of adopting regulations to define the specific forms eligible for certification.

The certification process established by the bill permits insurers and health maintenance organizations to file with the commissioner a memorandum, signed by a responsible officer of the insurer or health maintenance organization and stating in substance that the policy, contract or form submitted conforms to all laws and regulations applicable to that type of policy, contract or related form. Upon an acknowledgement by the commissioner that the form and memorandum have been received, the form may be used.

Finally, the bill provides that an improper certification of a policy, contract or related form is subject to penalties which include a fine not to exceed \$50,000, a maximum penalty of \$1,000 per policy, contract, or enrollee agreement issued, and additionally, the commissioner may prohibit the insurer or health maintenance organization from utilizing the certified file and use system for up to one year if the commissioner determines that there is a pattern of improper certification.

LEGISLATIVE FISCAL ESTIMATE TO

ASSEMBLY SUBSTITUTE FOR

ASSEMBLY, No. 1885

STATE OF NEW JERSEY

DATED: March 9, 1995

Assembly Substitute for Assembly No. 1885 of 1994 requires every life and health insurance policy or contract, including health maintenance organization contracts and evidences of coverage, to comply with applicable statutes, regulations, and published guidelines, and if not, the policy, contract or evidence of coverage will be deemed in compliance with the law with respect to persons affected by the policy, contract or evidence of coverage. The bill further provides that any policy or contract form used in New Jersey, except those specifically exempted, must be filed within a specific period for approval by the Commissioner of Insurance. A failure by the commissioner or the filer to meet the prescribed timetable terminates the process either by a "deemed" approval or a "deemed" withdrawal. The bill requires the commissioner to adopt regulations or publish guidelines for all types of forms currently on file within six months, and for all new types of forms within four month after an initial submission. Lastly, the bill provides for penalties for improper certification and for evidence of coverage issued on a form improperly certified by a responsible officer of the insurer.

The Office of Legislative Services estimates that the bill's review provisions should have little or no fiscal impact on the department's operating budget, because existing staff should be able to handle these functions without incurring additional salary costs or expenses. The non-review provisions of the bill are essentially technical in nature and will also have no fiscal impact on the department or the State Budget.

The OLS is unable to estimate the revenue from fines which might be generated as a result of this legislation. The number of forms which might be improperly certified or the number of improperly certified forms which might be utilized to issue coverage cannot be readily determined.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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