

26:2J-1 to 26:2J-30

LEGISLATIVE HISTORY CHECKLIST

NJSA: 26:2J- to 26:2J-30

"Health Maintenance Organizations Act"

CHAPTER 337

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Sponsor(s): Parker and Miller

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SENATE, No. 2148

STATE OF NEW JERSEY

INTRODUCED MARCH 19, 1973

By Senators PARKER and MILLER

Referred to Committee on Institutions, Health and Welfare

AN ACT to provide alternatives for health care delivery, to provide for the establishment and certification of health maintenance organizations and to establish the duties and responsibilities of the Commissioner of Health and the Commissioner of Insurance in supervising these organizations, **[and]** supplementing Title 26 of the Revised Statutes *and making an appropriation therefor*.

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

1 1. Short title. This act may be cited as the "Health Maintenance
2 Organizations Act."

1 2. Definitions. a. "Commissioner" means the State Commissioner
2 of Health.

3 b. **[**"Minimum health care services" means**]** *"Basic **[com-***
4 *prehensive**]** health **[care** services" **[and]** **[means***
5 *those services*, *including but not limited to* emergency care,
6 inpatient hospital and physician care, and outpatient medical
7 services, *designated by regulations promulgated by the com-*
8 *missioner*.

9 c. **[**"Health care services" includes**]** **[**"Comprehensive
10 health" **[Health** care services" includes basic **[comprehen-**
11 *sive* minimum**]** health care services and any additional services
12 **[included in the furnishing to any individual of medical or**
12A dental care, or hospitalization or incident to the furnishing of
12B such care or hospitalization, as well as the furnishing to any person
12C of any and all other services for the purpose of preventing,
12D alleviating, curing, or healing human illness or injury**]**
12E *designated by regulations promulgated by the commissioner*.

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

13 d. "Enrollee" means an individual who has been enrolled with
14 a health maintenance organization.

15 e. "Evidence of coverage" means any booklet, certificate, agree-
16 ment, or contract issued to an enrollee setting out the services
17 and other benefits to which he is entitled.

18 f. "Health maintenance organization" means any person which
19 ***[provides or arranges for at least minimum]*** *directly or through*
20 *contracts with providers furnishes at least basic comprehensive**
20A health care services on a prepaid basis to enrollees in a designated
20B geographical area.

21 g. "Person" means any natural or artificial person including
22 but not limited to individuals, partnerships, associations, trusts, or
23 corporations.

24 h. "Provider" means any physician, hospital, or other person
25 which is licensed or otherwise authorized in this State to furnish
26 health care services.

27 i. "Health care facility" means the facility or institution whether
28 public or private, engaged in providing services for health main-
29 tenance organizations, diagnosis or treatment of human disease,
30 pain, injury, deformity or physical condition, including, but not
31 limited to, a general hospital, special hospital, mental hospital,
32 public health center, diagnostic center, treatment center, rehabilita-
33 tion center, extended care facility, skilled nursing home, nursing
34 home, intermediate care facility, tuberculosis hospital, chronic
35 disease hospital, maternity hospital, outpatient clinic, dispensary,
36 home health care agency, boarding home or other home for the
37 sheltered care of adult persons and bio-analytical laboratory or
38 central services facility serving one or more such institutions but
39 excluding institutions that provide healing solely by prayer.

1 3. Establishment of health maintenance organizations. a. Not-
2 withstanding any law of this State to the contrary, any person may
3 apply to the commissioner for and obtain a certificate of authority
4 to establish and operate a health maintenance organization in
5 compliance with this act. No person shall establish or operate a
6 health maintenance organization in this State^{*}, nor^{*} without
7 compliance with regulations to be promulgated by the commis-
8 sioner^{*}, nor^{*} sell, offer to sell, or solicit offers to purchase or
9 receive advance or periodic consideration in conjunction with a
10 health maintenance organization without obtaining a certificate of
11 authority under this act. When the establishment or operation
12 of a health maintenance organization involves the construction of
13 a health care facility or any change in or expansion of a health
14 care facility or involves ^{*}**[an expenditure for the institution of new**

15 health care services no application to establish and operate a health
16 maintenance organization pursuant hereto shall be approved until
17 the applicant has received a certificate of need as provided for in
18 section 7 of P. L. 1971, c. 136, the Health Care Facilities Act
18A (C. 26:2H-7)]* *the institution of new health care services as*
18B *defined in section 7 of the Health Care Facilities Planning Act*
18C *(P. L. 1971, c. 136, C. 26:2H-7), said health maintenance organiza-*
18D *tion shall abide by all provisions of P. L. 1971, c. 136. All health*
18E *care facilities utilized by a health maintenance organization or its*
18F *agents shall comply with the licensure provisions of section 12 of*
18G *the Health Care Facilities Planning Act (C. 26:2H-12)*.*

19 b. Every health maintenance organization as of the effective
20 date of this act shall submit an application for a certificate of
21 authority under subsection c. of this section within 90 days of the
22 effective date of this act. Each such applicant may continue to
23 operate until the commissioner acts upon the application. In the
24 event that an application is denied under section 4, hereof, the
25 applicant shall henceforth be treated as a health maintenance or-
26 ganization whose certificate of authority has been revoked.

27 c. Each application for a certificate of authority shall be verified
28 by an officer or authorized representative of the applicant, shall
29 be in a form prescribed by the commissioner, and shall set forth
30 or be accompanied by the following:

31 (1) a copy of the basic organizational document***[, if any,]*** of
32 the applicant such as the articles of incorporation, articles of
33 association, partnership agreement, trust agreement, or other
34 applicable documents, and all amendments thereto;

35 (2) a copy of the bylaws, rules and regulations, or similar docu-
36 ment***[, if any,]*** regulating the conduct of the internal affairs of
37 the applicant;

38 (3) a list of the names, addresses, and official positions of the
39 persons who are to be responsible for the conduct of the affairs
40 of the applicant;

41 (4) a copy of any contract made or to be made between any
42 providers or persons listed in paragraph (3) of this subsection
43 and the applicant;

44 (5) a copy of any contract made or to be made with an insurer
45 or a hospital or medical service corporation;

46 (6) a statement generally describing the health maintenance
47 organization, its facilities, and personnel;

48 (7) a copy of the form of evidence of coverage to be issued to
49 the enrollees;

50 (8) a copy of the form of the group contract, if any, which is to
51 be issued to employers, unions, trustees, or other organizations;

52 (9) recent financial statements showing the applicant's assets,
53 liabilities, and sources of financial support;

54 (10) a general description of the proposed method of marketing
55 and financing and a statement as to the sources of funding;

56 (11) a power of attorney duly executed by such applicant, if
57 not domiciled in this State, appointing the commissioner and his
58 successors in office, and duly authorized deputies, as the true and
59 lawful attorney of such applicant in and for this State upon whom
60 all lawful process in any legal action or proceeding against the
61 health maintenance organization on a cause of action arising, in
62 this State may be served;

63 (12) a statement reasonably describing the geographic area or
64 areas to be served;

65 (13) a general description of the complaint procedures to be
66 utilized as required under section ****[11]** **12****, hereof;

67 (14) a general description of the procedures and programs to
68 be implemented to meet the quality of health care requirements
69 in section 4 a. (2), hereof;

70 (15) a general description of the mechanism by which enrollees
71 will be afforded an opportunity to participate in matters of policy
72 and operation under section 6 b., hereof ****[.]** **,****

73 **** (16) such other information as the commissioner may require**
74 **to make the determinations required by section 4 hereof.**

75 *d. (1) a health maintenance organization shall, unless otherwise*
76 *provided for in this act, file a notice describing any modification*
77 *of the information required by subsection c. of this section. Such*
78 *notice shall be filed with the commissioner prior to the modification.*
79 *If the commissioner does not disapprove within 30 days of filing,*
80 *such modification shall be deemed approved.*

81 *(2) the commissioner may promulgate rules and regulations*
82 *exempting from the filing requirements of paragraph (1) of this*
83 *subsection those items he deems unnecessary.***

1 4. Issuance of certificate of authority. a. (1) Upon receipt of
2 an application for issuance of a certificate of authority the commis-
3 sioner shall forthwith transmit copies of such application and
4 accompanying documents to the Commissioner of Insurance. The
5 approval of the Commissioner of Insurance shall be required to
6 the extent that the proposal involves the doing of an insurance
7 business or a contract with an insurer or hospital or medical service

8 corporation. *~~【This approval shall not be necessary in the case of~~
 9 ~~incidental arrangements for insurance risks.】*~~

10 (2) The commissioner shall determine whether the applicant for
 11 a certificate of authority:

12 (a) has demonstrated the *~~【willingness and】*~~ potential ability to
 13 assure that such health care services will be provided in a manner
 14 to assure both availability and accessibility of adequate personnel
 15 and facilities and in a manner enhancing availability, accessibility
 16 and continuity of service;

17 (b) has arrangements for an on-going quality of health care
 18 assurance program; and

19 (c) *~~【has a procedure established to develop, compile, evaluate,~~
 20 ~~and report statistics relating to the cost of its operations, the~~
 21 ~~pattern of utilization of its services, the availability and acces-~~
 22 ~~sibility of its services.】*~~ ***has a procedure to** *establish and*
 22A *maintain a uniform system of cost accounting approved by the*
 22B *commissioner; establish and maintain a uniform system of reports*
 22C *and audits meeting the requirements of the commissioner; and*
 22D *prepare and review annually a long range plan for the provision*
 22E *of health care services, which plan shall be compatible with the*
 22F *State Health Plan established pursuant to the "Comprehensive*
 22G *Health Planning and Public Health Services Amendments of 1966"*
 22H *(Federal Law 89-749) as related to medical health services, health*
 22I *care services and health manpower.**

23 (3) Where the application has been rejected the commissioner
 24 shall specify in what respect it fails to comply and, if applicable,
 25 specifies in what respect the proposal fails to comply with the
 26 requirements of the Commissioner of Insurance.

27 b. Issuance of a certificate of authority shall be granted upon
 28 payment of the application fee prescribed in section ~~**【22】**~~
 29 ~~**23**~~ hereof if the commissioner and, if applicable, the Commis-
 30 sioner of Insurance, are satisfied that the following conditions
 30A are met:

31 (1) the health maintenance organization's proposed plan of
 32 operation meets the requirements of subsection a. (2) of this section;

33 (2) the applicant's proposal sets forth an appropriate mecha-
 34 nism whereby the health maintenance organization will effectively
 35 provide or arrange for the provision of health care services on a
 36 prepaid basis;

37 (3) the health maintenance organization is financially sound and
 38 may reasonably be expected to meet its obligations to enrollees and
 39 prospective enrollees. In making this determination, the com-
 40 missioner may consider:

41 (a) the adequacy of working capital and funding sources;

42 (b) agreements if any, with an insurer, a hospital or medical
43 service corporation, a government, or any other organization for
44 insuring the payment of the cost of health care services or the
45 provision for automatic applicability of an alternative coverage
46 in the event of discontinuance of the plan;

47 (c) any agreement with providers for the provision of health
48 care services; ****[and]****

49 (d) any deposit of cash or form of guaranty or security sub-
50 mitted in accordance with section ****[13]**** ****14**** hereof to assure
51 that the obligations will be duly performed; ****and****

51A **** (e) the financial soundness of the health maintenance organiza-**
51B **tion's arrangements for health care services and the schedule of**
51C **charges used in connection therewith;****

52 (4) the enrollees will be afforded an opportunity to participate
53 in matters of policy and operation pursuant to section 6 hereof;

54 (5) nothing in the proposed method of operation, as shown by
55 the information submitted pursuant to section 3 hereof or by
56 independent investigation, is contrary to the public interest; and

57 (6) any deficiencies found by the commissioner ****or the Com-**
58 **missioner of Insurance**** have been corrected.

59 c. A certificate of authority shall be denied only after compliance
60 with the requirements of section ****[21]**** ****22**** hereof.

1 5. Powers of health maintenance organizations. a. The powers
2 of a health maintenance organization include, ***[but are not limited**
3 **to]*** the following:

4 (1) the purchase, lease, construction, renovation, operation, or
5 maintenance of health care facilities, and their ancillary equipment,
6 and such property as may reasonably be required for its principal
7 office or for such other purposes as may be necessary in the trans-
8 action of the business of the organization;

9 (2) the receiving of funds by loan or otherwise;

10 (3) the making of loans to a medical group under contract with
11 it in furtherance of its program or the making of loans to a
12 corporation or corporations under its control for the purpose of
13 acquiring or constructing health care facilities or in furtherance
14 of a program providing health care services to enrollees;

15 (4) ***[the furnishing of health care services through providers**
16 **which are under contract with or employed by the health mainte-**
17 **nance organization:]*** ***the assumption of responsibility for the**
17A **furnishing of health care services through providers which are**
17B **under contract with or employed by the health maintenance**
17C **organization to persons including but not limited to enrollees;***

18 (5) the contracting with any person for the performance on its
19 behalf of certain functions such as marketing, enrollment and
20 administration;

21 (6) the contracting with an insurance company licensed in this
22 State, or with a hospital or medical service corporation authorized
23 to do business in this State, for the provision of insurance,
24 indemnity, or reimbursement against the cost of health care services
25 provided by the health maintenance organization which may include
26 provisions for reasonable classifications for the purpose of estab-
27 lishing rates and reasonable restrictions based on underwriting
28 considerations; and

29 (7) the offering, in addition to ***[minimum]*** **basic* ****[com-**
29A *prehensive**** health care services, of:

30 (a) additional health care services;

31 (b) indemnity benefits covering out-of-area or emergency
32 services; and

33 (c) indemnity benefits, in addition to those relating to out-of-
34 area and emergency services, provided through insurers or hospital
35 or medical service corporations.

36 ***[(8) any other power not enumerated herein but necessary to**
37 **the establishment and operation of a health maintenance orga-**
38 **nization.]***

39 ***b. (1) A health maintenance organization shall file notice, with*
40 *adequate supporting information, with the commissioner prior to*
41 *the exercise of any power granted in subsection a. (1) or (2) of*
42 *this section. The commissioner shall disapprove such exercise of*
43 *power if in his opinion it would substantially and adversely affect*
44 *the financial soundness of the health maintenance organization and*
45 *endanger its ability to meet its obligations. If the commissioner*
46 *does not disapprove within 30 days of filing, it shall be deemed*
47 *approved.*

48 *(2) The commissioner may promulgate rules and regulations*
49 *exempting from the filing requirements of paragraph (1) of this*
50 *subsection those activities having a de minimis effect.***

1 6. Governing body. a. The governing body of any health mainte-
2 nance organization may include providers, other individuals, or
3 both.

4 b. Such governing body shall establish a mechanism to afford
5 the enrollees an opportunity to participate in matters of policy
6 and operation through the establishment of advisory panels, by
7 the use of advisory referenda on major policy decisions, or through
8 the use of other mechanisms.

1 7. Protection against wrongful acts. Any director, officer em-
 2 ployee or partner of a health maintenance organization who re-
 3 ceives, collects, disburses, or invests funds in connection with the
 4 activities of such organization shall be bonded in an amount to be
 5 determined by the commissioner.

1 8. Evidence of coverage. a. (1) Enrollees are entitled to receive
 2 evidence of coverage and evidence of the total amount of payment
 3 which the enrollee is obligated to prepay for health care services
 4 and, where applicable, for indemnity benefits. If an enrollee ob-
 5 tains coverage through an insurance policy or through a contract
 6 issued by a hospital or medical service corporation, whether by
 7 option or otherwise, the insurer or the hospital or medical service
 8 corporation shall issue the evidence of coverage. Otherwise, the
 9 health maintenance organization shall issue the evidence of cov-
 10 erage.

11 (2) No evidence of coverage, or amendment thereto, shall be
 12 issued or delivered to any person until a copy of the form of the
 13 evidence of coverage, or amendment thereto, has been filed with
 14 the commissioner or, where applicable, with the Commissioner of
 15 Insurance.

16 (3) An evidence of coverage shall contain:

17 (a) provisions or statements which are not unjust, unfair, in-
 18 equitable, misleading, deceptive, or which encourage misrepres-
 19 entation, or which are untrue, misleading or deceptive as defined
 20 in section 14 a., hereof; and

21 (b) a clear and complete statement, if a contract, or a reason-
 22 ably complete summary, if a certificate, of:

23 (i) the health care services and where applicable the in-
 24 surance or other benefits, if any, to which enrollees are entitled;

25 (ii) any limitations on the services, kind of services, benefits,
 26 or kind of benefits, to be provided, including any deductible
 27 or co-payment feature;

28 (iii) where and in what manner information is available as
 29 to how services may be obtained; ****[and]****

30 (iv) a clear and understandable description of the health
 31 maintenance organization's method for resolving enrollee
 32 complaints ****[.]** **;** and ******

32A **** (v) the total amount of payment for health care services**
 32B **and the indemnity or service benefits, if any, which the enrollee**
 32C **is obligated to pay with respect to individual contracts, or an**
 32D **indication whether the plan is contributory or non-contributory**
 32E **with respect to group certificates.****

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

34A ****b. (1)** *no schedule of charges for enrollee coverage for health*
34B *care services, or amendment thereto, may be used by a health*
34C *maintenance organization until a copy of such schedule, or amend-*
34D *ment thereto, has been filed with and approved by the commissioner.*
34E *The Commissioner of Insurance shall certify to the commissioner*
34F *whether the schedule of charges meets the requirements of para-*
34G *graph (2) of this subsection.*

34H (2) *such charges may be established in accordance with actuarial*
34I *principles for various categories of enrollees, provided that charges*
34J *applicable to an enrollee shall not be individually determined based*
34K *on the status of his health. However, the charges shall not be*
34L *excessive, inadequate, or unfairly discriminatory. A certification,*
34M *by a qualified actuary, to the appropriateness of the charges, based*
34N *on reasonable assumptions, shall accompany the filing along with*
34O *adequate supporting information.***

35 ****[b.]**** ****c.**** The commissioner or, where applicable, the
36 Commissioner of Insurance shall approve any form if the require-
37 ments of subsection a. of this section are met ****and any schedule**
38 **of charges if the requirements of subsection b. of this section are**
39 **met****. It shall be unlawful to issue such form ****or to use such**
40 **schedule of charges**** until approved. If the commissioner or
41 Commissioner of Insurance, where applicable, disapproves such
42 filing, he shall notify the filer. In the notice, the commissioner or
43 Commissioner of Insurance, where applicable, shall specify the
44 reasons for his disapproval. A hearing will be granted within 20
45 days after a request in writing by the person filing. If the com-
46 missioner or Commissioner of Insurance, where applicable, does
47 not approve any form within 30 days of the filing of such forms
48 or charges, they shall be deemed approved.

