

26:2J-18.2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 65

NJSA: 26:2J-18.2 (Concerns risk based capital requirements for health maintenance organizations)

BILL NO: S1674 (Substituted for A2907)

DATE INTRODUCED: June 10, 2004

COMMITTEE: **ASSEMBLY:**
SENATE: Commerce

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** February 24, 2005

SENATE: October 25, 2004

DATE OF APPROVAL: April 7, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) Original version of bill enacted

S1674

[SPONSOR'S STATEMENT:](#) (Begins on page 5 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A2907

[SPONSOR'S STATEMENT:](#) (Begins on page 5 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 292 6220 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

Attached: "Risk Based Capital (RBC) For Health Organizations Model Act"

IS 4/27/07

P.L. 2005, CHAPTER 65, *approved April 7, 2005*

Senate, No. 1674

1 **AN ACT** concerning risk based capital requirements for health
2 maintenance organizations, amending P.L.1997, c.192 and
3 amending and supplementing P.L.1973, c.337.

4

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

7

8 1. (New section) As used in sections 1 through 5 of P.L. , c.
9 (C.) (now before the Legislature as this bill):

10 "Commissioner" means the Commissioner Banking and Insurance.

11 "Health maintenance organization" means an entity authorized to
12 transact business in this State pursuant to P.L.1973, c.337 (C.26:2J-1
13 et seq.).

14

15 2. (New section) The commissioner may increase the amount of
16 capital or surplus required of a health maintenance organization, or
17 subsequently revise or redetermine that increase, using appropriate
18 methods and procedures established by rules and regulations adopted
19 by the commissioner, in order to provide adequate protection against
20 risks affecting the health maintenance organization's financial condition
21 that are not adequately or fully covered by its reserves or other assets,
22 but under no circumstances shall a health maintenance organization's
23 capital or surplus be less than the capital or surplus required pursuant
24 to regulation as prescribed by the commissioner; provided, however,
25 that any increase required by a subsequent revision or redetermination
26 pursuant to this section, shall be made only after a formal departmental
27 hearing, on the record, unless that hearing is waived by the affected
28 health maintenance organization. All matters pertaining to a hearing
29 or to an increase in capital or surplus pursuant to this section shall be
30 confidential and not subject to subpoena or public inspection, except
31 to the extent that the commissioner finds release of that information
32 necessary to protect the public. The hearing shall be initiated within
33 20 days after written notice to the health maintenance organization.
34 Any declaration regarding an increase required by a subsequent
35 revision or redetermination shall contain findings specifying the factors
36 deemed significant in regard to the particular health maintenance
37 organization, and shall set forth the reasons supporting the increase of
38 capital or surplus ordered by the commissioner. In determining any
39 increase, revision or redetermination in the amount of capital or
40 surplus, the commissioner shall consider the risks of:

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

Matter underlined thus is new matter.

- 1 a. Increases or decreases in the frequency and severity of losses
- 2 under normal operating conditions, as well as increases or decreases
- 3 in those values, above or below the levels contemplated by the rates
- 4 that it charged for coverage and above or below those reasonably
- 5 expected under normal conditions;
- 6 b. Increases or decreases in expenses under normal operating
- 7 conditions, as well as increases or decreases in those values, above or
- 8 below the levels contemplated by the rates it charged for coverage and
- 9 above or below those reasonably expected under normal conditions;
- 10 c. Increases or decreases in the value of, or return on, invested
- 11 assets under normal operating conditions, as well as increases or
- 12 decreases in those values, above or below those levels anticipated
- 13 under normal conditions;
- 14 d. Changes in economic, social and market conditions that could
- 15 adversely or favorably affect the financial condition of the health
- 16 maintenance organization, including conditions that would make
- 17 liquidity more or less important than contemplated and would prevent
- 18 or facilitate timely investments or force or prohibit untimely sales of
- 19 assets; and
- 20 e. Any other contingencies, including reinsurance and unfunded or
- 21 extra contractual obligations, which may affect the health maintenance
- 22 organization's financial condition.
- 23
- 24 3. (New section) In determining any increase, revision or
- 25 redetermination in the capital or surplus of a health maintenance
- 26 organization pursuant to the provisions of section 2 of P.L. , c.
- 27 (C.) (now before the Legislature as this bill) the commissioner shall
- 28 take into account the following factors:
- 29 a. Methods and techniques used to measure risk exposure and
- 30 variability;
- 31 b. The information available relating to the magnitude of the
- 32 various risks described in section 2 of P.L. , c. (C.) (now before
- 33 the Legislature as this bill);
- 34 c. The extent to which risks described in section 2 of P.L. , c.
- 35 (C.) (now before the Legislature as this bill) are independent or
- 36 interrelated, and whether any dependency is direct or inverse;
- 37 d. The extent to which the health maintenance organization has
- 38 provided protection against contingencies in ways other than the
- 39 establishment of surplus, including, but not limited to: redundancy of
- 40 premiums; margin in reserves and liabilities; adjustability of contracts
- 41 pursuant to the terms of the contracts; voluntary or mandatory
- 42 investment valuation reserves; reinsurance; the use of conservative
- 43 actuarial assumptions to provide a margin of security; reserve
- 44 adjustments after rate increases for policies written at earlier and less
- 45 adequate rates; contingency or catastrophe reserves; and
- 46 diversification of assets and underwriting risk; and