49 ****[c.]**** ****d.**** The commissioner or Commissioner of Insur-
50 ance, where applicable, may require the submission of whatever
51 relevant information he deems necessary in determining whether
52 to approve or disapprove a filing made pursuant to this section.

1 9. Annual report. a. Every health maintenance organization
2 shall annually, on or before March 1, file a report verified by at
3 least two principal officers with the commissioner, with a copy to
4 the Commissioner of Insurance covering the preceding calendar
5 year.

6 b. Such report shall be on forms prescribed by the commissioner
7 and shall include:

8 (1) a financial statement of the organization, including its bal-
9 ance sheet and receipts and disbursements for the preceding year
10 certified by an independent public accountant;

11 (2) any material changes in the information submitted pursuant
12 to section 3 c. hereof;

13 (3) the number of persons enrolled during the year, the number
14 of enrollees as of the end of the year and the number of enrollments
15 terminated during the year;

16 (4) a summary of information compiled pursuant to section 4 a.
17 (2) (c) hereof in such form as required by the ******[(Commissioner
18 of Health)]****** *commissioner*"; and

19 (5) such other information relating to the performance of the
20 health maintenance organization as is necessary to enable the com-
21 missioner to carry out his duties under this act.

1 10. Information to enrollees. a. Every health maintenance or-
2 ganization shall annually provide to its enrollees:

3 (1) a summary of any material changes since the issuance of
4 the last report;

5 (2) a description of ***the available health care*** services and
6 information as to where and how to secure them; and

7 (3) a clear and understandable description of the health mainte-
8 nance organization's method for resolving enrollee complaints.

9 b. Every health maintenance organization shall make available
10 to its enrollees the most recent annual statement of financial con-
11 dition.

1 ****11. a. After a health maintenance organization has been in**
2 *operation 24 months, it shall have an annual open enrollment period*
3 *of at least one month during which it accepts enrollees up to the*
4 *limits of its capacity, as determined by the health maintenance*
5 *organization, in the order in which they apply for enrollment. A*
6 *health maintenance organization may apply to the commissioner*
7 *for authorization to impose such underwriting restrictions upon*
8 *enrollment as are necessary to preserve its financial stability, to*
9 *prevent excessive adverse selection by prospective enrollees, or to*
10 *avoid unreasonably high or unmarketable charges for enrollee*
11 *coverage for health care services. The commissioner shall approve*
12 *or deny such application within 30 days of the receipt thereof from*
13 *the health maintenance organization. The Commissioner of In-*
14 *surance shall certify to the commissioner the appropriateness of*
15 *any requested underwriting restrictions.*

16 *b. Health maintenance organizations providing or arranging for*
17 *services exclusively on a group contract basis may limit the open*

18 *enrollment provided for in subsection a. to all members of the*
 19 *group or groups covered by such contracts.***

1 ****[11.]**** ****12.**** Complaint system. a. (1) Every health mainte-
 2 nance organization shall establish and maintain a complaint system
 3 to provide reasonable procedures for the resolution of written
 4 complaints initiated by enrollees concerning health care services.

5 (2) Each health maintenance organization shall submit to the
 6 commissioner an annual report in a form prescribed by him which
 7 shall include:

8 (a) a description of the procedures of such complaint system;
 9 ****[and]****

10 (b) the total number of written complaints handled through
 11 such complaint system and a compilation of causes underlying the
 12 complaints filed ****[.]**** ****;** *and***

12A **** (c) the number, amount, and disposition of malpractice claims**
 12B *settled during the year by the health maintenance organization and*
 12C *any of the providers used by it.***

13 b. The health maintenance organization shall maintain records
 14 of written complaints filed with it concerning other than health care
 15 services ****and shall submit to the commissioner a summary report**
 16 *at such times and in such format as the commissioner may re-*
 17 *quire**.*

18 c. The commissioner may examine such complaint system.

1 ****[12.]**** ****13.**** Investments. With the exception of invest-
 2 ments made in accordance with section 5 a. (1) and (3) hereof, the
 3 investable funds of a health maintenance organization shall be only
 4 in securities or other investments permitted by the laws of this
 5 State for the investment of assets constituting the legal reserves
 6 of life insurance companies or such other securities or investments
 7 as the commissioner may permit ****with the approval of the Com-**
 8 *missioner of Insurance**.*

1 ****[13.]**** ****14.**** Protection against insolvency. Each health
 2 maintenance organization shall deposit cash or a form of guaranty
 3 or security in such amount as will assure that the obligations to
 4 the enrollees will be performed ****in such amount and**** *for such*
 5 *time as prescribed by the commissioner, or where applicable by the*
 6 *Commissioner of Insurance*.* The commissioner may waive this
 7 requirement whenever satisfied that the assets of the organization
 8 or its contracts with insurers, hospital or medical service corpo-
 9 ration governments, or other organizations are sufficient to reason-
 10 ably assure the performance of its obligations.

1 **[14.]** **15.** Prohibited practices. a. No health maintenance
2 organization, or representative thereof, may cause or knowingly
3 permit the use of advertising which is untrue or misleading, solici-
4 tation which is untrue or misleading, or any form of evidence of
5 coverage which is deceptive. For purpose of this act:

6 (1) a statement or item of information shall be deemed to be
7 untrue if it does not conform to fact in any respect which is or may
8 be significant to an enrollee of, or person considering enrollment
9 in, a health care plan;

10 (2) a statement or item of information shall be deemed to be
11 misleading, whether or not it may be literally untrue, if, in the
12 total context in which such statement is made or such item of
13 information is communicated, such statement or item of informa-
14 tion may be reasonably understood by a reasonable person, not
15 possessing special knowledge regarding health care coverage, as
16 indicating any benefit or advantage or the absence of any exclusion,
17 limitation, or disadvantage of possible significance to an enrollee
18 of, or person considering enrollment in, a health care plan, if such
19 benefit or advantage or absence of limitation, exclusion or dis-
20 advantage does not in fact exist;

21 (3) an evidence of coverage shall be deemed to be deceptive if
22 the evidence of coverage taken as a whole, and with consideration
23 given to typography and format, as well as language, shall be such
24 as to cause a reasonable person, not possessing special knowledge
25 regarding health care plans and evidences of coverage therefore,
26 to expect benefits, services, charges, or other advantages which the
27 evidence of coverage does not provide or which the health care
28 plan issuing such evidence of coverage does not regularly make
29 available for enrollees covered under such evidence of coverage.

30 b. The unfair trade practice provisions of the New Jersey
31 insurance law (N. J. S. 17B:30-1 through 22) shall be construed
32 to apply to health maintenance organizations, health care plans
33 and evidences of coverage except to the extent that the commis-
34 sioner determines that the nature of health maintenance organiza-
35 tions, health care plans and evidence of coverage render such
36 sections clearly inappropriate.

37 c. An enrollee may not be canceled or nonrenewed except for
38 the failure to pay the charge for such coverage, or for such other
39 reasons as may be promulgated by the commissioner.

40 d. No health maintenance organization, unless licensed as an
41 insurer, may use in its name, evidence of coverage, or literature
42 any of the words "insurance," "assurance," "casualty," "surety,"

43 "mutual," or any other words descriptive of the insurance,
 44 casualty, or surety business or deceptively similar to the name or
 45 description of any insurance, or surety corporation doing business
 46 in this State****[**, provided however that such usage shall conform
 47 to the requirements of section 14 a. (3)**]****.

48 **The provisions of this section shall be enforced by the State*
 49 *Director of the Division of Consumer Affairs and, where applicable,*
 50 *the commissioner or the Commissioner of Insurance.* **Nothing*
 51 *in this act shall limit the powers of the Attorney General and the*
 52 *procedures with respect to consumer fraud in N. J. S. 56:8-1 et*
 53 *seq.***

1 ****[15.]**** ****16.**** Regulation of agents. The commissioner
 2 ****[with the consent of the Commissioner of Insurance]**** may,
 3 after notice and hearing, promulgate such reasonable rules and
 4 regulations**, *which have been approved by the Commissioner of*
 5 *Insurance,*** as are necessary to provide for the certification of
 6 agents. An agent as used herein means a person directly or in-
 7 directly associated with a health maintenance organization who
 8 engages in solicitation or enrollment for compensation.

1 ****[16.]**** ****17.**** Powers of insurers and hospital and medical
 2 service corporations. a. An insurance company licensed in this
 3 State, or a hospital or medical service corporation authorized
 4 to do business in this State, may either directly or through
 5 a subsidiary or affiliate organize and operate a health maintenance
 6 organization under the provisions of this act. Notwithstanding any
 7 other law which may be inconsistent herewith, any two or more
 8 such insurance companies, hospital or medical service corporations,
 9 or subsidiaries or affiliates thereof, may jointly organize and op-
 10 erate a health maintenance organization.

11 b. Notwithstanding any provision of Title 17 of the Revised
 12 Statutes and Title 17B of the New Jersey Statutes, an insurer or
 13 a hospital or medical service corporation may contract with a
 14 health maintenance organization to provide insurance or protec-
 15 tion against the cost of care furnished through health maintenance
 16 organizations and to provide coverage in the event of the failure
 17 of health maintenance organization to meet its obligations. The
 18 enrollees of a health maintenance organization constitute a per-
 19 missible group under such laws. Among other things, under such
 20 contracts, the insurer or hospital or medical service corporation
 21 may make benefit payments to health maintenance organizations
 22 for health care services rendered by providers.

1 **[17.]** **18.** Examinations. a. Not less frequently than
 2 once every 3 years the commissioner may make an examination
 3 concerning the quality of health care services and other affairs of
 4 the health maintenance organization and providers with whom such
 5 organization has contracts, agreements, or other arrangements.
 6 The commissioner ***[on showing of good cause]*** may make such
 6A examination at any time.

7 b. Every health maintenance organization and provider shall
 8 submit its books and records to such examinations. For the pur-
 9 pose of examinations, the commissioner may administer oaths to,
 10 and examine the officers and agents of the health maintenance
 11 organization and the principals of such providers concerning their
 12 business.

13 c. The expenses of examinations under this section up to
 14 \$1,000.00 annually shall be assessed against the organization being
 15 examined and such amount shall be remitted to the commissioner.

16 d. In lieu of such examination, the commissioner may accept the
 17 report of an examination made by the Commissioner of Health or
 18 Commissioner of Insurance of another state.

1 **[18.]** **19.** Suspension or revocation of certificate of au-
 2 thority. a. The commissioner may suspend or revoke any certifi-
 3 cate of authority issued to a health maintenance organization under
 4 this act if he finds that any of the following conditions exist:

5 (1) The health maintenance organization is operating in a man-
 6 ner significantly contrary to that described in section 3, hereof
 7 unless amendments to such submissions have been filed with the
 8 commissioner;

9 (2) The health maintenance organization issues evidence of
 10 coverage which does not comply with the requirements of sec-
 11 tion 8 hereof;

12 (3) the health maintenance organization does not provide or
 13 arrange for ***[minimum]*** *basic* ****[comprehensive]**** * health
 13A care services;

14 (4) the commissioner finds that:

15 (a) the health maintenance organization does not meet the re-
 16 quirements of section 4 a. (2), hereof; or

17 (b) the health maintenance organization is unable to fulfill its
 18 obligations to furnish health care services.

19 (5) the health maintenance organization is no longer financially
 20 responsible and may reasonably be expected to be unable to meet
 21 its obligations to enrollees or prospective enrollees;

22 (6) the health maintenance organization has failed to implement

23 a mechanism affording the enrollees an opportunity to participate
24 in matters of policy and operation under section 6, hereof;

25 (7) the health maintenance organization has failed to implement
26 the complaint system required by section ****[11]**** ****12**** hereof
27 in a manner to reasonably resolve valid complaints;

28 (8) the continued operation of the health maintenance organiza-
29 tion would be hazardous to the health and safety of its enrollees;

30 (9) the health maintenance organization has otherwise failed to
31 substantially comply with this act ****[.]**** ****;** *or* ******

31A ******(10) *the health maintenance organization, or any person on*
31B *its behalf, has advertised or merchandised its services in an un-*
31C *true, misrepresentative, misleading, deceptive or unfair manner.***

32 b. A certificate of authority shall be suspended or revoked only
33 after compliance with the requirements of section 21, hereof.

34 c. When the certificate of authority of a health maintenance
35 organization is suspended, the health maintenance organization
36 shall not, during the period of such suspension, enroll any addi-
37 tional enrollees except newborn children or other newly acquired
38 dependents of existing enrollees, and shall not engage in any ad-
39 vertising or solicitation whatsoever.

40 d. When the certificate of authority of a health maintenance
41 organization is revoked, such organization shall proceed, imme-
42 diately following the effective date of the order of revocation, to
43 ****[wind up its affairs]**** ****dissolve its structure***, and shall conduct
44 no further business except as may be essential to the orderly con-
45 clusion of the affairs of such organization. It shall engage in no
46 further advertising or solicitation whatsoever. The commissioner
47 or where applicable the Commissioner of Insurance may, by written
48 order, permit such further operation of the organization as he
49 may find to be in the best interest of enrollees, to the end that
50 enrollees will be afforded the greatest practical opportunity to
51 obtain continuing health care coverage.

1 ****[19.]**** ****20.**** Rehabilitation, liquidation, or conservation of
2 health maintenance organization. Any rehabilitation, liquidation
3 or conservation of a health maintenance organization shall be sub-
4 ject to the law concerning the rehabilitation, liquidation, or con-
5 servation of an insurance company as stated in chapter 32 of Title
6 17B of the New Jersey Statutes and shall be conducted under the
7 supervision of the commissioner or where applicable the Commis-
8 sioner of Insurance. The commissioner or where applicable the
9 Commissioner of Insurance may apply for an order directing him
10 to rehabilitate, liquidate, or conserve a health maintenance organi-

11 zation upon any one or more applicable grounds as stated in chapter
 12 32 of Title 17B of the New Jersey Statutes and other provisions
 13 of said Title when in his opinion the company fails to satisfy the
 14 requirements for the issuance of a certificate of authority relating
 15 to solvency ****[per]**** ****under**** section 4 b. (3) hereof or when
 16 in his opinion the continued operation of the health maintenance
 17 organization would be hazardous either to the enrollees or to the
 17A people of this State.

1 ****[20.]**** ****21.**** Regulation. The commissioner ****[after con-**
 2 **sultation with the Commissioner of Insurance]**** may, upon notice
 3 and hearing, promulgate reasonable rules and regulations, as are
 4 necessary or proper to carry out the provisions of this act. **Where*
 5 *applicable, such rules and regulations shall be promulgated after*
 6 *consultation with the Commissioner of Insurance.** Such rules and
 7 regulations shall ***specify those determinations in this act which*
 8 *are to be made by the Commisisoner of Insurance and shall*** be
 9 subject to review in accordance with the Administrative Procedure
 10 Act, P. L. 1968, c. 410 (C. 52:14B-1 et seq.).

1 ****[21.]**** ****22.**** Administrative procedures. a. When the com-
 2 missioner has cause to believe that grounds for the denial of an
 3 application for a certificate of authority exist, or that grounds for
 4 the suspension or revocation of a certificate of authority exist, he
 5 shall notify the health maintenance organization and the Commis-
 6 sioner of Insurance in writing specifically stating the grounds for
 7 denial, suspension, or revocation and fixing a time of at least 20
 8 days thereafter for a hearing on the matter.

9 b. The Commissioner of Insurance, or his designated representa-
 10 tive, shall be in attendance at the hearing and shall participate in
 11 the proceedings. The recommendation and findings of the ****[com-**
 12 **missioner]**** ****Commissioner of Insurance**** with respect to mat-
 13 ters relating to the ****[quality of health care services]**** ****doing**
 14 *of an insurance business or contract with an insurer or hospital*
 15 *or medical services corporation,*** provided in connection with any
 16 decision regarding denial, suspension, or revocation of a certificate
 17 of authority, shall be conclusive and binding upon the ****[Commis-**
 18 **sioner of Insurance]**** ****commissioner****. After such hearing, or
 19 upon the failure of the health maintenance organization to appear
 20 at such hearing, the commissioner shall take action as is deemed
 21 advisable on written findings which shall be mailed to the health
 21A maintenance organization with a copy thereof to the Commissioner
 22 of Insurance. The action of the commissioner and the recommenda-
 22A tion and findings of the Commissioner of Insurance and the levy
 23 of any administrative penalty shall be subject to judicial review in

24 accordance with chapter 34 of Title 17B of the New Jersey Statutes.
 25 c. The provisions of the Administrative Procedure Act, P. L.
 26 1968, c. 410 (C. 52:14B-1 et seq.) of this State shall apply to proceed-
 27 ings under this section to the extent they are not in conflict with
 28 subsections a. and b. of this section.

1 ****[22.]**** ****23.**** Fees. Every health maintenance organization
 2 subject to this act shall pay to the commissioner the following fees:
 3 a. for filing an application for a certificate of authority or amend-
 4 ment thereto, \$100.00;
 5 b. for filing each annual report, \$10.00.

1 ****[23.]**** ****24.**** Penalties and Enforcement. a. The commis-
 2 sioner may, in lieu of suspension or revocation of a certificate of
 3 authority under section 18 hereof, levy an administrative penalty
 4 in an amount not less than \$100.00 nor more than \$1,000.00, if rea-
 5 sonable notice in writing is given of the intent to levy the penalty
 6 and the health maintenance organization has a reasonable time
 7 within which to remedy the defect in its operations which gave rise
 8 to the penalty citation, and fails to do so within said time. Any
 9 such penalty may be recovered in a summary proceeding pursuant
 10 to the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.).

11 b. Any person who violates this act is a disorderly person and
 12 shall be prosecuted and punished pursuant to the ****[“Disorderly**
 13 **Persons Law”]**** ****“disorderly persons law”**** subtitle 12 of
 13A Title 2A of the New Jersey Statutes.

14 c. (1) If the commissioner or the Commissioner of Insurance
 15 shall for any reason have cause to believe that any violation of this
 16 act has occurred or is threatened, the commissioner or Commis-
 17 sioner of Insurance may give notice to the health maintenance
 18 organization and to the representatives, or other persons who
 19 appear to be involved in such suspected violation, to arrange a
 20 conference with the alleged violators or their authorized repre-
 21 sentatives for the purpose of attempting to ascertain the facts
 22 relating to such suspected violation, and, in the event it appears
 23 that any violation has occurred or is threatened, to arrive at an
 24 adequate and effective means of correcting or preventing such
 25 violation.

26 (2) Proceedings under this subsection c. shall not be governed
 27 by any formal procedural requirements, and may be conducted in
 28 such manner as the commissioner or the Commissioner of Insurance
 29 may deem appropriate under the circumstances.

30 d. (1) The commissioner **or the Commissioner of Insurance**
 31 may issue an order directing a health maintenance organization or

32 a representative of a health maintenance organization to cease and
33 desist from engaging in any act or practice in violation of the pro-
33A visions of this act.

34 (2) Within 20 days after service of the order of cease and desist,
35 the respondent may request a hearing on the question of whether
36 acts or practices in violation of this act have occurred. Such hear-
37 ings shall be conducted pursuant to the Administrative Procedure
38 Act, P. L. 1968, c. 410 (C. 52:14B-1 et seq.) and judicial review
39 shall be available as provided therein.

40 e. In the case of any violation of the provisions of this act, if
41 the commissioner elects not to issue a cease and desist order, or in
42 the event of noncompliance with a cease and desist order issued
43 pursuant to subsection d. of this section, the commissioner may
44 institute a proceeding to obtain injunctive relief, in accordance with
45 the applicable Court Rules.

1 **[24.]** **25.** Statutory construction and relationship to
2 other laws. a. Except as otherwise provided in this act, provisions
3 of the insurance law and provisions of hospital or medical service
4 corporation laws shall not be applicable to any health maintenance
5 organization granted a certificate of authority under this act. This
6 provision shall not apply to an insurer or hospital or medical
7 service corporation licensed and regulated pursuant to the insur-
8 ance laws or the hospital or medical service corporation laws of
9 this State except with respect to its health maintenance organiza-
10 tion activities authorized and regulated pursuant to this act.
11 Charges paid by or on behalf of enrollees of a health maintenance
12 organization with respect to health care services shall not be subject
13 to taxation by the State or any of its political subdivisions.

14 b. Solicitation of enrollees by a health maintenance organization
15 granted a certificate of authority, or its representatives, shall not
16 be construed to violate any provision of law relating to solicitation
17 or advertising by health professionals.

18 c. Any health maintenance organization authorized under this
19 act shall not be deemed to be practicing medicine and shall be
20 exempt from the provision of chapter 9 of Title 45, Medicine and
21 Surgery, of the Revised Statutes relating to the practice of
22 medicine.

23 d. No person participating in the arrangements of a health
24 maintenance organization other than the actual provider of health
25 care services or supplies directly to enrollees and their families
26 shall be liable for negligence, misfeasance, nonfeasance or mal-

27 practice in connection with the furnishings of such services and
28 supplies.

1 ****[25.]**** ****26.**** Filings and reports as public documents. All
2 applications, filings and reports required under this act shall be
3 treated as public documents and, except for contracts referred to
4 in section 3 c. (4) and 3 c. (5), hereof shall not be considered to be
5 confidential.

1 ****[26.]**** ****27.**** Confidentiality of medical information. Any
2 data or information pertaining to the diagnosis, treatment, or
3 health of any enrollee or applicant obtained from such enrollee
4 or from any provider by any health maintenance organization shall
5 be held in confidence and shall not be disclosed to any person except
6 to the extent that it may be necessary to carry out the purposes
7 of this act; or upon the express consent of the enrollee or applicant;
8 or pursuant to statute or court order for the production of evidence
9 or the discovery thereof; or in the event of claim or litigation be-
10 tween such enrollee and the health maintenance organization
11 wherein such data or information is pertinent. A health mainte-
12 nance organization shall be entitled to claim any statutory priv-
13 ileges against such disclosure which the provider who furnished
14 such information to the health organization is entitled to claim.

1 ****[27.]**** ****28.**** Commissioner of health's authority to con-
2 tract. The commissioner or where applicable the Commissioner of
3 Insurance, in carrying out his obligations under sections 4 a. (2),
4 and 18 a. hereof, may contract with qualified persons to make recom-
5 mendations concerning the determinations required to be made by
6 him. Such recommendations may be accepted in full or in part by
7 the commissioner or Commissioner of Insurance.

1 ****[28.]**** ****29.**** Enrollment of State employees. Any em-
2 ployee of the State or any subdivision of the State or any institution
3 supported in whole or in part by the State may elect to enroll in a
4 health maintenance organization and have all deductions from his
5 salary or wages and all contributions being paid by his employer
6 to any health insurer paid instead to a health maintenance organiza-
7 tion; provided, however, in no event, shall an employer under this
8 section make a contribution to any alternative health benefits
9 program greater than the contribution being made to any health
10 plan pursuant to a contract in existence on the effective date of this
11 act. **Any such employee shall at least annually be allowed to choose*
12 *an alternative health benefits program made available through his*
13 *employer.**

1 **[29.]** **30.** Severability. If any section, term, or provi-
2 sion of this act shall be adjudged invalid for any reason, such
3 judgment shall not affect, impair, or invalidate any other section,
4 term, or provision of this act, but the remaining sections, terms,
5 and provisions shall be and remain in full force and effect.

1 ***[30.]** **31.** *There is hereby appropriated to the Depart-*
2 *ment of Health from the General State Fund the sum of \$30,000.00*
3 *or so much therefor as may be necessary, for the purposes of*
4 *carrying out the functions and duties pursuant to this act.**

1 *[30.]* **[*31.*]** **32.** This act shall take effect immedi-
2 ately.

SENATE, No. 2148

STATE OF NEW JERSEY

INTRODUCED MARCH 19, 1973

By Senators PARKER and MILLER

Referred to Committee on Institutions, Health and Welfare

AN ACT to provide alternatives for health care delivery, to provide for the establishment and certification of health maintenance organizations and to establish the duties and responsibilities of the Commissioner of Health and the Commissioner of Insurance in supervising these organizations, and supplementing Title 26 of the Revised Statutes.

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

1 1. Short title. This act may be cited as the "Health Maintenance
2 Organizations Act."

1 2. Definitions. a. "Commissioner" means the State Commissioner
2 of Health.

3 b. "Minimum health care services" means emergency care,
4 inpatient hospital and physician care, and outpatient medical
5 services.

6 c. "Health care services" includes minimum health care services
7 and any additional services included in the furnishing to any in-
8 dividual of medical or dental care, or hospitalization or incident
9 to the furnishing of such care or hospitalization, as well as the
10 furnishing to any person of any and all other services for the
11 purpose of preventing, alleviating, curing, or healing human illness
12 or injury.

13 d. "Enrollee" means an individual who has been enrolled with
14 a health maintenance organization.

15 e. "Evidence of coverage" means any booklet, certificate, agree-
16 ment, or contract issued to an enrollee setting out the services
17 and other benefits to which he is entitled.

18 f. "Health maintenance organization" means any person which
19 provides or arranges for at least minimum health care services on
20 a prepaid basis to enrollees in a designated geographical area.

21 g. "Person" means any natural or artificial person including
22 but not limited to individuals, partnerships, associations, trusts, or
23 corporations.

24 h. "Provider" means any physician, hospital, or other person
25 which is licensed or otherwise authorized in this State to furnish
26 health care services.

27 i. "Health care facility" means the facility or institution whether
28 public or private, engaged in providing services for health main-
29 tenance organizations, diagnosis or treatment of human disease,
30 pain, injury, deformity or physical condition, including, but not
31 limited to, a general hospital, special hospital, mental hospital,
32 public health center, diagnostic center, treatment center, rehabilita-
33 tion center, extended care facility, skilled nursing home, nursing
34 home, intermediate care facility, tuberculosis hospital, chronic
35 disease hospital, maternity hospital, outpatient clinic, dispensary,
36 home health care agency, boarding home or other home for the
37 sheltered care of adult persons and bio-analytical laboratory or
38 central services facility serving one or more such institutions but
39 excluding institutions that provide healing solely by prayer.

1 3. Establishment of health maintenance organizations. a. Not-
2 withstanding any law of this State to the contrary, any person may
3 apply to the commissioner for and obtain a certificate of authority
4 to establish and operate a health maintenance organization in
5 compliance with this act. No person shall establish or operate a
6 health maintenance organization in this State, nor without com-
7 pliance with regulations to be promulgated by the commissioner
8 sell, offer to sell, or solicit offers to purchase or receive advance
9 or periodic consideration in conjunction with a health maintenance
10 organization without obtaining a certificate of authority under this
11 act. When the establishment or operation of a health maintenance
12 organization involves the construction of a health care facility or
13 any change in or expansion of a health care facility or involves
14 an expenditure for the institution of new health care services no
15 application to establish and operate a health maintenance organi-
16 zation pursuant hereto shall be approved until the applicant has
17 received a certificate of need as provided for in section 7 of P. L.
18 1971, c. 136, the Health Care Facilities Act (C. 26:2H-7).

19 b. Every health maintenance organization as of the effective
20 date of this act shall submit an application for a certificate of
21 authority under subsection c. of this section within 90 days of the
22 effective date of this act. Each such applicant may continue to
23 operate until the commissioner acts upon the application. In the
24 event that an application is denied under section 4, hereof, the

25 applicant shall henceforth be treated as a health maintenance or-
26 ganization whose certificate of authority has been revoked.

27 c. Each application for a certificate of authority shall be verified
28 by an officer or authorized representative of the applicant, shall
29 be in a form prescribed by the commissioner, and shall set forth
30 or be accompanied by the following:

31 (1) a copy of the basic organizational document, if any, of the
32 applicant such as the articles of incorporation, articles of associa-
33 tion, partnership agreement, trust agreement, or other applicable
34 documents, and all amendments thereto;

35 (2) a copy of the bylaws, rules and regulations, or similar docu-
36 ment, if any, regulating the conduct of the internal affairs of the
37 applicant;

38 (3) a list of the names, addresses, and official positions of the
39 persons who are to be responsible for the conduct of the affairs
40 of the applicant;

41 (4) a copy of any contract made or to be made between any
42 providers or persons listed in paragraph (3) of this subsection
43 and the applicant;

44 (5) a copy of any contract made or to be made with an insurer
45 or a hospital or medical service corporation;

46 (6) a statement generally describing the health maintenance
47 organization, its facilities, and personnel;

48 (7) a copy of the form of evidence of coverage to be issued to
49 the enrollees;

50 (8) a copy of the form of the group contract, if any, which is to
51 be issued to employers, unions, trustees, or other organizations;

52 (9) recent financial statements showing the applicant's assets,
53 liabilities, and sources of financial support;

54 (10) a general description of the proposed method of marketing
55 and financing and a statement as to the sources of funding;

56 (11) a power of attorney duly executed by such applicant, if
57 not domiciled in this State, appointing the commissioner and his
58 successors in office, and duly authorized deputies, as the true and
59 lawful attorney of such applicant in and for this State upon whom
60 all lawful process in any legal action or proceeding against the
61 health maintenance organization on a cause of action arising, in
62 this State may be served;

63 (12) a statement reasonably describing the geographic area or
64 areas to be served;

65 (13) a general description of the complaint procedures to be
66 utilized as required under section 11, hereof;

67 (14) a general description of the procedures and programs to
68 be implemented to meet the quality of health care requirements
69 in section 4 a. (2), hereof;

70 (15) a general description of the mechanism by which enrollees
71 will be afforded an opportunity to participate in matters of policy
72 and operation under section 6 b., hereof.

1 4. Issuance of certificate of authority. a. (1) Upon receipt of
2 an application for issuance of a certificate of authority the commis-
3 sioner shall forthwith transmit copies of such application and
4 accompanying documents to the Commissioner of Insurance. The
5 approval of the Commissioner of Insurance shall be required to
6 the extent that the proposal involves the doing of an insurance
7 business or a contract with an insurer or hospital or medical service
8 corporation. This approval shall not be necessary in the case of
9 incidental arrangements for insurance risks.

10 (2) The commissioner shall determine whether the applicant for
11 a certificate of authority:

12 (a) has demonstrated the willingness and potential ability to
13 assure that such health care services will be provided in a manner
14 to assure both availability and accessibility of adequate personnel
15 and facilities and in a manner enhancing availability, accessibility
16 and continuity of service;

17 (b) has arrangements for an on-going quality of health care
18 assurance program; and

19 (c) has a procedure established to develop, compile, evaluate,
20 and report statistics relating to the cost of its operations, the
21 pattern of utilization of its services, the availability and acces-
22 sibility of its services.

23 (3) Where the application has been rejected the commissioner
24 shall specify in what respect it fails to comply and, if applicable,
25 specifies in what respect the proposal fails to comply with the
26 requirements of the Commissioner of Insurance.

27 b. Issuance of a certificate of authority shall be granted upon
28 payment of the application fee prescribed in section 22 hereof if
29 the commissioner and, if applicable, the Commissioner of Insurance,
30 are satisfied that the following conditions are met:

31 (1) the health maintenance organization's proposed plan of
32 operation meets the requirements of subsection a. (2) of this section;

33 (2) the applicant's proposal sets forth an appropriate mecha-
34 nism whereby the health maintenance organization will effectively
35 provide or arrange for the provision of health care services on a
36 prepaid basis;

37 (3) the health maintenance organization is financially sound and
38 may reasonably be expected to meet its obligations to enrollees and
39 prospective enrollees. In making this determination, the com-
40 missioner may consider:

41 (a) the adequacy of working capital and funding sources;

42 (b) agreements if any, with an insurer, a hospital or medical
43 service corporation, a government, or any other organization for
44 insuring the payment of the cost of health care services or the
45 provision for automatic applicability of an alternative coverage
46 in the event of discontinuance of the plan;

47 (c) any agreement with providers for the provision of health
48 care services; and

49 (d) any deposit of cash or form of guaranty or security sub-
50 mitted in accordance with section 13 hereof to assure that the
51 obligations will be duly performed;

52 (4) the enrollees will be afforded an opportunity to participate
53 in matters of policy and operation pursuant to section 6 hereof;

54 (5) nothing in the proposed method of operation, as shown by
55 the information submitted pursuant to section 3 hereof or by
56 independent investigation, is contrary to the public interest; and

57 (6) any deficiencies found by the commissioner have been
58 corrected.

59 c. A certificate of authority shall be denied only after compliance
60 with the requirements of section 21, hereof.

1 5. Powers of health maintenance organizations. a. The powers
2 of a health maintenance organization include, but are not limited
3 to the following:

4 (1) the purchase, lease, construction, renovation, operation, or
5 maintenance of health care facilities, and their ancillary equipment,
6 and such property as may reasonably be required for its principal
7 office or for such other purposes as may be necessary in the trans-
8 action of the business of the organization;

9 (2) the receiving of funds by loan or otherwise;

10 (3) the making of loans to a medical group under contract with
11 it in furtherance of its program or the making of loans to a
12 corporation or corporations under its control for the purpose of
13 acquiring or constructing health care facilities or in furtherance
14 of a program providing health care services to enrollees;

15 (4) the furnishing of health care services through providers
16 which are under contract with or employed by the health mainte-
17 nance organization;

18 (5) the contracting with any person for the performance on its
19 behalf of certain functions such as marketing, enrollment and
20 administration;

21 (6) the contracting with an insurance company licensed in this
22 State, or with a hospital or medical service corporation authorized
23 to do business in this State, for the provision of insurance,
24 indemnity, or reimbursement against the cost of health care services
25 provided by the health maintenance organization which may include
26 provisions for reasonable classifications for the purpose of estab-
27 lishing rates and reasonable restrictions based on underwriting
28 considerations; and

29 (7) the offering, in addition to minimum health care services, of:

30 (a) additional health care services;

31 (b) indemnity benefits covering out-of-area or emergency
32 services; and

33 (c) indemnity benefits, in addition to those relating to out-of-
34 area and emergency services, provided through insurers or hospital
35 or medical service corporations.

36 (8) any other power not enumerated herein but necessary to the
37 establishment and operation of a health maintenance organization.