1 e. Any other relevant factors, including the National Association
2 of Insurance Commissioners' reports and independent judgments of the
3 soundness of the health maintenance organization's financial condition,
4 as evidenced by the rating and reports of reliable professional financial
5 services.

6
7 4. (New section) The commissioner may suspend or revoke the
8 authority to do business in this State of any health maintenance
9 organization that does not comply with the provisions of P.L. , c.
10 (C.) (now before the Legislature as this bill).

11
12 5. (New section) The commissioner may promulgate regulations
13 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
14 (C.52:14B-1 et seq.) necessary to effectuate the purposes of P.L. ,
15 c. (C.) (now before the Legislature as this bill).

16
17 6. Section 26 of P.L.1973, c.337 (C.26:2J-26) is amended to read
18 as follows:

19 26. Filings and reports as public documents.

20 All applications, filings and reports required under this act shall be
21 treated as public documents and, except for any examination being
22 conducted pursuant to section 20 of P.L.1997, c.192 (C.26:2J-18.1),
23 any matter pertaining to a change in capital or surplus pursuant to
24 the provisions of P.L. , c. (C.) (now before the Legislature as
25 this bill) and contracts referred to in [section 3 c. (4) and 3 c. (5),
26 hereof] paragraphs (4) and (5) of subsection c. of section 3 of
27 P.L.1973, c. 337 (C.26:2J-3), shall not be considered to be
28 confidential.

29 (cf: P.L.1973, c.337, s.26)

30
31 7. Section 20 of P.L.1997, c.192 (C.26:2J-18.1) is amended to
32 read as follows:

33 20. The Commissioner of Banking and Insurance may conduct an
34 examination of a health maintenance organization in accordance with
35 the procedures provided in P.L.1993, c.236 (C.17:23-20 et seq.) as
36 often as he deems necessary in order to protect the interests of
37 providers, contract holders, members, and the residents of this State.
38 An organization shall make its relevant books and records available for
39 examination by the Commissioner of Banking and Insurance, and
40 retain its records in accordance with a schedule established by the
41 Commissioner of Banking and Insurance by regulation. The
42 reasonable expenses of the examination shall be borne by the
43 organization being examined. In lieu of such examination, the
44 Commissioner of Banking and Insurance may accept the report of an
45 examination made by the commissioner of another state.

46 (cf: P.L.1997, c.192, s.20)

1 8. This act shall take effect immediately.

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STATEMENT

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6 This bill authorizes the Commissioner of Banking and Insurance to
7 increase the amount of capital and surplus required, or subsequently
8 revise or redetermine the amount of any increase for health
9 maintenance organizations operating in the State based on the health
10 maintenance organization's business risks. The methods and
11 procedures for determining any increase will be established by
12 regulation. Similar provisions already apply to property and casualty
13 insurers and to life and health insurers.

14 Under the bill, any increase of capital or surplus or revision or
15 redetermination of any such increase will be made only after a formal
16 departmental hearing unless such a hearing is waived by the affected
17 health maintenance organization. All matters relating to the hearing
18 or increase of capital or surplus are not subject to subpoena or public
19 inspection, unless the commissioner determines that release of this
20 information is necessary to protect the public.

21 The bill enumerates the risks that the commissioner must consider
22 in determining any increase, revision or determination in the amount
23 of capital or surplus including, but not limited to: (1) increases or
24 decreases in the frequency or severity of losses above levels
25 contemplated by rates charged by the health maintenance organization
26 for coverage; (2) increases or decreases in expenses above or below
27 those contemplated by the rates charged by the health maintenance
28 organization for coverage; (3) increases or decreases in the value of or
29 return on invested assets above or below those anticipated; (4)
30 changes in economic, social and market conditions that could
31 adversely or favorably affect the financial condition of the health
32 maintenance organization; and (5) any other contingencies which may
33 affect the health maintenance organization's financial condition.

34 The bill also requires that the commissioner take into account
35 various factors in determining any increase, revision or
36 redetermination of a health maintenance organization's capital or
37 surplus, including methods and techniques used to measure risk
38 exposure and variability; available information relating to the
39 magnitude of the various risks that the commissioner must consider in
40 determining any increase, revision or determination; the health
41 maintenance organization's financial history and projections of profits
42 or losses; and any other relevant factors.

43 The bill clarifies that any examination of a health maintenance
44 organization performed by the commissioner would be conducted in
45 accordance with the procedures established for the examination of
46 insurers, generally.

1 Furthermore, since any preliminary insurer examination report or
2 results are treated as confidential under the statute, the bill also
3 amends the law to clarify its application to records associated with
4 financial examinations of health maintenance organizations. The result
5 will create parity in the treatment of insurers and health maintenance
6 organizations undergoing a financial examination. The bill provides,
7 however, that the final examination report of a health maintenance
8 organization, like the final examination report of other insurers, would
9 be subject to public disclosure.

10

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14 Concerns risk based capital requirements for health maintenance
15 organizations.

SENATE, No. 1674

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 10, 2004

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman LOUIS MANZO

District 31 (Hudson)

SYNOPSIS

Concerns risk based capital requirements for health maintenance organizations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/25/2005)

S1674 GILL

2

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27 hearing, on the record, unless that hearing is waived by the affected
28 health maintenance organization. All matters pertaining to a hearing
29 or to an increase in capital or surplus pursuant to this section shall be
30 confidential and not subject to subpoena or public inspection, except
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32 necessary to protect the public. The hearing shall be initiated within
33 20 days after written notice to the health maintenance organization.
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2 expected under normal conditions;

3 b. Increases or decreases in expenses under normal operating
4 conditions, as well as increases or decreases in those values, above or
5 below the levels contemplated by the rates it charged for coverage and
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8 assets under normal operating conditions, as well as increases or
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13 maintenance organization, including conditions that would make
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31 c. The extent to which risks described in section 2 of P.L. , c.
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33 interrelated, and whether any dependency is direct or inverse;

34 d. The extent to which the health maintenance organization has
35 provided protection against contingencies in ways other than the
36 establishment of surplus, including, but not limited to: redundancy of
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38 pursuant to the terms of the contracts; voluntary or mandatory
39 investment valuation reserves; reinsurance; the use of conservative
40 actuarial assumptions to provide a margin of security; reserve
41 adjustments after rate increases for policies written at earlier and less
42 adequate rates; contingency or catastrophe reserves; and
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45 of Insurance Commissioners' reports and independent judgments of the
46 soundness of the health maintenance organization's financial condition,

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1 as evidenced by the rating and reports of reliable professional financial
2 services.

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33 often as he deems necessary in order to protect the interests of
34 providers, contract holders, members, and the residents of this State.
35 An organization shall make its relevant books and records available for
36 examination by the Commissioner of Banking and Insurance, and
37 retain its records in accordance with a schedule established by the
38 Commissioner of Banking and Insurance by regulation. The
39 reasonable expenses of the examination shall be borne by the
40 organization being examined. In lieu of such examination, the
41 Commissioner of Banking and Insurance may accept the report of an
42 examination made by the commissioner of another state.