1 6. Governing body. a. The governing body of any health mainte-
2 nance organization may include providers, other individuals, or
3 both.

4 b. Such governing body shall establish a mechanism to afford
5 the enrollees an opportunity to participate in matters of policy
6 and operation through the establishment of advisory panels, by
7 the use of advisory referenda on major policy decisions, or through
8 the use of other mechanisms.

1 7. Protection against wrongful acts. Any director, officer em-
2 ployee or partner of a health maintenance organization who re-
3 ceives, collects, disburses, or invests funds in connection with the
4 activities of such organization shall be bonded in an amount to be
5 determined by the commissioner.

1 8. Evidence of coverage. a. (1) Enrollees are entitled to receive
2 evidence of coverage and evidence of the total amount of payment
3 which the enrollee is obligated to prepay for health care services
4 and, where applicable, for indemnity benefits. If an enrollee ob-
5 tains coverage through an insurance policy or through a contract
6 issued by a hospital or medical service corporation, whether by
7 option or otherwise, the insurer or the hospital or medical service
8 corporation shall issue the evidence of coverage. Otherwise, the
9 health maintenance organization shall issue the evidence of cov-
10 erage.

11 (2) No evidence of coverage, or amendment thereto, shall be
12 issued or delivered to any person until a copy of the form of the
13 evidence of coverage, or amendment thereto, has been filed with
14 the commissioner or, where applicable, with the Commissioner of
15 Insurance.

16 (3) An evidence of coverage shall contain:

17 (a) provisions or statements which are not unjust, unfair, in-
18 equitable, misleading, deceptive, or which encourage misrepre-
19 sentation, or which are untrue, misleading or deceptive as defined
20 in section 14 a., hereof; and

21 (b) a clear and complete statement, if a contract, or a reason-
22 ably complete summary, if a certificate, of:

23 (i) the health care services and where applicable the in-
24 surance or other benefits, if any, to which enrollees are entitled;

25 (ii) any limitations on the services, kind of services, benefits,
26 or kind of benefits, to be provided, including any deductible
27 or co-payment feature;

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

30 (iv) a clear and understandable description of the health
31 maintenance organization's method for resolving enrollee
32 complaints.

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

35 b. The commissioner or, where applicable, the Commissioner of
36 Insurance shall approve any form if the requirements of subsection
37 a. of this section are met. It shall be unlawful to issue such form
38 until approved. If the commissioner or Commissioner of Insurance,
39 where applicable, disapproves such filing, he shall notify the filer.
40 In the notice, the commissioner or Commissioner of Insurance,
41 where applicable, shall specify the reasons for his disapproval. A
42 hearing will be granted within 20 days after a request in writing
43 by the person filing. If the commissioner or Commissioner of In-
44 surance, where applicable, does not approve any form within 30
45 days of the filing of such forms or charges, they shall be deemed
46 approved.

47 c. The commissioner or Commissioner of Insurance, where ap-
48 plicable, may require the submission of whatever relevant informa-
49 tion he deems necessary in determining whether to approve or
50 disapprove a filing made pursuant to this section.

1 9. Annual report. a. Every health maintenance organization
2 shall annually, on or before March 1, file a report verified by at
3 least two principal officers with the commissioner, with a copy to

4 the Commissioner of Insurance covering the preceding calendar
5 year.

6 b. Such report shall be on forms prescribed by the commissioner
7 and shall include:

8 (1) a financial statement of the organization, including its bal-
9 ance sheet and receipts and disbursements for the preceding year
10 certified by an independent public accountant;

11 (2) any material changes in the information submitted pursuant
12 to section 3 c. hereof;

13 (3) the number of persons enrolled during the year, the number
14 of enrollees as of the end of the year and the number of enrollments
15 terminated during the year;

16 (4) a summary of information compiled pursuant to section 4 a.
17 (2) (c) hereof in such form as required by the Commissioner of
18 Health; and

19 (5) such other information relating to the performance of the
20 health maintenance organization as is necessary to enable the com-
21 missioner to carry out his duties under this act.

1 10. Information to enrollees. a. Every health maintenance or-
2 ganization shall annually provide to its enrollees:

3 (1) a summary of any material changes since the issuance of
4 the last report;

5 (2) a description of services and information as to where and
6 how to secure them; and

7 (3) a clear and understandable description of the health mainte-
8 nance organization's method for resolving enrollee complaints.

9 b. Every health maintenance organization shall make available
10 to its enrollees the most recent annual statement of financial con-
11 dition.

1 11. Complaint system. a. (1) Every health maintenance organiza-
2 tion shall establish and maintain a complaint system to provide
3 reasonable procedures for the resolution of written complaints
4 initiated by enrollees concerning health care services.

5 (2) Each health maintenance organization shall submit to the
6 commissioner an annual report in a form prescribed by him which
7 shall include:

8 (a) a description of the procedures of such complaint system;
9 and

10 (b) the total number of written complaints handled through
11 such complaint system and a compilation of causes underlying the
12 complaints filed.

13 b. The health maintenance organization shall maintain records
14 of written complaints filed with it concerning other than health care
15 services.

16 c. The commissioner may examine such complaint system.

1 12. Investments. With the exception of investments made in
2 accordance with section 5 a. (1) and (3) hereof, the investable funds
3 of a health maintenance organization shall be only in securities
4 or other investments permitted by the laws of this State for the
5 investment of assets constituting the legal reserves of life insurance
6 companies or such other securities or investments as the commis-
7 sioner may permit.

1 13. Protection against insolvency. Each health maintenance
2 organization shall deposit cash or a form of guaranty or security
3 in such amount as will assure that the obligations to the enrollees
4 will be performed. The commissioner may waive this requirement
5 whenever satisfied that the assets of the organization or its con-
6 tracts with insurers, hospital or medical service corporation gov-
7 ernments, or other organizations are sufficient to reasonably assure
8 the performance of its obligations.

1 14. Prohibited practices. a. No health maintenance organization,
2 or representative thereof, may cause or knowingly permit the use
3 of advertising which is untrue or misleading, solicitation which
4 is untrue or misleading, or any form of evidence of coverage which
5 is deceptive. For purpose of this act:

6 (1) a statement or item of information shall be deemed to be
7 untrue if it does not conform to fact in any respect which is or may
8 be significant to an enrollee of, or person considering enrollment
9 in, a health care plan;

10 (2) a statement or item of information shall be deemed to be
11 misleading, whether or not it may be literally untrue, if, in the
12 total context in which such statement is made or such item of
13 information is communicated, such statement or item of informa-
14 tion may be reasonably understood by a reasonable person, not
15 possessing special knowledge regarding health care coverage, as
16 indicating any benefit or advantage or the absence of any exclusion,
17 limitation, or disadvantage of possible significance to an enrollee
18 of, or person considering enrollment in, a health care plan, if such
19 benefit or advantage or absence of limitation, exclusion or dis-
20 advantage does not in fact exist;

21 (3) an evidence of coverage shall be deemed to be deceptive if
22 the evidence of coverage taken as a whole, and with consideration
23 given to typography and format, as well as language, shall be such

24 as to cause a reasonable person, not possessing special knowledge
25 regarding health care plans and evidences of coverage therefore,
26 to expect benefits, services, charges, or other advantages which the
27 evidence of coverage does not provide or which the health care
28 plan issuing such evidence of coverage does not regularly make
29 available for enrollees covered under such evidence of coverage.

30 b. The unfair trade practice provisions of the New Jersey
31 insurance law (N. J. S. 17B:30-1 through 22) shall be construed
32 to apply to health maintenance organizations, health care plans
33 and evidences of coverage except to the extent that the commis-
34 sioner determines that the nature of health maintenance organiza-
35 tions, health care plans and evidence of coverage render such
36 sections clearly inappropriate.

37 c. An enrollee may not be canceled or nonrenewed except for
38 the failure to pay the charge for such coverage, or for such other
39 reasons as may be promulgated by the commissioner.

40 d. No health maintenance organization, unless licensed as an
41 insurer, may use in its name, evidence of coverage, or literature
42 any of the words "insurance," "assurance," "casualty," "surety,"
43 "mutual," or any other words descriptive of the insurance,
44 casualty, or surety business or deceptively similar to the name or
45 description of any insurance, or surety corporation doing business
46 in this State, provided however that such usage shall conform to
47 the requirements of section 14 a. (3).

1 15. Regulation of agents. The commissioner with the consent of
2 the Commissioner of Insurance may, after notice and hearing,
3 promulgate such reasonable rules and regulations as are necessary
4 to provide for the certification of agents. An agent as used herein
5 means a person directly or indirectly associated with a health
6 maintenance organization who engages in solicitation or enrollment
7 for compensation.

1 16. Powers of insurers and hospital and medical service corpo-
2 rations. a. An insurance company licensed in this State, or a
3 hospital or medical service corporation authorized to do business
4 in this State, may either directly or through a subsidiary or affiliate
5 organize and operate a health maintenance organization under the
6 provisions of this act. Notwithstanding any other law which may
7 be inconsistent herewith, any two or more such insurance compa-
8 nies, hospital or medical service corporations, or subsidiaries or
9 affiliates thereof, may jointly organize and operate a health mainte-
10 nance organization.

11 b. Notwithstanding any provision of Title 17 of the Revised
12 Statutes and Title 17B of the New Jersey Statutes, an insurer or

13 a hospital or medical service corporation may contract with a
14 health maintenance organization to provide insurance or protec-
15 tion against the cost of care furnished through health maintenance
16 organizations and to provide coverage in the event of the failure
17 of health maintenance organization to meet its obligations. The
18 enrollees of a health maintenance organization constitute a per-
19 missible group under such laws. Among other things, under such
20 contracts, the insurer or hospital or medical service corporation
21 may make benefit payments to health maintenance organizations
22 for health care services rendered by providers.

1 17. Examinations. a. Not less frequently than once every 3 years
2 the commissioner may make an examination concerning the quality
3 of health care services and other affairs of the health maintenance
4 organization and providers with whom such organization has con-
5 tracts, agreements, or other arrangements. The commissioner on
6 showing of good cause may make such examination at any time.

7 b. Every health maintenance organization and provider shall
8 submit its books and records to such examinations. For the pur-
9 pose of examinations, the commissioner may administer oaths to,
10 and examine the officers and agents of the health maintenance
11 organization and the principals of such providers concerning their
12 business.

13 c. The expenses of examinations under this section up to
14 \$1,000.00 annually shall be assessed against the organization being
15 examined and such amount shall be remitted to the commissioner.

16 d. In lieu of such examination, the commissioner may accept the
17 report of an examination made by the Commissioner of Health or
18 Commissioner of Insurance of another state.

1 18. Suspension or revocation of certificate of authority. a. The
2 commissioner may suspend or revoke any certificate of authority
3 issued to a health maintenance organization under this act if he
4 finds that any of the following conditions exist:

5 (1) The health maintenance organization is operating in a man-
6 ner significantly contrary to that described in section 3, hereof
7 unless amendments to such submissions have been filed with the
8 commissioner;

9 (2) The health maintenance organization issues evidence of
10 coverage which does not comply with the requirements of sec-
11 tion 8 hereof;

12 (3) the health maintenance organization does not provide or
13 arrange for minimum health care services;

14 (4) the commissioner finds that:

15 (a) the health maintenance organization does not meet the re-
16 quirements of section 4 a. (2), hereof; or

17 (b) the health maintenance organization is unable to fulfill its
18 obligations to furnish health care services.

19 (5) the health maintenance organization is no longer financially
20 responsible and may reasonably be expected to be unable to meet
21 its obligations to enrollees or prospective enrollees;

22 (6) the health maintenance organization has failed to implement
23 a mechanism affording the enrollees an opportunity to participate
24 in matters of policy and operation under section 6, hereof;

25 (7) the health maintenance organization has failed to implement
26 the complaint system required by section 11 hereof in a manner
27 to reasonably resolve valid complaints;

28 (8) the continued operation of the health maintenance organiza-
29 tion would be hazardous to the health and safety of its enrollees;

30 (9) the health maintenance organization has otherwise failed to
31 substantially comply with this act.

32 b. A certificate of authority shall be suspended or revoked only
33 after compliance with the requirements of section 21, hereof.

34 c. When the certificate of authority of a health maintenance
35 organization is suspended, the health maintenance organization
36 shall not, during the period of such suspension, enroll any addi-
37 tional enrollees except newborn children or other newly acquired
38 dependents of existing enrollees, and shall not engage in any ad-
39 vertising or solicitation whatsoever.

40 d. When the certificate of authority of a health maintenance
41 organization is revoked, such organization shall proceed, imme-
42 diately following the effective date of the order of revocation, to
43 wind up its affairs, and shall conduct no further business except
44 as may be essential to the orderly conclusion of the affairs of such
45 organization. It shall engage in no further advertising or sollicita-
46 tion whatsoever. The commissioner or where applicable the Com-
47 missioner of Insurance may, by written order, permit such further
48 operation of the organization as he may find to be in the best in-
49 terest of enrollees, to the end that enrollees will be afforded the
50 greatest practical opportunity to obtain continuing health care
51 coverage.

1 19. Rehabilitation, liquidation, or conservation of health mainte-
2 nance organization. Any rehabilitation, liquidation or conservation
3 of a health maintenance organization shall be subject to the law
4 concerning the rehabilitation, liquidation, or conservation of an
5 insurance company as stated in chapter 32 of Title 17B of the New

6 Jersey Statutes and shall be conducted under the supervision of
7 the commissioner or where applicable the Commissioner of Insur-
8 ance. The commissioner or where applicable the Commissioner
9 of Insurance may apply for an order directing him to rehabilitate,
10 liquidate, or conserve a health maintenance organization upon any
11 one or more applicable grounds as stated in chapter 32 of Title 17B
12 of the New Jersey Statutes and other provisions of said Title
13 when in his opinion the company fails to satisfy the requirements
14 for the issuance of a certificate of authority relating to solvency
15 per section 4 b. (3) hereof or when in his opinion the continued
16 operation of the health maintenance organization would be hazard-
17 ous either to the enrollees or to the people of this State.

1 20. Regulation. The commissioner after consultation with the
2 Commissioner of Insurance may, upon notice and hearing, pro-
3 mulgate reasonable rules and regulations, as are necessary or
4 proper to carry out the provisions of this act. Such rules and
5 regulations shall be subject to review in accordance with the
6 Administrative Procedure Act, P. L. 1968, c. 410 (C. 52:14B-1
7 et seq.).

1 21. Administrative procedures. a. When the commissioner has
2 cause to believe that grounds for the denial of an application for
3 a certificate of authority exist, or that grounds for the suspension
4 or revocation of a certificate of authority exist, he shall notify the
5 health maintenance organization and the Commissioner of Insur-
6 ance in writing specifically stating the grounds for denial, suspen-
7 sion, or revocation and fixing a time of at least 20 days thereafter
8 for a hearing on the matter.

9 b. The Commissioner of Insurance, or his designated representa-
10 tive, shall be in attendance at the hearing and shall participate in
11 the proceedings. The recommendation and findings of the com-
12 missioner with respect to matters relating to the quality of health
13 care services provided in connection with any decision regarding
14 denial, suspension, or revocation of a certificate of authority, shall
15 be conclusive and binding upon the Commissioner of Insurance.
16 After such hearing, or upon the failure of the health maintenance
17 organization to appear at such hearing, the commissioner shall take
18 action as is deemed advisable on written findings which shall be
19 mailed to the health maintenance organization with a copy thereof
20 to the Commissioner of Insurance. The action of the commissioner
21 and the recommendation and findings of the Commissioner of
22 Insurance and the levy of any administrative penalty shall be
23 subject to judicial review in accordance with chapter 34 of Title
24 17B of the New Jersey Statutes.

25 c. The provisions of the Administrative Procedure Act, P. L.
26 1968, c. 410 (C. 52:14B-1 et seq.) of this State shall apply to proceed-
27 ings under this section to the extent they are not in conflict with
28 subsections a. and b. of this section.

1 22. Fees. Every health maintenance organization subject to this
2 act shall pay to the commissioner the following fees:

3 a. for filing an application for a certificate of authority or amend-
4 ment thereto, \$100.00;

5 b. for filing each annual report, \$10.00.

1 23. Penalties and Enforcement. a. The commissioner may, in lieu
2 of suspension or revocation of a certificate of authority under
3 section 18 hereof, levy an administrative penalty in an amount
4 not less than \$100.00 nor more than \$1,000.00, if reasonable notice
5 in writing is given of the intent to levy the penalty and the health
6 maintenance organization has a reasonable time within which to
7 remedy the defect in its operations which gave rise to the penalty
8 citation, and fails to do so within said time. Any such penalty may
9 be recovered in a summary proceeding pursuant to the Penalty
10 Enforcement Law (N. J. S. 2A:58-1 et seq.).

11 b. Any person who violates this act is a disorderly person and
12 shall be prosecuted and punished pursuant to the "Disorderly
13 Persons Law" subtitle 12 of Title 2A of the New Jersey Statutes.

14 c. (1) If the commissioner or the Commissioner of Insurance
15 shall for any reason have cause to believe that any violation of this
16 act has occurred or is threatened, the commissioner or Commis-
17 sioner of Insurance may give notice to the health maintenance
18 organization and to the representatives, or other persons who
19 appear to be involved in such suspected violation, to arrange a
20 conference with the alleged violators or their authorized repre-
21 sentatives for the purpose of attempting to ascertain the facts
22 relating to such suspected violation, and, in the event it appears
23 that any violation has occurred or is threatened, to arrive at an
24 adequate and effective means of correcting or preventing such
25 violation.

26 (2) Proceedings under this subsection c. shall not be governed
27 by any formal procedural requirements, and may be conducted in
28 such manner as the commissioner or the Commissioner of Insurance
29 may deem appropriate under the circumstances.