43 (cf: P.L.1997, c.192, s.20)

44

45 8. This act shall take effect immediately.

STATEMENT

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This bill authorizes the Commissioner of Banking and Insurance to increase the amount of capital and surplus required, or subsequently revise or redetermine the amount of any increase for health maintenance organizations operating in the State based on the health maintenance organization's business risks. The methods and procedures for determining any increase will be established by regulation. Similar provisions already apply to property and casualty insurers and to life and health insurers.

Under the bill, any increase of capital or surplus or revision or redetermination of any such increase will be made only after a formal departmental hearing unless such a hearing is waived by the affected health maintenance organization. All matters relating to the hearing or increase of capital or surplus are not subject to subpoena or public inspection, unless the commissioner determines that release of this information is necessary to protect the public.

The bill enumerates the risks that the commissioner must consider in determining any increase, revision or determination in the amount of capital or surplus including, but not limited to: (1) increases or decreases in the frequency or severity of losses above levels contemplated by rates charged by the health maintenance organization for coverage; (2) increases or decreases in expenses above or below those contemplated by the rates charged by the health maintenance organization for coverage; (3) increases or decreases in the value of or return on invested assets above or below those anticipated; (4) changes in economic, social and market conditions that could adversely or favorably affect the financial condition of the health maintenance organization; and (5) any other contingencies which may affect the health maintenance organization's financial condition.

The bill also requires that the commissioner take into account various factors in determining any increase, revision or redetermination of a health maintenance organization's capital or surplus, including methods and techniques used to measure risk exposure and variability; available information relating to the magnitude of the various risks that the commissioner must consider in determining any increase, revision or determination; the health maintenance organization's financial history and projections of profits or losses; and any other relevant factors.

The bill clarifies that any examination of a health maintenance organization performed by the commissioner would be conducted in accordance with the procedures established for the examination of insurers, generally.

Furthermore, since any preliminary insurer examination report or results are treated as confidential under the statute, the bill also amends the law to clarify its application to records associated with

S1674 GILL

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1 financial examinations of health maintenance organizations. The result
2 will create parity in the treatment of insurers and health maintenance
3 organizations undergoing a financial examination. The bill provides,
4 however, that the final examination report of a health maintenance
5 organization, like the final examination report of other insurers, would
6 be subject to public disclosure.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1674

STATE OF NEW JERSEY

DATED: OCTOBER 4, 2004

The Senate Commerce Committee reports favorably Senate Bill No. 1674.

This bill authorizes the Commissioner of Banking and Insurance to increase the amount of capital and surplus required, or subsequently revise or redetermine the amount of any increase, for health maintenance organizations operating in the State based on the health maintenance organization's business risks. The methods and procedures for determining any increase will be established by regulation. Similar regulations already apply to property and casualty insurers and to life and health insurers.

Under the bill, any increase of capital or surplus or revision or redetermination of any such increase will be made only after a formal departmental hearing, unless such a hearing is waived by the affected health maintenance organization. All matters relating to the hearing or increase of capital or surplus are not subject to subpoena or public inspection, unless the commissioner determines that release of this information is necessary to protect the public.

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Furthermore, since any preliminary insurer examination report or results are treated as confidential, the bill also amends the law to clarify its application to records associated with financial examinations of health maintenance organizations. The result will create parity in the treatment of insurers and health maintenance organizations undergoing a financial examination. The bill provides, however, that the final examination report of a health maintenance organization, like the final examination report of other insurers, would be subject to public disclosure.

The committee notes that this bill is based on a National Association of Insurance Commissioners (NAIC) model act which regulates, in a more detailed fashion, capital and surplus requirements for health maintenance organizations. It is the committee's understanding that those more detailed provisions of the NAIC model act, not embodied in this bill, will be incorporated in the regulations the commissioner promulgates, as has been the practice with the regulations applicable to property and casualty insurers and to life and health insurers.

ASSEMBLY, No. 2907

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 24, 2004

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

SYNOPSIS

Concerns risk based capital requirements for health maintenance organizations.

CURRENT VERSION OF TEXT

As introduced.



A2907 COHEN

2

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2 maintenance organizations, amending P.L.1997, c.192 and
3 amending and supplementing P.L.1973, c.337.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
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Matter underlined thus is new matter.

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30 the Legislature as this bill);
- 31 c. The extent to which risks described in section 2 of P.L. , c.
32 (C.) (now before the Legislature as this bill) are independent or
33 interrelated, and whether any dependency is direct or inverse;
- 34 d. The extent to which the health maintenance organization has
35 provided protection against contingencies in ways other than the
36 establishment of surplus, including, but not limited to: redundancy of
37 premiums; margin in reserves and liabilities; adjustability of contracts
38 pursuant to the terms of the contracts; voluntary or mandatory
39 investment valuation reserves; reinsurance; the use of conservative
40 actuarial assumptions to provide a margin of security; reserve
41 adjustments after rate increases for policies written at earlier and less
42 adequate rates; contingency or catastrophe reserves; and
43 diversification of assets an underwriting risk; and
- 44 e. Any other relevant factors, including the National Association
45 of Insurance Commissioners' reports and independent judgments of the
46 soundness of the health maintenance organization's financial condition,

1 as evidenced by the rating and reports of reliable professional financial
2 services.

3

4 4. (New section) The commissioner may suspend or revoke the
5 authority to do business in this State of any health maintenance
6 organization that does not comply with the provisions of P.L. , c.
7 (C.) (now before the Legislature as this bill).

8

9 5. (New section) The commissioner may promulgate regulations
10 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
11 (C.52:14B-1 et seq.) necessary to effectuate the purposes of P.L. ,
12 c. (C.) (now before the Legislature as this bill).

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14 6. Section 26 of P.L.1973, c.337 (C.26:2J-26) is amended to read
15 as follows:

16 26. Filings and reports as public documents.

17 All applications, filings and reports required under this act shall be
18 treated as public documents and, except for any examination being
19 conducted pursuant to section 20 of P.L.1997, c.192 (C.26:2J-18.1),
20 any matter pertaining to a change in capital or surplus pursuant to
21 the provisions of P.L. , c. (C.) (now before the Legislature as
22 this bill) and contracts referred to in [section 3 c. (4) and 3 c. (5),
23 hereof] paragraphs (4) and (5) of subsection c. of section 3 of
24 P.L.1973, c. 337 (C.26:2J-3), shall not be considered to be
25 confidential.

26 (cf: P.L.1973, c.337, s.26)

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28 7. Section 20 of P.L.1997, c.192 (C.26:2J-18.1) is amended to
29 read as follows:

30 20. The Commissioner of Banking and Insurance may conduct an
31 examination of a health maintenance organization in accordance with
32 the procedures provided in P.L.1993, c.236 (C.17:23-20 et seq.) as
33 often as he deems necessary in order to protect the interests of
34 providers, contract holders, members, and the residents of this State.
35 An organization shall make its relevant books and records available for
36 examination by the Commissioner of Banking and Insurance, and
37 retain its records in accordance with a schedule established by the
38 Commissioner of Banking and Insurance by regulation. The
39 reasonable expenses of the examination shall be borne by the
40 organization being examined. In lieu of such examination, the
41 Commissioner of Banking and Insurance may accept the report of an
42 examination made by the commissioner of another state.

43 (cf: P.L.1997, c.192, s.20)

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45 8. This act shall take effect immediately.

STATEMENT

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This bill authorizes the Commissioner of Banking and Insurance to increase the amount of capital and surplus required, or subsequently revise or redetermine the amount of any increase for health maintenance organizations operating in the State based on the health maintenance organization's business risks. The methods and procedures for determining any increase will be established by regulation. Similar provisions already apply to property/casualty insurers and to life and health insurers.

Under the bill, any increase of capital or surplus or revision or redetermination of any such increase will be made only after a formal departmental hearing unless such a hearing is waived by the affected health maintenance organization. All matters relating to the hearing or increase of capital or surplus are not subject to subpoena or public inspection, unless the commissioner determines that release of this information is necessary to protect the public.