30 d. (1) The commissioner may issue an order directing a health
31 maintenance organization or a representative of a health main-
32 tenance organization to cease and desist from engaging in any act
33 or practice in violation of the provisions of this act.

34 (2) Within 20 days after service of the order of cease and desist,
35 the respondent may request a hearing on the question of whether
36 acts or practices in violation of this act have occurred. Such hear-
37 ings shall be conducted pursuant to the Administrative Procedure
38 Act, P. L. 1968, c. 410 (C. 52:14B-1 et seq.) and judicial review
39 shall be available as provided therein.

40 e. In the case of any violation of the provisions of this act, if
41 the commissioner elects not to issue a cease and desist order, or in
42 the event of noncompliance with a cease and desist order issued
43 pursuant to subsection d. of this section, the commissioner may
44 institute a proceeding to obtain injunctive relief, in accordance with
45 the applicable Court Rules.

1 24. Statutory construction and relationship to other laws.

2 a. Except as otherwise provided in this act, provisions of the in-
3 surance law and provisions of hospital or medical service corpora-
4 tion laws shall not be applicable to any health maintenance organi-
5 zation granted a certificate of authority under this act. This
6 provision shall not apply to an insurer or hospital or medical
7 service corporation licensed and regulated pursuant to the insur-
8 ance laws or the hospital or medical service corporation laws of
9 this State except with respect to its health maintenance organiza-
10 tion activities authorized and regulated pursuant to this act.
11 Charges paid by or on behalf of enrollees of a health maintenance
12 organization with respect to health care services shall not be subject
13 to taxation by the State or any of its political subdivisions.

14 b. Solicitation of enrollees by a health maintenance organization
15 granted a certificate of authority, or its representatives, shall not
16 be construed to violate any provision of law relating to solicitation
17 or advertising by health professionals.

18 c. Any health maintenance organization authorized under this
19 act shall not be deemed to be practicing medicine and shall be
20 exempt from the provision of chapter 9 of Title 45, Medicine and
21 Surgery, of the Revised Statutes relating to the practice of
22 medicine.

23 d. No person participating in the arrangements of a health
24 maintenance organization other than the actual provider of health
25 care services or supplies directly to enrollees and their families
26 shall be liable for negligence, misfeasance, nonfeasance or mal-
27 practice in connection with the furnishings of such services and
28 supplies.

1 25. Filings and reports as public documents. All applications,
2 filings and reports required under this act shall be treated as public

3 documents and, except for contracts referred to in section 3 c. (4)
4 and 3 c. (5), hereof shall not be considered to be confidential.

1 26. Confidentiality of medical information. Any data or informa-
2 tion pertaining to the diagnosis, treatment, or health of any en-
3 rollee or applicant obtained from such enrollee or from any pro-
4 vider by any health maintenance organization shall be held in
5 confidence and shall not be disclosed to any person except to the
6 extent that it may be necessary to carry out the purposes of this
7 act; or upon the express consent of the enrollee or applicant; or
8 pursuant to statute or court order for the production of evidence
9 or the discovery thereof; or in the event of claim or litigation be-
10 tween such enrollee and the health maintenance organization
11 wherein such data or information is pertinent. A health mainte-
12 nance organization shall be entitled to claim any statutory priv-
13 ileges against such disclosure which the provider who furnished
14 such information to the health organization is entitled to claim.

1 27. Commissioner of health's authority to contract. The com-
2 missioner or where applicable the Commissioner of Insurance, in
3 carrying out his obligations under sections 4 a. (2), and 18 a. hereof,
4 may contract with qualified persons to make recommendations
5 concerning the determinations required to be made by him. Such
6 recommendations may be accepted in full or in part by the com-
7 missioner or Commissioner of Insurance.

1 28. Enrollment of State employees. Any employee of the State
2 or any subdivision of the State or any institution supported in
3 whole or in part by the State may elect to enroll in a health mainte-
4 nance organization and have all deductions from his salary or
5 wages and all contributions being paid by his employer to any
6 health insurer paid instead to a health maintenance organization;
7 provided, however, in no event, shall an employer under this sec-
8 tion make a contribution to any alternative health benefits program
9 greater than the contribution being made to any health plan pur-
10 suant to a contract in existence on the effective date of this act.

1 29. Severability. If any section, term, or provision of this act
2 shall be adjudged invalid for any reason, such judgment shall not
3 affect, impair, or invalidate any other section, term, or provision
4 of this act, but the remaining sections, terms, and provisions shall
5 be and remain in full force and effect.

1 30. This act shall take effect immediately.

SENATE COMMITTEE AMENDMENTS TO
SENATE, No. 2148

STATE OF NEW JERSEY

ADOPTED APRIL 12, 1973

Amend page 1, title, line 5, after "organizations," omit "and".

Amend page 1, title, line 6, after "Statutes", add ", and making an appropriation therefor".

Amend page 1, section 2, line 3, omit "'Minimum health care services' means", insert "'Basic comprehensive health services' are those services including but not limited to".

Amend page 1, section 2, line 6, omit "'Health care services' includes minimum", insert "'Comprehensive health care services' includes basic comprehensive".

Amend page 1, section 2, line 19, omit "provides or arranges for at least minimum", insert "directly or through contracts with providers furnishes at least basic comprehensive".

Amend page 2, section 3, line 6, after "State", omit ", nor".

Amend page 2, section 3, line 7, after "commissioner", insert ", nor".

Amend page 2, section 3, line 14, omit lines 14, 15, 16, 17 and 18 in their entirety, insert "the institution of new health care services as defined in section 7 of the Health Care Facilities Planning Act (P. L. 1971, c. 136, C. 26:2H-7), said health maintenance organization shall abide by all provisions of P. L. 1971, c. 136. All health care facilities utilized by a health maintenance organization or its agents shall comply with the licensure provisions of section 12 of the Health Care Facilities Planning Act (C. 26:2H-12)".

Amend page 3, section 3, line 31, after "document", omit ", if any,".

Amend page 3, section 3, line 36, after "ment", omit ", if any,".

Amend page 4, section 4, line 8, after "corporation.", omit the rest of the line and omit line 9 in its entirety.

Amend page 4, section 4, line 12, after "the", omit "willingness and".

Amend page 4, section 4, lines 19 to 22, omit, insert "establish and maintain a uniform system of cost accounting approved by the commis-

sioner; establish and maintain a uniform system of reports and audits meeting the requirements of the commissioner; and prepare and review annually a long range plan for the provision of health care services, which plan shall be compatible with the State Health Plan established pursuant to the 'Comprehensive Health Planning and Public Health Services Amendments of 1966' (Federal Law 89-749) as related to medical health services, health care services and health manpower.'".

Amend page 5, section 5, lines 2 and 3, after "include", omit "but are not limited to".

Amend page 5, section 5, lines 15 to 17, omit, insert "the assumption of responsibility for the furnishing of health care services through providers which are under contract with or employed by the health maintenance organization to persons including but not limited to enrollees;"

Amend page 6, section 5, line 29, after "to", omit "minimum", and insert "basic comprehensive".

Amend page 6, section 5, lines 36 and 37, omit.

Amend page 9, section 13, line 4, after "performed", insert "for such time as prescribed by the commissioner, or where applicable by the Commissioner of Insurance".

Amend page 10, section 14, line 47, following line 47, insert:

"The provisions of this section shall be enforced by the State Director of the Division of Consumer Affairs and, where applicable, the commissioner or the Commissioner of Insurance."

Amend page 11, section 17, line 5, after "commissioner", omit "on".

Amend page 11, section 17, line 6, omit "showing of good cause".

Amend page 11, section 18, line 13, omit "minimum", insert "basic comprehensive".

Amend page 12, section 18, line 43, omit "wind up its affairs", and insert "dissolve its structure".

Amend page 13, section 20, line 1, omit "after consultation with the".

Amend page 13, section 20, line 2, omit "Commissioner of Insurance".

Amend page 13, section 20, line 4, after "act.", insert "Where applicable, such rules and regulations shall be promulgated after consultation with the Commissioner of Insurance."

Amend page 14, section 23, line 30, after "commissioner", insert "or the Commissioner of Insurance".

Amend page 16, section 28, line 10, insert after line 10, "Any such employee shall at least annually be allowed to choose an alternative health benefits program made available through his employer."

Amend page 16, section 29, line 5, add new section as follows:

“30. There is hereby appropriated to the Department of Health from the General State Fund the sum of \$30,000.00 or so much therefor as may be necessary, for the purposes of carrying out the functions and duties pursuant to this act.”.

Amend page 16, section 30, line 1, omit “30.” insert “31.”.

11-29-73

[OFFICIAL COPY REPRINT]
SENATE, No. 2148

STATE OF NEW JERSEY

INTRODUCED MARCH 19, 1973

By Senators PARKER and MILLER

Referred to Committee on Institutions, Health and Welfare

AN ACT to provide alternatives for health care delivery, to provide for the establishment and certification of health maintenance organizations and to establish the duties and responsibilities of the Commissioner of Health and the Commissioner of Insurance in supervising these organizations, ***[and]*** supplementing Title 26 of the Revised Statutes **and making an appropriation therefor**.

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

1 1. Short title. This act may be cited as the "Health Maintenance
2 Organizations Act."

1 2. Definitions. a. "Commissioner" means the State Commissioner
2 of Health.

3 b. ***["Minimum health care services" means]*** **"Basic com-*
4 *prehensive health services" and those services including but*
5 *not limited to** emergency care, inpatient hospital and physician
6 care, and outpatient medical services.

7 c. ***["Health care services" includes]*** **"Comprehensive health*
8 *care services" includes basic comprehensive** minimum health care
9 services and any additional services included in the furnishing to
10 any individual of medical or dental care, or hospitalization or
10A incident to the furnishing of such care or hospitalization, as well as
10B the furnishing to any person of any and all other services for the
11 purpose of preventing, alleviating, curing, or healing human illness
12 or injury.

13 d. "Enrollee" means an individual who has been enrolled with
14 a health maintenance organization.

15 e. "Evidence of coverage" means any booklet, certificate, agree-
16 ment, or contract issued to an enrollee setting out the services
17 and other benefits to which he is entitled.

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

18 f. "Health maintenance organization" means any person which
19 ***[provides or arranges for at least minimum]*** **directly or through*
20 *contracts with providers furnishes at least basic comprehensive**
20A health care services on a prepaid basis to enrollees in a designated
20B geographical area.

21 g. "Person" means any natural or artificial person including
22 but not limited to individuals, partnerships, associations, trusts, or
23 corporations.

24 h. "Provider" means any physician, hospital, or other person
25 which is licensed or otherwise authorized in this State to furnish
26 health care services.

27 i. "Health care facility" means the facility or institution whether
28 public or private, engaged in providing services for health main-
29 tenance organizations, diagnosis or treatment of human disease,
30 pain, injury, deformity or physical condition, including, but not
31 limited to, a general hospital, special hospital, mental hospital,
32 public health center, diagnostic center, treatment center, rehabilita-
33 tion center, extended care facility, skilled nursing home, nursing
34 home, intermediate care facility, tuberculosis hospital, chronic
35 disease hospital, maternity hospital, outpatient clinic, dispensary,
36 home health care agency, boarding home or other home for the
37 sheltered care of adult persons and bio-analytical laboratory or
38 central services facility serving one or more such institutions but
39 excluding institutions that provide healing solely by prayer.

1 3. Establishment of health maintenance organizations. a. Not-
2 withstanding any law of this State to the contrary, any person may
3 apply to the commissioner for and obtain a certificate of authority
4 to establish and operate a health maintenance organization in
5 compliance with this act. No person shall establish or operate a
6 health maintenance organization in this State^{*}, nor^{*} without
7 compliance with regulations to be promulgated by the commis-
8 sioner^{*}, nor^{*} sell, offer to sell, or solicit offers to purchase or
9 receive advance or periodic consideration in conjunction with a
10 health maintenance organization without obtaining a certificate of
11 authority under this act. When the establishment or operation
12 of a health maintenance organization involves the construction of
13 a health care facility or any change in or expansion of a health
14 care facility or involves ^{*}**[an expenditure for the institution of new**
15 **health care services no application to establish and operate a health**
16 **maintenance organization pursuant hereto shall be approved until**
17 **the applicant has received a certificate of need as provided for in**
18 **section 7 of P. L. 1971, c, 136, the Health Care Facilities Act**

18A (C. 26:2H-7)]* *the institution of new health care services as*
 18B *defined in section 7 of the Health Care Facilities Planning Act*
 18C *(P. L. 1971, c. 136, C. 26:2H-7), said health maintenance organiza-*
 18D *tion shall abide by all provisions of P. L. 1971, c. 136. All health*
 18E *care facilities utilized by a health maintenance organization or its*
 18F *agents shall comply with the licensure provisions of section 12 of*
 18G *the Health Care Facilities Planning Act (C. 26:2H-12)*.*

19 b. Every health maintenance organization as of the effective
 20 date of this act shall submit an application for a certificate of
 21 authority under subsection c. of this section within 90 days of the
 22 effective date of this act. Each such applicant may continue to
 23 operate until the commissioner acts upon the application. In the
 24 event that an application is denied under section 4, hereof, the
 25 applicant shall henceforth be treated as a health maintenance or-
 26 ganization whose certificate of authority has been revoked.

27 c. Each application for a certificate of authority shall be verified
 28 by an officer or authorized representative of the applicant, shall
 29 be in a form prescribed by the commissioner, and shall set forth
 30 or be accompanied by the following:

31 (1) a copy of the basic organizational document*[, if any.]* of
 32 the applicant such as the articles of incorporation, articles of
 33 association, partnership agreement, trust agreement, or other
 34 applicable documents, and all amendments thereto;

35 (2) a copy of the bylaws, rules and regulations, or similar docu-
 36 ment*[, if any.]* regulating the conduct of the internal affairs of
 37 the applicant;

38 (3) a list of the names, addresses, and official positions of the
 39 persons who are to be responsible for the conduct of the affairs
 40 of the applicant;

41 (4) a copy of any contract made or to be made between any
 42 providers or persons listed in paragraph (3) of this subsection
 43 and the applicant;

44 (5) a copy of any contract made or to be made with an insurer
 45 or a hospital or medical service corporation;

46 (6) a statement generally describing the health maintenance
 47 organization, its facilities, and personnel;

48 (7) a copy of the form of evidence of coverage to be issued to
 49 the enrollees;

50 (8) a copy of the form of the group contract, if any, which is to
 51 be issued to employers, unions, trustees, or other organizations;

52 (9) recent financial statements showing the applicant's assets,
 53 liabilities, and sources of financial support;

54 (10) a general description of the proposed method of marketing
55 and financing and a statement as to the sources of funding;

56 (11) a power of attorney duly executed by such applicant, if
57 not domiciled in this State, appointing the commissioner and his
58 successors in office, and duly authorized deputies, as the true and
59 lawful attorney of such applicant in and for this State upon whom
60 all lawful process in any legal action or proceeding against the
61 health maintenance organization on a cause of action arising, in
62 this State may be served;

63 (12) a statement reasonably describing the geographic area or
64 areas to be served;

65 (13) a general description of the complaint procedures to be
66 utilized as required under section 11, hereof;

67 (14) a general description of the procedures and programs to
68 be implemented to meet the quality of health care requirements
69 in section 4 a. (2), hereof;

70 (15) a general description of the mechanism by which enrollees
71 will be afforded an opportunity to participate in matters of policy
72 and operation under section 6 b., hereof.

1 4. Issuance of certificate of authority. a. (1) Upon receipt of
2 an application for issuance of a certificate of authority the commis-
3 sioner shall forthwith transmit copies of such application and
4 accompanying documents to the Commissioner of Insurance. The
5 approval of the Commissioner of Insurance shall be required to
6 the extent that the proposal involves the doing of an insurance
7 business or a contract with an insurer or hospital or medical service
8 corporation. ***[This approval shall not be necessary in the case of**
9 **incidental arrangements for insurance risks.]***

10 (2) The commissioner shall determine whether the applicant for
11 a certificate of authority:

12 (a) has demonstrated the ***[willingness and]*** potential ability to
13 assure that such health care services will be provided in a manner
14 to assure both availability and accessibility of adequate personnel
15 and facilities and in a manner enhancing availability, accessibility
16 and continuity of service;

17 (b) has arrangements for an on-going quality of health care
18 assurance program; and

19 (c) ***[has a procedure established to develop, compile, evaluate,**
20 **and report statistics relating to the cost of its operations, the**
21 **pattern of utilization of its services, the availability and acces-**
22 **sibility of its services.]*** *establish and maintain a uniform system*
22A *of cost accounting approved by the commissioner; establish and*

22B *maintain a uniform system of reports and audits meeting the*
22C *requirements of the commissioner; and prepare and review an-*
22D *nually a long range plan for the provision of health care services,*
22E *which plan shall be compatible with the State Health Plan estab-*
22F *lished pursuant to the "Comprehensive Health Planning and Public*
22G *Health Services Amendments of 1966" (Federal Law 89-749)*
22H *as related to medical health services, health care services and health*
22I *manpower.**

23 (3) Where the application has been rejected the commissioner
24 shall specify in what respect it fails to comply and, if applicable,
25 specifies in what respect the proposal fails to comply with the
26 requirements of the Commissioner of Insurance.

27 b. Issuance of a certificate of authority shall be granted upon
28 payment of the application fee prescribed in section 22 hereof if
29 the commissioner and, if applicable, the Commissioner of Insurance,
30 are satisfied that the following conditions are met:

31 (1) the health maintenance organization's proposed plan of
32 operation meets the requirements of subsection a. (2) of this section;

33 (2) the applicant's proposal sets forth an appropriate mecha-
34 nism whereby the health maintenance organization will effectively
35 provide or arrange for the provision of health care services on a
36 prepaid basis;

37 (3) the health maintenance organization is financially sound and
38 may reasonably be expected to meet its obligations to enrollees and
39 prospective enrollees. In making this determination, the com-
40 missioner may consider:

41 (a) the adequacy of working capital and funding sources;

42 (b) agreements if any, with an insurer, a hospital or medical
43 service corporation, a government, or any other organization for
44 insuring the payment of the cost of health care services or the
45 provision for automatic applicability of an alternative coverage
46 in the event of discontinuance of the plan;

47 (c) any agreement with providers for the provision of health
48 care services; and

49 (d) any deposit of cash or form of guaranty or security sub-
50 mitted in accordance with section 13 hereof to assure that the
51 obligations will be duly performed;

52 (4) the enrollees will be afforded an opportunity to participate
53 in matters of policy and operation pursuant to section 6 hereof;

54 (5) nothing in the proposed method of operation, as shown by
55 the information submitted pursuant to section 3 hereof or by
56 independent investigation, is contrary to the public interest; and

57 (6) any deficiencies found by the commissioner have been
58 corrected.

59 c. A certificate of authority shall be denied only after compliance
60 with the requirements of section 21, hereof.

1 5. Powers of health maintenance organizations. a. The powers
2 of a health maintenance organization include, *~~but~~ are not limited
3 to~~]~~* the following:

4 (1) the purchase, lease, construction, renovation, operation, or
5 maintenance of health care facilities, and their ancillary equipment,
6 and such property as may reasonably be required for its principal
7 office or for such other purposes as may be necessary in the trans-
8 action of the business of the organization;

9 (2) the receiving of funds by loan or otherwise;

10 (3) the making of loans to a medical group under contract with
11 it in furtherance of its program or the making of loans to a
12 corporation or corporations under its control for the purpose of
13 acquiring or constructing health care facilities or in furtherance
14 of a program providing health care services to enrollees;

15 (4) *~~the~~ furnishing of health care services through providers
16 which are under contract with or employed by the health mainte-
17 nance organization;~~]~~* *the assumption of responsibility for the*
17A *furnishing of health care services through providers which are*
17B *under contract with or employed by the health maintenance*
17C *organization to persons including but not limited to enrollees;**

18 (5) the contracting with any person for the performance on its
19 behalf of certain functions such as marketing, enrollment and
20 administration;

21 (6) the contracting with an insurance company licensed in this
22 State, or with a hospital or medical service corporation authorized
23 to do business in this State, for the provision of insurance,
24 indemnity, or reimbursement against the cost of health care services
25 provided by the health maintenance organization which may include
26 provisions for reasonable classifications for the purpose of estab-
27 lishing rates and reasonable restrictions based on underwriting
28 considerations; and

29 (7) the offering, in addition to *~~minimum]~~* *basic comprehen-*
29A *sive** health care services, of:

30 (a) additional health care services;

31 (b) indemnity benefits covering out-of-area or emergency
32 services; and

33 (c) indemnity benefits, in addition to those relating to out-of-
34 area and emergency services, provided through insurers or hospital
35 or medical service corporations.

36 *[(8) any other power not enumerated herein but necessary to
37 the establishment and operation of a health maintenance orga-
38 nization.]*

1 6. Governing body. a. The governing body of any health mainte-
2 nance organization may include providers, other individuals, or
3 both.

4 b. Such governing body shall establish a mechanism to afford
5 the enrollees an opportunity to participate in matters of policy
6 and operation through the establishment of advisory panels, by
7 the use of advisory referenda on major policy decisions, or through
8 the use of other mechanisms.

1 7. Protection against wrongful acts. Any director, officer em-
2 ployee or partner of a health maintenance organization who re-
3 ceives, collects, disburses, or invests funds in connection with the
4 activities of such organization shall be bonded in an amount to be
5 determined by the commissioner.

1 8. Evidence of coverage. a. (1) Enrollees are entitled to receive
2 evidence of coverage and evidence of the total amount of payment
3 which the enrollee is obligated to prepay for health care services
4 and, where applicable, for indemnity benefits. If an enrollee ob-
5 tains coverage through an insurance policy or through a contract
6 issued by a hospital or medical service corporation, whether by
7 option or otherwise, the insurer or the hospital or medical service
8 corporation shall issue the evidence of coverage. Otherwise, the
9 health maintenance organization shall issue the evidence of cov-
10 erage.

11 (2) No evidence of coverage, or amendment thereto, shall be
12 issued or delivered to any person until a copy of the form of the
13 evidence of coverage, or amendment thereto, has been filed with
14 the commissioner or, where applicable, with the Commissioner of
15 Insurance.

16 (3) An evidence of coverage shall contain:

17 (a) provisions or statements which are not unjust, unfair, in-
18 equitable, misleading, deceptive, or which encourage misrepre-
19 sentation, or which are untrue, misleading or deceptive as defined
20 in section 14 a., hereof; and

21 (b) a clear and complete statement, if a contract, or a reason-
22 ably complete summary, if a certificate, of:

23 (i) the health care services and where applicable the in-
24 surance or other benefits, if any, to which enrollees are entitled;

25 (ii) any limitations on the services, kind of services, benefits,
26 or kind of benefits, to be provided, including any deductible
27 or co-payment feature;

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

30 (iv) a clear and understandable description of the health
31 maintenance organization's method for resolving enrollee
32 complaints.

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

35 b. The commissioner or, where applicable, the Commissioner of
36 Insurance shall approve any form if the requirements of subsection
37 a. of this section are met. It shall be unlawful to issue such form
38 until approved. If the commissioner or Commissioner of Insurance,
39 where applicable, disapproves such filing, he shall notify the filer.
40 In the notice, the commissioner or Commissioner of Insurance,
41 where applicable, shall specify the reasons for his disapproval. A
42 hearing will be granted within 20 days after a request in writing
43 by the person filing. If the commissioner or Commissioner of In-
44 surance, where applicable, does not approve any form within 30
45 days of the filing of such forms or charges, they shall be deemed
46 approved.

47 c. The commissioner or Commissioner of Insurance, where ap-
48 plicable, may require the submission of whatever relevant informa-
49 tion he deems necessary in determining whether to approve or
50 disapprove a filing made pursuant to this section.

1 9. Annual report. a. Every health maintenance organization
2 shall annually, on or before March 1, file a report verified by at
3 least two principal officers with the commissioner, with a copy to
4 the Commissioner of Insurance covering the preceding calendar
5 year.

6 b. Such report shall be on forms prescribed by the commissioner
7 and shall include:

8 (1) a financial statement of the organization, including its bal-
9 ance sheet and receipts and disbursements for the preceding year
10 certified by an independent public accountant;

11 (2) any material changes in the information submitted pursuant
12 to section 3 c. hereof;

13 (3) the number of persons enrolled during the year, the number
14 of enrollees as of the end of the year and the number of enrollments
15 terminated during the year;

16 (4) a summary of information compiled pursuant to section 4 a.

17 (2) (c) hereof in such form as required by the Commissioner of
18 Health; and

19 (5) such other information relating to the performance of the
20 health maintenance organization as is necessary to enable the com-
21 missioner to carry out his duties under this act.

1 10. Information to enrollees. a. Every health maintenance or-
2 ganization shall annually provide to its enrollees:

3 (1) a summary of any material changes since the issuance of
4 the last report;

5 (2) a description of services and information as to where and
6 how to secure them; and

7 (3) a clear and understandable description of the health mainte-
8 nance organization's method for resolving enrollee complaints.

9 b. Every health maintenance organization shall make available
10 to its enrollees the most recent annual statement of financial con-
11 dition.

1 11. Complaint system. a. (1) Every health maintenance organiza-
2 tion shall establish and maintain a complaint system to provide
3 reasonable procedures for the resolution of written complaints
4 initiated by enrollees concerning health care services.

5 (2) Each health maintenance organization shall submit to the
6 commissioner an annual report in a form prescribed by him which
7 shall include:

8 (a) a description of the procedures of such complaint system;
9 and

10 (b) the total number of written complaints handled through
11 such complaint system and a compilation of causes underlying the
12 complaints filed.

13 b. The health maintenance organization shall maintain records
14 of written complaints filed with it concerning other than health care
15 services.

16 c. The commissioner may examine such complaint system.

1 12. Investments. With the exception of investments made in
2 accordance with section 5 a. (1) and (3) hereof, the investable funds
3 of a health maintenance organization shall be only in securities
4 or other investments permitted by the laws of this State for the
5 investment of assets constituting the legal reserves of life insurance
6 companies or such other securities or investments as the commis-
7 sioner may permit.

1 13. Protection against insolvency. Each health maintenance
2 organization shall deposit cash or a form of guaranty or security
3 in such amount as will assure that the obligations to the enrollees

4 will be performed **for such time as prescribed by the commis-*
5 *sioner, or where applicable by the Commissioner of Insurance**. The
6 commissioner may waive this requirement whenever satisfied that
7 the assets of the organization or its contracts with insurers, hospital
8 or medical service corporation governments, or other organizations
9 are sufficient to reasonably assure the performance of its
10 obligations.

1 14. Prohibited practices. a. No health maintenance organization,
2 or representative thereof, may cause or knowingly permit the use
3 of advertising which is untrue or misleading, solicitation which
4 is untrue or misleading, or any form of evidence of coverage which
5 is deceptive. For purpose of this act:

6 (1) a statement or item of information shall be deemed to be
7 untrue if it does not conform to fact in any respect which is or may
8 be significant to an enrollee of, or person considering enrollment
9 in, a health care plan;

10 (2) a statement or item of information shall be deemed to be
11 misleading, whether or not it may be literally untrue, if, in the
12 total context in which such statement is made or such item of
13 information is communicated, such statement or item of informa-
14 tion may be reasonably understood by a reasonable person, not
15 possessing special knowledge regarding health care coverage, as
16 indicating any benefit or advantage or the absence of any exclusion,
17 limitation, or disadvantage of possible significance to an enrollee
18 of, or person considering enrollment in, a health care plan, if such
19 benefit or advantage or absence of limitation, exclusion or dis-
20 advantage does not in fact exist;

21 (3) an evidence of coverage shall be deemed to be deceptive if
22 the evidence of coverage taken as a whole, and with consideration
23 given to typography and format, as well as language, shall be such
24 as to cause a reasonable person, not possessing special knowledge
25 regarding health care plans and evidences of coverage therefore,
26 to expect benefits, services, charges, or other advantages which the
27 evidence of coverage does not provide or which the health care
28 plan issuing such evidence of coverage does not regularly make
29 available for enrollees covered under such evidence of coverage.

30 b. The unfair trade practice provisions of the New Jersey
31 insurance law (N. J. S. 17B:30-1 through 22) shall be construed
32 to apply to health maintenance organizations, health care plans

33 and evidences of coverage except to the extent that the commis-
34 sioner determines that the nature of health maintenance organiza-
35 tions, health care plans and evidence of coverage render such
36 sections clearly inappropriate.

37 c. An enrollee may not be canceled or nonrenewed except for
38 the failure to pay the charge for such coverage, or for such other
39 reasons as may be promulgated by the commissioner.

40 d. No health maintenance organization, unless licensed as an
41 insurer, may use in its name, evidence of coverage, or literature
42 any of the words "insurance," "assurance," "casualty," "surety,"
43 "mutual," or any other words descriptive of the insurance,
44 casualty, or surety business or deceptively similar to the name or
45 description of any insurance, or surety corporation doing business
46 in this State, provided however that such usage shall conform to
47 the requirements of section 14 a. (3).

48 **The provisions of this section shall be enforced by the State*
49 *Director of the Division of Consumer Affairs and, where applicable,*
50 *the commissioner or the Commissioner of Insurance.**

1 15. Regulation of agents. The commissioner with the consent of
2 the Commissioner of Insurance may, after notice and hearing,
3 promulgate such reasonable rules and regulations as are necessary
4 to provide for the certification of agents. An agent as used herein
5 means a person directly or indirectly associated with a health
6 maintenance organization who engages in solicitation or enrollment
7 for compensation.

1 16. Powers of insurers and hospital and medical service corpo-
2 rations. a. An insurance company licensed in this State, or a
3 hospital or medical service corporation authorized to do business
4 in this State, may either directly or through a subsidiary or affiliate
5 organize and operate a health maintenance organization under the
6 provisions of this act. Notwithstanding any other law which may
7 be inconsistent herewith, any two or more such insurance compa-
8 nies, hospital or medical service corporations, or subsidiaries or
9 affiliates thereof, may jointly organize and operate a health mainte-
10 nance organization.

11 b. Notwithstanding any provision of Title 17 of the Revised
12 Statutes and Title 17B of the New Jersey Statutes, an insurer or
13 a hospital or medical service corporation may contract with a
14 health maintenance organization to provide insurance or protec-
15 tion against the cost of care furnished through health maintenance
16 organizations and to provide coverage in the event of the failure
17 of health maintenance organization to meet its obligations. The

18 enrollees of a health maintenance organization constitute a per-
19 missible group under such laws. Among other things, under such
20 contracts, the insurer or hospital or medical service corporation
21 may make benefit payments to health maintenance organizations
22 for health care services rendered by providers.

1 17. Examinations. a. Not less frequently than once every 3 years
2 the commissioner may make an examination concerning the quality
3 of health care services and other affairs of the health maintenance
4 organization and providers with whom such organization has con-
5 tracts, agreements, or other arrangements. The commissioner ***[on**
6 **showing of good cause]*** may make such examination at any time.

7 b. Every health maintenance organization and provider shall
8 submit its books and records to such examinations. For the pur-
9 pose of examinations, the commissioner may administer oaths to,
10 and examine the officers and agents of the health maintenance
11 organization and the principals of such providers concerning their
12 business.

13 c. The expenses of examinations under this section up to
14 \$1,000.00 annually shall be assessed against the organization being
15 examined and such amount shall be remitted to the commissioner.

16 d. In lieu of such examination, the commissioner may accept the
17 report of an examination made by the Commissioner of Health or
18 Commissioner of Insurance of another state.

1 18. Suspension or revocation of certificate of authority. a. The
2 commissioner may suspend or revoke any certificate of authority
3 issued to a health maintenance organization under this act if he
4 finds that any of the following conditions exist:

5 (1) The health maintenance organization is operating in a man-
6 ner significantly contrary to that described in section 3, hereof
7 unless amendments to such submissions have been filed with the
8 commissioner;

9 (2) The health maintenance organization issues evidence of
10 coverage which does not comply with the requirements of sec-
11 tion 8 hereof;

12 (3) the health maintenance organization does not provide or
13 arrange for ***[minimum]*** **basic comprehensive** health care
13A services;

14 (4) the commissioner finds that:

15 (a) the health maintenance organization does not meet the re-
16 quirements of section 4 a. (2), hereof; or

17 (b) the health maintenance organization is unable to fulfill its
18 obligations to furnish health care services.

19 (5) the health maintenance organization is no longer financially
20 responsible and may reasonably be expected to be unable to meet
21 its obligations to enrollees or prospective enrollees;

22 (6) the health maintenance organization has failed to implement
23 a mechanism affording the enrollees an opportunity to participate
24 in matters of policy and operation under section 6, hereof;

25 (7) the health maintenance organization has failed to implement
26 the complaint system required by section 11 hereof in a manner
27 to reasonably resolve valid complaints;

28 (8) the continued operation of the health maintenance organiza-
29 tion would be hazardous to the health and safety of its enrollees;

30 (9) the health maintenance organization has otherwise failed to
31 substantially comply with this act.

32 b. A certificate of authority shall be suspended or revoked only
33 after compliance with the requirements of section 21, hereof.

34 c. When the certificate of authority of a health maintenance
35 organization is suspended, the health maintenance organization
36 shall not, during the period of such suspension, enroll any addi-
37 tional enrollees except newborn children or other newly acquired
38 dependents of existing enrollees, and shall not engage in any ad-
39 vertising or solicitation whatsoever.

40 d. When the certificate of authority of a health maintenance
41 organization is revoked, such organization shall proceed, imme-
42 diately following the effective date of the order of revocation, to
43 *~~["wind up its affairs"]~~ **dissolve its structure**, and shall conduct
44 no further business except as may be essential to the orderly con-
45 clusion of the affairs of such organization. It shall engage in no
46 further advertising or solicitation whatsoever. The commissioner
47 or where applicable the Commissioner of Insurance may, by written
48 order, permit such further operation of the organization as he
49 may find to be in the best interest of enrollees, to the end that
50 enrollees will be afforded the greatest practical opportunity to
51 obtain continuing health care coverage.

1 19. Rehabilitation, liquidation, or conservation of health mainte-
2 nance organization. Any rehabilitation, liquidation or conservation
3 of a health maintenance organization shall be subject to the law
4 concerning the rehabilitation, liquidation, or conservation of an
5 insurance company as stated in chapter 32 of Title 17B of the New
6 Jersey Statutes and shall be conducted under the supervision of
7 the commissioner or where applicable the Commissioner of Insur-

8 ance. The commissioner or where applicable the Commissioner
9 of Insurance may apply for an order directing him to rehabilitate,
10 liquidate, or conserve a health maintenance organization upon any
11 one or more applicable grounds as stated in chapter 32 of Title 17B
12 of the New Jersey Statutes and other provisions of said Title
13 when in his opinion the company fails to satisfy the requirements
14 for the issuance of a certificate of authority relating to solvency
15 per section 4 b. (3) hereof or when in his opinion the continued
16 operation of the health maintenance organization would be hazard-
17 ous either to the enrollees or to the people of this State.