The bill enumerates the risks that the commissioner must consider in determining any increase, revision or determination in the amount of capital or surplus including, but not limited to: (1) increases or decreases in the frequency or severity of losses above levels contemplated by rates charged by the health maintenance organization for coverage; (2) increases or decreases in expenses above or below those contemplated by the rates charged by the health maintenance organization for coverage; (3) increases or decreases in the value of or return on invested assets above or below those anticipated; (4) changes in economic, social and market conditions that could adversely or favorably affect the financial condition of the health maintenance organization; and (5) any other contingencies which may affect the health maintenance organization's financial condition.

The bill also requires that the commissioner take into account various factors in determining any increase, revision or redetermination of a health maintenance organization's capital or surplus, including methods and techniques used to measure risk exposure and variability; available information relating to the magnitude of the various risks that the commissioner must consider in determining any increase, revision or determination; the health maintenance organization's financial history and projections of profits or losses; and any other relevant factors.

The bill clarifies that any examination of a health maintenance organization performed by the commissioner would be conducted in accordance with the procedures established for the examination of insurers, generally.

Furthermore, since any preliminary insurer examination report or results are treated as confidential under the statute, the bill also amends the law to clarify its application to records associated with

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1 financial examinations of health maintenance organizations. The result
2 will create parity in the treatment of insurers and health maintenance
3 organizations undergoing a financial examination. The bill provides,
4 however, that the final examination report of a health maintenance
5 organization, like the final examination report of other insurers, would
6 be subject to public disclosure.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2907

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 23, 2004

The Assembly Financial Institutions and Insurance Committee reports favorably, and with committee amendments, Assembly Bill No. 2907.

This bill incorporates the provisions of the National Association of Insurance Commissioners (NAIC) model Risk-Based Capital (RBC) system with respect to managed care organizations that accept risk.

The bill authorizes the Commissioner of Banking and Insurance to increase the amount of capital and surplus required, or subsequently revise or redetermine the amount of any increase for health maintenance organizations operating in the State based on the health maintenance organization's business risks. The methods and procedures for determining any increase will be established by regulation. Similar statutory and regulatory provisions already apply to property and casualty insurers and to life and health insurers.

Under the bill, any increase of capital or surplus or revision or redetermination of any such increase will be made only after a formal departmental hearing unless such a hearing is waived by the affected health maintenance organization. All matters relating to the hearing or increase of capital or surplus are not subject to subpoena or public inspection, unless the commissioner determines that release of this information is necessary to protect the public.

The bill enumerates the risks that the commissioner must consider in determining any increase, revision or determination in the amount of capital or surplus including, but not limited to: (1) increases or decreases in the frequency or severity of losses above levels contemplated by rates charged by the health maintenance organization for coverage; (2) increases or decreases in expenses above or below those contemplated by the rates charged by the health maintenance organization for coverage; (3) increases or decreases in the value of or return on invested assets above or below those anticipated; (4) changes in economic, social and market conditions that could adversely or favorably affect the financial condition of the health maintenance organization; and (5) any other contingencies which may

affect the health maintenance organization's financial condition.

The bill also requires that the commissioner take into account various factors in determining any increase, revision or redetermination of a health maintenance organization's capital or surplus, including methods and techniques used to measure risk exposure and variability; available information relating to the magnitude of the various risks that the commissioner must consider in determining any increase, revision or determination; the health maintenance organization's financial history and projections of profits or losses; and any other relevant factors.

The bill clarifies that any examination of a health maintenance organization performed by the commissioner would be conducted in accordance with the procedures established for the examination of insurers, generally.

Furthermore, since any preliminary insurer examination report or results are treated as confidential under the statute, the bill also amends the law to clarify its application to records associated with financial examinations of health maintenance organizations. The result will create parity in the treatment of insurers and health maintenance organizations undergoing a financial examination. The bill provides, however, that the final examination report of a health maintenance organization, like the final examination report of other insurers, would be subject to public disclosure.

The committee made a technical amendment to change the word "an" to "and" in section 3 of the bill.

COMMITTEE AMENDMENTS

A technical amendment changes the word "an" to "and" in section 3 of the bill.