1 20. Regulation. The commissioner *~~after consultation with the~~
2 Commissioner of Insurance]* may, upon notice and hearing, pro-
3 mulgate reasonable rules and regulations, as are necessary or
4 proper to carry out the provisions of this act. **Where applicable,*
5 *such rules and regulations shall be promulgated after consultation*
6 *with the Commissioner of Insurance.** Such rules and regulations
7 shall be subject to review in accordance with the Administrative
8 Procedure Act, P. L. 1968, c. 410 (C. 52:14B-1 et seq.).

1 21. Administrative procedures. a. When the commissioner has
2 cause to believe that grounds for the denial of an application for
3 a certificate of authority exist, or that grounds for the suspension
4 or revocation of a certificate of authority exist, he shall notify the
5 health maintenance organization and the Commissioner of Insur-
6 ance in writing specifically stating the grounds for denial, suspen-
7 sion, or revocation and fixing a time of at least 20 days thereafter
8 for a hearing on the matter.

9 b. The Commissioner of Insurance, or his designated representa-
10 tive, shall be in attendance at the hearing and shall participate in
11 the proceedings. The recommendation and findings of the com-
12 missioner with respect to matters relating to the quality of health
13 care services provided in connection with any decision regarding
14 denial, suspension, or revocation of a certificate of authority, shall
15 be conclusive and binding upon the Commissioner of Insurance.
16 After such hearing, or upon the failure of the health maintenance
17 organization to appear at such hearing, the commissioner shall take
18 action as is deemed advisable on written findings which shall be
19 mailed to the health maintenance organization with a copy thereof
20 to the Commissioner of Insurance. The action of the commissioner
21 and the recommendation and findings of the Commissioner of
22 Insurance and the levy of any administrative penalty shall be

23 subject to judicial review in accordance with chapter 34 of Title
24 17B of the New Jersey Statutes.

25 c. The provisions of the Administrative Procedure Act, P. L.
26 1968, c. 410 (C. 52:14B-1 et seq.) of this State shall apply to proceed-
27 ings under this section to the extent they are not in conflict with
28 subsections a. and b. of this section.

1 22. Fees. Every health maintenance organization subject to this
2 act shall pay to the commissioner the following fees:

3 a. for filing an application for a certificate of authority or amend-
4 ment thereto, \$100.00;

5 b. for filing each annual report, \$10.00.

1 23. Penalties and Enforcement. a. The commissioner may, in lieu
2 of suspension or revocation of a certificate of authority under
3 section 18 hereof, levy an administrative penalty in an amount
4 not less than \$100.00 nor more than \$1,000.00, if reasonable notice
5 in writing is given of the intent to levy the penalty and the health
6 maintenance organization has a reasonable time within which to
7 remedy the defect in its operations which gave rise to the penalty
8 citation, and fails to do so within said time. Any such penalty may
9 be recovered in a summary proceeding pursuant to the Penalty
10 Enforcement Law (N. J. S. 2A:58-1 et seq.).

11 b. Any person who violates this act is a disorderly person and
12 shall be prosecuted and punished pursuant to the "Disorderly
13 Persons Law" subtitle 12 of Title 2A of the New Jersey Statutes.

14 c. (1) If the commissioner or the Commissioner of Insurance
15 shall for any reason have cause to believe that any violation of this
16 act has occurred or is threatened, the commissioner or Commis-
17 sioner of Insurance may give notice to the health maintenance
18 organization and to the representatives, or other persons who
19 appear to be involved in such suspected violation, to arrange a
20 conference with the alleged violators or their authorized repre-
21 sentatives for the purpose of attempting to ascertain the facts
22 relating to such suspected violation, and, in the event it appears
23 that any violation has occurred or is threatened, to arrive at an
24 adequate and effective means of correcting or preventing such
25 violation.

26 (2) Proceedings under this subsection c. shall not be governed
27 by any formal procedural requirements, and may be conducted in
28 such manner as the commissioner or the Commissioner of Insurance
29 may deem appropriate under the circumstances.

30 d. (1) The commissioner **or the Commissioner of Insurance**
31 may issue an order directing a health maintenance organization or
32 a representative of a health maintenance organization to cease and
33 desist from engaging in any act or practice in violation of the pro-
33A visions of this act.

34 (2) Within 20 days after service of the order of cease and desist,
35 the respondent may request a hearing on the question of whether
36 acts or practices in violation of this act have occurred. Such hear-
37 ings shall be conducted pursuant to the Administrative Procedure
38 Act, P. L. 1968, c. 410 (C. 52:14B-1 et seq.) and judicial review
39 shall be available as provided therein.

40 e. In the case of any violation of the provisions of this act, if
41 the commissioner elects not to issue a cease and desist order, or in
42 the event of noncompliance with a cease and desist order issued
43 pursuant to subsection d. of this section, the commissioner may
44 institute a proceeding to obtain injunctive relief, in accordance with
45 the applicable Court Rules.

1 24. Statutory construction and relationship to other laws.
2 a. Except as otherwise provided in this act, provisions of the in-
3 surance law and provisions of hospital or medical service corpora-
4 tion laws shall not be applicable to any health maintenance organi-
5 zation granted a certificate of authority under this act. This
6 provision shall not apply to an insurer or hospital or medical
7 service corporation licensed and regulated pursuant to the insur-
8 ance laws or the hospital or medical service corporation laws of
9 this State except with respect to its health maintenance organiza-
10 tion activities authorized and regulated pursuant to this act.
11 Charges paid by or on behalf of enrollees of a health maintenance
12 organization with respect to health care services shall not be subject
13 to taxation by the State or any of its political subdivisions.

14 b. Solicitation of enrollees by a health maintenance organization
15 granted a certificate of authority, or its representatives, shall not
16 be construed to violate any provision of law relating to solicitation
17 or advertising by health professionals.

18 c. Any health maintenance organization authorized under this
19 act shall not be deemed to be practicing medicine and shall be
20 exempt from the provision of chapter 9 of Title 45, Medicine and
21 Surgery, of the Revised Statutes relating to the practice of
22 medicine.

23 d. No person participating in the arrangements of a health
24 maintenance organization other than the actual provider of health
25 care services or supplies directly to enrollees and their families

26 shall be liable for negligence, misfeasance, nonfeasance or mal-
27 practice in connection with the furnishings of such services and
28 supplies.

1 25. Filings and reports as public documents. All applications,
2 filings and reports required under this act shall be treated as public
3 documents and, except for contracts referred to in section 3 c. (4)
4 and 3 c. (5), hereof shall not be considered to be confidential.

1 26. Confidentiality of medical information. Any data or informa-
2 tion pertaining to the diagnosis, treatment, or health of any en-
3 rollee or applicant obtained from such enrollee or from any pro-
4 vider by any health maintenance organization shall be held in
5 confidence and shall not be disclosed to any person except to the
6 extent that it may be necessary to carry out the purposes of this
7 act; or upon the express consent of the enrollee or applicant; or
8 pursuant to statute or court order for the production of evidence
9 or the discovery thereof; or in the event of claim or litigation be-
10 tween such enrollee and the health maintenance organization
11 wherein such data or information is pertinent. A health mainte-
12 nance organization shall be entitled to claim any statutory priv-
13 ileges against such disclosure which the provider who furnished
14 such information to the health organization is entitled to claim.

1 27. Commissioner of health's authority to contract. The com-
2 missioner or where applicable the Commissioner of Insurance, in
3 carrying out his obligations under sections 4 a. (2), and 18 a. hereof,
4 may contract with qualified persons to make recommendations
5 concerning the determinations required to be made by him. Such
6 recommendations may be accepted in full or in part by the com-
7 missioner or Commissioner of Insurance.

1 28. Enrollment of State employees. Any employee of the State
2 or any subdivision of the State or any institution supported in
3 whole or in part by the State may elect to enroll in a health mainte-
4 nance organization and have all deductions from his salary or
5 wages and all contributions being paid by his employer to any
6 health insurer paid instead to a health maintenance organization;
7 provided, however, in no event, shall an employer under this sec-
8 tion make a contribution to any alternative health benefits program
9 greater than the contribution being made to any health plan pur-
10 suant to a contract in existence on the effective date of this act.
11 **Any such employee shall at least annually be allowed to choose*
12 *an alternative health benefits program made available through his*
13 *employer.**

1 29. Severability. If any section, term, or provision of this act
2 shall be adjudged invalid for any reason, such judgment shall not
3 affect, impair, or invalidate any other section, term, or provision
4 of this act, but the remaining sections, terms, and provisions shall
5 be and remain in full force and effect.

1 *30. *There is hereby appropriated to the Department of Health*
2 *from the General State Fund the sum of \$30,000.00 or so much*
3 *therefor as may be necessary, for the purposes of carrying out the*
4 *functions and duties pursuant to this act.**

1 *~~30.~~* *31.* This act shall take effect immediately.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 29, 1973

SENATE BILL NO. 2148 (OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 2148 (OCR), with my objections, for reconsideration.

This bill provides for the establishment and certification of Health Maintenance Organizations (H.M.O.). The H.M.O. provides, or otherwise assures, the delivery of basic health maintenance and treatment on a prepaid basis to a voluntarily enrolled group within a certain geographical area. I wholeheartedly support this relatively new and innovative alternative method of providing health care services to the public. Yet, because of a number of problems in Senate Bill No. 2148 (OCR), I must conditionally veto the bill to ensure the best possible framework for providing this new health care delivery system.

The definition for basic comprehensive health services is incomplete. The definition for comprehensive health care services, which intends to include the basic services, improperly refers to "basic comprehensive minimum health care services." Furthermore, while the term "health care services" was deleted in the definition section of the bill, that term is still utilized throughout the bill. The definitions for comprehensive health care services and basic health services are so broad as to provide no guidance as to which services are included in basic services and which services may be provided as comprehensive services. The determination as to which services should be minimally provided by a H.M.O. should be left to the Commissioner of Health. Similarly, the limitations upon which services may be provided by a H.M.O. should be determined by the Commissioner of Health. These amendments facilitate and simplify changes in these definitions in the future.

Senate Bill No. 2148 (OCR) assumes that a H.M.O. will file amendments to the information submitted within the application for a certificate of authority to operate a H.M.O. See Section 18a(1). No

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

SENATE BILL NO. 2148 (OCR)

- 2 -

procedure, however, is provided within the bill to file amendments to the information submitted in the application with the commissioner. Such a procedure should be outlined and specifically included in the bill.

Sections 8 and 10 of Senate Bill No. 2148 (OCR) provide that enrollees in H.M.O.'s receive certain specified information. This information should be provided to any person who receives health care services through the H.M.O. H.M.O.'s are permitted to furnish health care services to persons other than enrollees. Such persons would not be protected by receiving the information required by Sections 8 and 10. Senate Bill No. 2148 (OCR) should be amended to ensure that all persons receive this information.

There is no provision within Senate Bill No. 2148 (OCR) for a statement of charges. A statement of charges is necessary for the Commissioner of Health and the Commissioner of Insurance to determine whether a proposed H.M.O. will be financially sound and will reasonably be expected to meet its obligations. In addition, a statement of charges should be provided to each enrollee.

The prohibited practices in Section 14 of the bill are enforced by the Director of the Division of Consumer Affairs. The Director of Consumer Affairs already has broad powers to act to prevent consumer frauds. Currently, N.J.S. 56:8-1 et seq. establishes procedures for the Attorney General to enjoin and to recover costs for any consumer fraud. It should be specifically provided in the bill that the general procedures already established to deal with consumer frauds are not intended to be limited by the enumeration of prohibited practices within Senate Bill No. 2148 (OCR).

A period of open enrollment should be included in the bill to permit maximum availability of the services of the H.M.O. to the members of the public within the geographical area served by the H.M.O. Provision should be made to permit those underwriting restrictions on the open enrollment which will preserve the financial stability of the H.M.O.

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EXECUTIVE DEPARTMENT

SENATE BILL NO. 2148 (OCR)

- 3 -

The primary responsibility for administering Senate Bill No. 2148 (OCR) and regulating H.M.O.'s is with the Commissioner of Health. Because a number of the functions and determinations required by Senate Bill No. 2148 (OCR) are within areas of concern of the Commissioner of Insurance, throughout the bill reference is made to the "commissioner or where applicable the Commissioner of Insurance. . . ." The bill requires the Commissioner of Health to promulgate reasonable rules and regulations to carry out the act. Rules and regulations touching on the area of concern of the Commissioner of Insurance are to be promulgated after consultation with the Commissioner of Insurance. A provision should be added in the bill to specifically require the promulgation of rules and regulations designating which determinations and responsibilities are to be within the province of the Commissioner of Insurance. This will enable applicants and administrators of H.M.O.'s to know precisely who is to make the various determinations required by Senate Bill No. 2148 (OCR). It will also avoid any possible conflict in the administration of the act.

In addition, a number of technical changes need to be made in Senate Bill No. 2148 (OCR). Accordingly, I herewith return Senate Bill No. 2148 (OCR) for your reconsideration and recommend it be amended as follows:

Page 1, Section 2, Lines 3, 4: Delete "comprehensive"

Page 1, Section 2, Line 4: After "health" insert "care"

Page 1, Section 2, Line 4: Delete "and" insert "means"

Page 1, Section 2, Line 4: After "those services" insert ", "

Page 1, Section 2, Line 6: After "services" insert ", designated
by regulations promulgated by the commissioner"

Page 1, Section 2, Line 7: Delete "Comprehensive health"
insert "Health"

Page 1, Section 2, Line 8: Delete "comprehensive minimum"

Page 1, Section 2, Line 9: Delete "ncluded in the furnishing to"

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

SENATE BILL NO. 2148 (OCR)

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Page 1, Section 2, Lines 10-12: Delete in their entirety.

Insert "designated by regulations promulgated by the commissioner."

Page 4, Section 3, Line 66: Delete "11" insert "12"

Page 4, Section 3, Line 72: After "hereof" delete "."
insert ","

Page 4, Section 3, Line 72: After Line 72 insert the following:

"(16) such other information as the commissioner may require to make the determinations required by section 4 hereof.

d. (1) a health maintenance organization shall, unless otherwise provided for in this act, file a notice describing any modification of the information required by subsection c. of this section. Such notice shall be filed with the commissioner prior to the modification. If the commissioner does not disapprove within 30 days of filing, such modification shall be deemed approved.

(2) the commissioner may promulgate rules and regulations exempting from the filing requirements of paragraph (1) of this subsection those items he deems unnecessary."

Page 4, Section 4, Line 22: Before "establish" insert "has a procedure to"

Page 5, Section 4, Line 28: Delete "22" insert "23"

Page 5, Section 4, Line 48: Delete "and"

Page 5, Section 4, Line 50: Delete "13" insert "14"

Page 5, Section 4, Line 51: After "performed;" insert "and"

Page 5, Section 4, Line 51: After Line 51 insert the following:

"(e) the financial soundness of the health maintenance organization's arrangements for health care services and the schedule of charges used in connection therewith;"

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EXECUTIVE DEPARTMENT

SENATE BILL NO. 2148 (OCR)

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Page 6, Section 4, Line 57: After "commissioner" insert "or the
Commissioner of Insurance"

Page 6, Section 4, Line 60: Delete "21" insert "22"

Page 6, Section 5, Lines 29, 29a: Delete "comprehensive"

Page 7, Section 5, Line 38: After Line 38 insert the following:

"b. (1) a health maintenance organization shall file notice, with adequate supporting information, with the commissioner prior to the exercise of any power granted in subsection a.(1) or (2) of this section. The commissioner shall disapprove such exercise of power if in his opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. If the commissioner does not disapprove within 30 days of filing, it shall be deemed approved.

(2) The commissioner may promulgate rules and regulations exempting from the filing requirements of paragraph (1) of this subsection those activities having a de minimis effect."

Page 8, Section 8, Line 29: Delete "and"

Page 8, Section 8, Line 32: After "complaints" delete "."
insert "; and"

Page 8, Section 8, Line 32: After Line 32 add the following:

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

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SENATE BILL NO. 2148 (OCR)

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Page 8, Section 8, Line 34: After Line 34 insert the following:

"b. (1) no schedule of charges for enrollee coverage for health care services, or amendment thereto, may be used by a health maintenance organization until a copy of such schedule, or amendment thereto, has been filed with and approved by the commissioner. The Commissioner of Insurance shall certify to the commissioner whether the schedule of charges meets the requirements of paragraph (2) of this subsection.

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

Page 8, Section 8, Line 35: Delete "b" insert "c"

Page 8, Section 8, Line 37: After "met" insert "and any schedule of charges if the requirements of subsection b. of this section are met"

Page 8, Section 8, Line 37: After "form" insert "or to use such schedule of charges"

Page 8, Section 8, Line 47: Delete "c" insert "d"

Page 8, Section 9, Lines 17, 18: Delete "Commissioner of Health" insert "commissioner"

Page 9, Section 10, Line 5: Before "services" insert "the available health care"

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SENATE BILL NO. 2148 (OCR)

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Page 9, Section 10, Line 11: After Line 11 insert new section
as follows:

"11. a. After a health maintenance organization has been in operation 24 months, it shall have an annual open enrollment period of at least one month during which it accepts enrollees up to the limits of its capacity, as determined by the health maintenance organization, in the order in which they apply for enrollment. A health maintenance organization may apply to the commissioner for authorization to impose such underwriting restrictions upon enrollment as are necessary to preserve its financial stability, to prevent excessive adverse selection by prospective enrollees, or to avoid unreasonably high or unmarketable charges for enrollee coverage for health care services. The commissioner shall approve or deny such application within 30 days of the receipt thereof from the health maintenance organization. The Commissioner of Insurance shall certify to the commissioner the appropriateness of any requested underwriting restrictions.

b. Health maintenance organizations providing or arranging for services exclusively on a group contract basis may limit the open enrollment provided for in subsection a. to all members of the group or groups covered by such contracts."

Page 9, Section 11, Line 1: Delete "11" insert "12"

Page 9, Section 11, Line 9: Delete "and"

Page 9, Section 11, Line 12: After "filed" delete "."
insert "; and"

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EXECUTIVE DEPARTMENT

SENATE BILL NO. 2148 (OCR)

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Page 9, Section 11, Line 12: After Line 12 insert the following:

"(c) the number, amount, and disposition of malpractice claims settled during the year by the health maintenance organization and any of the providers used by it."

Page 9, Section 11, Line 15: After "services" insert "and shall submit to the commissioner a summary report at such times and in such format as the commissioner may require"

Page 9, Section 12, Line 1: Delete "12" insert "13"

Page 9, Section 12, Line 7: After "permit" insert "with the approval of the Commissioner of Insurance"

Page 9, Section 13, Line 1: Delete "13" insert "14"

Page 10, Section 13, Line 4: After "performed" insert "in such amount and"

Page 10, Section 14, Line 1: Delete "14" insert "15"

Page 11, Section 14, Lines 46, 47: Delete ", provided however that such usage shall conform to the requirements of section 14a.(c)"

Page 11, Section 14, Line 50: After "Insurance." insert "Nothing in this act shall limit the powers of the Attorney General and the procedures with respect to consumer fraud in N.J.S. 56:8-1 et seq."

Page 11, Section 15, Line 1: Delete "15" insert "16"

Page 11, Section 15, Lines 1, 2: Delete "with the consent of the Commissioner of Insurance"

Page 11, Section 15, Line 3: After "regulations" insert ", which have been approved by the Commissioner of Insurance,"

Page 11, Section 16, Line 1: Delete "16" insert "17"

Page 12, Section 17, Line 1: Delete "17" insert "18"

Page 12, Section 18, Line 1: Delete "18" insert "19"

Page 12, Section 18, Line 13: Delete "comprehensive"

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SENATE BILL NO. 2148 (OCR)

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Page 13, Section 18, Line 26: Delete "11" insert "12"

Page 13, Section 18, Line 31: After "act" delete "."

insert "; or"

Page 13, Section 18, Line 31: After Line 31 insert the following:

"(10) the health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner."

Page 13, Section 19, Line 1: Delete "19" insert "20"

Page 14, Section 19, Line 15: Delete "per" insert "under"

Page 14, Section 20, Line 1: Delete "20" insert "21"

Page 14, Section 20, Line 7: After "shall" insert "specify

those determinations in this act which are to be made by the Commissioner of Insurance and shall"

Page 14, Section 21, Line 1: Delete "21" insert "22"

Page 14, Section 21, Lines 11, 12: Delete "commissioner"

insert "Commissioner of Insurance"

Page 14, Section 21, Lines 12, 13: Delete "quality of health

care services" insert "doing of an insurance business or contract with an insurer or hospital or medical services corporation,"

Page 14, Section 21, Line 15: Delete "Commissioner of Insurance"

insert "commissioner"

Page 15, Section 22, Line 1: Delete "22" insert "23"

Page 15, Section 23, Line 1: Delete "23" insert "24"

Page 15, Section 23, Lines 12, 13: Delete "Disorderly Persons

Law" insert "disorderly persons law"

Page 15, Section 24, Line 1: Delete "24" insert "25"

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SENATE BILL NO. 2148 (OCR)

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Page 17, Section 25, Line 1: Delete "25" insert "26"
Page 17, Section 26, Line 1: Delete "26" insert "27"
Page 17, Section 27, Line 1: Delete "27" insert "28"
Page 17, Section 28, Line 1: Delete "28" insert "29"
Page 18, Section 29, Line 1: Delete "29" insert "30"
Page 18, Section 30, Line 1: Delete "30" insert "31"
Page 18, Section 31, Line 1: Delete "31" insert "32"

Respectfully,

/s/ William T. Cahill

GOVERNOR

[seal]

Attest:

/s/ Jean E. Mulford

Acting Secretary to the Governor

SENATE AMENDMENTS TO
SENATE, No. 2148
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED NOVEMBER 29, 1973

Amend page 1, section 2, lines 3, 4, delete "comprehensive".

Amend page 1, section 2, line 4, after "health", insert "care"; delete "and", insert "means"; after "those services", insert ",".

Amend page 1, section 2, line 6, after "services", insert ", designated by regulations promulgated by the commissioner".

Amend page 1, section 2, line 7, delete "Comprehensive health", insert "Health".

Amend page 1, section 2, line 8, delete "comprehensive minimum".

Amend page 1, section 2, line 9, delete "included in the furnishing to".

Amend page 1, section 2, lines 10-12, delete in their entirety, insert "designated by regulations promulgated by the commissioner."

Amend page 4, section 3, line 66, delete "11", insert "12".

Amend page 4, section 3, line 72, after "hereof", delete ".", insert ","; after line 72, insert the following:

"(16) such other information as the commissioner may require to make the determinations required by section 4 hereof.

d. (1) a health maintenance organization shall, unless otherwise provided for in this act, file a notice describing any modification of the information required by subsection c. of this section. Such notice shall be filed with the commissioner prior to the modification. If the commissioner does not disapprove within 30 days of filing, such modification shall be deemed approved.

(2) the commissioner may promulgate rules and regulations exempting from the filing requirements of paragraph (1) of this subsection those items he deems unnecessary."

Amend page 4, section 4, line 22, before "establish", insert "has a procedure to".

Amend page 5, section 4, line 28, delete "22", insert "23".

Amend page 5, section 4, line 48, delete "and".

Amend page 5, section 4, line 50, delete "13", insert "14".

Amend page 5, section 4, line 51, after "performed;" insert "and"; after line 51, insert the following:

"(e) the financial soundness of the health maintenance organization's arrangements for health care services and the schedule of charges used in connection therewith;"

Amend page 6, section 4, line 57, after "commissioner", insert "or the Commissioner of Insurance".

Amend page 6, section 4, line 60, delete "21", insert "22".

Amend page 6, section 5, lines 29, 29a, delete "comprehensive".

Amend page 7, section 5, line 38, after line 38, insert the following:

"b. (1) A health maintenance organization shall file notice, with adequate supporting information, with the commissioner prior to the exercise of any power granted in subsection a. (1) or (2) of this section. The commissioner shall disapprove such exercise of power if in his opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. If the commissioner does not disapprove within 30 days of filing, it shall be deemed approved.

(2) The commissioner may promulgate rules and regulations exempting from the filing requirements of paragraph (1) of this subsection those activities having a de minimis effect."

Amend page 8, section 8, line 29, delete "and".

Amend page 8, section 8, line 32, after "complaints", delete ".", insert "; and"; after line 32 add the following:

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

Amend page 8, section 8, line 34, after line 34 insert the following:

"b. (1) no schedule of charges for enrollee coverage for health care services, or amendment thereto, may be used by a health maintenance organization until a copy of such schedule, or amendment thereto, has been filed with and approved by the commissioner. The Commissioner of Insurance shall certify to the commissioner whether the schedule of charges meets the requirements of paragraph (2) of this subsection.

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

assumptions, shall accompany the filing along with adequate supporting information.”

Amend page 8, section 8, line 35, delete “b”, insert “c”.

Amend page 8, section 8, line 37, after “met”, insert “and any schedule of charges if the requirements of subsection b. of this section are met”; after “form”, insert “or to use such schedule of charges”.

Amend page 8, section 8, line 47, delete “c”, insert “d”.

Amend page 8, section 9, lines 17, 18, delete “Commissioner of Health”, insert “commissioner”.

Amend page 9, section 10, line 5, before “services”, insert “the available health care”.

Amend page 9, section 10, line 11, after line 11 insert new section as follows:

“11. a. After a health maintenance organization has been in operation 24 months, it shall have an annual open enrollment period of at least one month during which it accepts enrollees up to the limits of its capacity, as determined by the health maintenance organization, in the order in which they apply for enrollment. A health maintenance organization may apply to the commissioner for authorization to impose such underwriting restrictions upon enrollment as are necessary to preserve its financial stability, to prevent excessive adverse selection by prospective enrollees, or to avoid unreasonably high or unmarketable charges for enrollee coverage for health care services. The commissioner shall approve or deny such application within 30 days of the receipt thereof from the health maintenance organization. The Commissioner of Insurance shall certify to the commissioner the appropriateness of any requested underwriting restrictions.

b. Health maintenance organizations providing or arranging for services exclusively on a group contract basis may limit the open enrollment provided for in subsection a. to all members of the group or groups covered by such contracts.”

Amend page 9, section 11, line 1, delete “11”, insert “12”.

Amend page 9, section 11, line 9, delete “and”.

Amend page 9, section 11, line 12, after “filed”, delete “.”, insert “; and”; after line 12 insert the following:

“(c) the number, amount, and disposition of malpractice claims settled during the year by the health maintenance organization and any of the providers used by it.”

Amend page 9, section 11, line 15, after “services”, insert “and shall submit to the commissioner a summary report at such times and in such format as the commissioner may require”.

Amend page 9, section 12, line 1, delete “12”, insert “13”.

Amend page 9, section 12, line 7, after “permit”, insert “with the approval of the Commissioner of Insurance”.

Amend page 9, section 13, line 1, delete "13", insert "14".

Amend page 10, section 13, line 4, after "performed", insert "in such amount and".

Amend page 10, section 14, line 1, delete "14", insert "15".

Amend page 11, section 14, lines 46, 47, delete ", provided however, that such usage shall conform to the requirements of section 14 a. (3)".

Amend page 11, section 14, line 50, after "Insurance.", insert "Nothing in this act shall limit the powers of the Attorney General and the procedures with respect to consumer fraud in N. J. S. 56:8-1 et seq."

Amend page 11, section 15, line 1, delete "15", insert "16".

Amend page 11, section 15, lines 1, 2, delete "with the consent of the Commissioner of Insurance".

Amend page 11, section 15, line 3, after "regulations", insert ", which have been approved by the Commissioner of Insurance,".

Amend page 11, section 16, line 1, delete "16", insert "17".

Amend page 12, section 17, line 1, delete "17", insert "18".

Amend page 12, section 18, line 1, delete "18", insert "19".

Amend page 12, section 18, line 13, delete "comprehensive".

Amend page 13, section 18, line 26, delete "11", insert "12".

Amend page 13, section 18, line 31, after "act", delete ".", insert "; or"; after line 31 insert the following:

"(10) the health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner."

Amend page 13, section 19, line 1, delete "19", insert "20".

Amend page 14, section 19, line 15, delete "per", insert "under".

Amend page 14, section 20, line 1, delete "20", insert "21".

Amend page 14, section 20, line 7, after "shall", insert "specify those determinations in this act which are to be made by the Commissioner of Insurance and shall".

Amend page 14, section 21, line 1, delete "21", insert "22".

Amend page 14, section 21, lines 11, 12, delete "commissioner", insert "Commissioner of Insurance".

Amend page 14, section 21, lines 12, 13, delete "quality of health care services", insert "doing of an insurance business or contract with an insurer or hospital or medical services corporation,".

Amend page 14, section 21, line 15, delete "Commissioner of Insurance", insert "commissioner".

Amend page 15, section 22, line 1, delete "22", insert "23".

Amend page 15, section 23, line 1, delete "23", insert "24".

Amend page 15, section 23, lines 12, 13, delete "Disorderly Persons Law", insert "disorderly persons law".

Amend page 16, section 24, line 1, delete "24", insert "25".

Amend page 17, section 25, line 1, delete "25", insert "26".

Amend page 17, section 26, line 1, delete "26", insert "27".

Amend page 17, section 27, line 1, delete "27", insert "28".

Amend page 17, section 28, line 1, delete "28", insert "29".

Amend page 18, section 29, line 1, delete "29", insert "30".

Amend page 18, section 30, line 1, delete "30", insert "31".

Amend page 18, section 31, line 1, delete "31", insert "32".

DECEMBER 27, 1973

FOR RELEASE: IMMEDIATE

Governor William T. Cahill signed into law today a bill providing for the certification and regulation of the newly developing health maintenance organizations.

Senate Bill 2148, sponsored by Senator Barry T. Parker (R., Burlington) establishes the minimum services the H.M.O.'s must provide. This is a relatively new concept in health care delivery in which health maintenance and treatment are provided on a prepaid basis to a voluntarily enrolled group within a certain geographical area. The system emphasizes preventive medicine.

The H.M.O., which is an alternative to existing standard medical and surgical health plans, would provide comprehensive medical services including physical examinations, obstetrical care, laboratory services and even house calls when medically necessary for a set prepaid monthly fee. It also provides for institutional care including out-of-area hospital care where members require treatment when they are ill or injured when away from the geographical area served by the H.M.O.

The bill was conditionally vetoed by Governor Cahill in November in order to permit certain technical changes.

Two other bills signed by Governor Cahill today provide \$4 million for vocational educational facilities in all counties and \$22 million for higher educational facilities at various State and county colleges.

S-2396, sponsored by Senator Raymond H. Bateman (R., Somerset), appropriates \$4 million from the Public Buildings Construction Fund to be used for vocational educational facilities for the period ending June 30, 1974. (See attached list for individual appropriations by county.)

S-2400, sponsored by Senator Peter W. Thomas (R., Morris), appropriates \$4,060,000 from the Higher Education Bond Act of 1971 to be used for various construction projects at Montclair State College, Trenton State College and at Rutgers. It also appropriates \$18 million as the State's fifty per cent share for construction projects at the various county colleges for the period from January 1 to December 31, 1974.

Another educational bill signed into law today by Governor Cahill requires counties to accept out-of-county students in post-secondary vocational schools where facilities permit and where the student cannot obtain the program in his own county.

S-736, also sponsored by Senator Bateman, provides that the board of education admitting a non-resident student shall collect from the sending county \$200 for each student for capital expenses plus the average county share of operating costs per full-time student.

S-147, sponsored by Senator William Vincent Musto (D., Hudson), which provides that at a public hearing on the passage of a municipal ordinance the opportunity to be heard shall include the right to ask pertinent questions concerning the ordinance by any resident of the municipality, or any other person affected by the ordinance.

S-156, sponsored by Senator William E. Schluter (R., Hunterdon), which permits county improvement authorities to acquire, construct, maintain and operate garbage and solid waste disposal systems.

S-325, sponsored by Senator Matthew J. Rinaldo (R., Union), which prescribes penalties for an employer who fails to make timely payments into any pension or welfare fund or a fund for an education, vacation, or apprenticeship program covered by a collective bargaining agreement.

S-419, sponsored by Senator Frank X. McDermott (R., Union), which provides that any newspaper qualified to publish legal advertisements, that moves its publication to any municipality in the same or an adjacent county shall continue to be qualified to publish legal ads for a two-year period.

S-949, sponsored by Senator Joseph P. Merlino (D., Mercer), which permits deputies and clerks employed by surrogates in any county, to benefit from any cost of living bonus or longevity programs established in the county.

S-1049, sponsored by Senator Joseph C. Woodcock, Jr. (R., Bergen), which simplifies and expedites the procedures for granting lands and quitclaiming lands belonging to the State and dedicated to the School Fund or in which the State claims.

S-1068, sponsored by Senator Joseph A. Maressa (D., Gloucester), which provides for the payment of the defense of civil actions against a member of the board of education and for payment of expenses in a criminal action when the findings are in favor of the member; permits the board to maintain insurance to cover such expenses.

A-1350, sponsored by Assemblyman Benjamin H. Mabie (R., Ocean), which permits county or municipal land to be sold to any duly incorporated non-profit association or any regional commission or authority composed of one or more municipalities or counties for the construction of an animal shelter.

A-1362, sponsored by Assemblyman John N. Dennis (R., Essex), which permits library trustees to buy and sell authorized obligations, bonds and securities.

A-1616, sponsored by Assemblyman David A. Wallace (D., Hudson), which amends and repeals various sections of the pension law concerning employees of 1st class counties having a population under 800,000. (FN-\$5,327,368, 73-74; \$5,236,373, 74-75)

A-2072, sponsored by Assemblyman John N. Dennis (R., Essex), which amends the requirement of imprinting a specific statement on a motor vehicle retail installment contract.

A-2144, sponsored by Assemblyman H. Kenneth Wilkie (R., Ocean), which permits counties to appropriate up to \$10,000 for volunteer fire companies.

A-2416, sponsored by Assemblyman Arthur A. Manner (R., Union), which permits the installation of gas pipes and electric cables one foot apart.

A-2501, sponsored by Assemblyman Benjamin H. Mabie (R., Ocean), which authorizes Ocean County to make permanent the appointment of C.K. Carter as a sheriff's officer.

A-2576, sponsored by Assemblyman Walter E. Foran (R., Hunterdon), which appropriates \$50,000 for animals slaughtered because of hog cholera.

A-2665, sponsored by Assemblyman James R. Hurley (R. Cape May), which permits night and Sunday dredging for sea clams.

A-699, sponsored by Assemblyman Philip D. Kaltenbacher (R., Essex), which provides for psychiatric or psychological services benefits rendered by a licensed psychologist under group health insurance.

A-700, also sponsored by Assemblyman Kaltenbacher, which provides for payment for services performed or rendered by a licensed psychologist by a medical service corporation.

A-701, also sponsored by Assemblyman Kaltenbacher, which provides for payment for any psychological service performed by a licensed psychologist under life and health insurance.

A-2289, sponsored by Assemblyman Michael Esposito (D., Hudson), which increases the maximum widow's pension for employees of 1st class cities having a population of less than 400,000 inhabitants; effective January 1, 1974.
