

# HOUSE BILL No. 4979

September 24, 1987, Introduced by Reps. Wartner, Griffin, Farhat, Middaugh, Johnson, Gnodtke, Martin, Ouwinga, Gilmer, Ostling, Weeks, DeLange, Krause, Sparks, Oxender, Stacey, Alley, Emmons, Browne, Miller, Gagliardi and Gire and referred to the Committee on Insurance.

A bill to amend sections 12 and 30 of Act No. 218 of the Public Acts of 1984, entitled "Third party administrator act," being sections 550.912 and 550.930 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 12 and 30 of Act No. 218 of the Public  
2 Acts of 1984, being sections 550.912 and 550.930 of the Michigan  
3 Compiled Laws, are amended to read as follows:

4 Sec. 12. (1) An application for a certificate of authority  
5 to operate as a TPA shall be in a form prescribed by the commis-  
6 sioner, shall be verified by an officer or authorized representa-  
7 tive of the TPA, and shall include all of the following:

8 (a) All basic organizational documents of the TPA, such as  
9 the articles of incorporation, bylaws, articles of association,

1 trade name certificate, and other similar documents and all  
2 amendments to those documents.

3 (b) The names, addresses, official positions, and profes-  
4 sional qualifications of the individuals who are responsible for  
5 the conduct of the affairs of the TPA, including all administra-  
6 tive services managers, members of the board of directors, board  
7 of trustees, executive committee, or other governing board or  
8 committee; the officers and shareholders owning stock represent-  
9 ing 10% or more of the voting shares of the TPA in the case of a  
10 corporation; and the partners or members in the case of a part-  
11 nership or association.

12 (c) A description of the TPA, its services, facilities, and  
13 personnel.

14 (d) A power of attorney duly executed by the TPA if not dom-  
15 icated in this state, appointing the commissioner, the  
16 commissioner's successors in office, and the commissioner's duly  
17 authorized deputies as the attorney of the TPA in and for this  
18 state, upon whom process in any legal action or proceeding  
19 against the TPA on a cause of action arising in this state may be  
20 served. The fee for such service shall be \$5.00, payable at the  
21 time of service.

22 (e) Recent financial statements showing the third party  
23 administrator's assets, liabilities, and sources of financial  
24 support sufficient in the opinion of the commissioner, upon the  
25 advice of the board, to show financial viability of the third  
26 party administrator. If the third party administrator's  
27 financial affairs are prepared by independent public accountants,

1 a copy of the most recent regular financial statement shall  
2 satisfy this requirement unless the commissioner determines that  
3 additional or more recent financial information is required for  
4 the proper administration of this act.

5 (F) NOTICE OF WHETHER OR NOT THE SERVICE CONTRACTS UTILIZED  
6 BY THE THIRD PARTY ADMINISTRATOR CONTAIN AN ARBITRATION PROVISION  
7 AS DESCRIBED IN SECTION 30(2).

8 (G) ~~(f)~~ Such other information as the commissioner may  
9 reasonably require. The commissioner may not demand trade secret  
10 information from a TPA.

11 (2) Within 30 days following any significant modification of  
12 information submitted with the application for a certificate of  
13 authority, a third party administrator shall file a notice of the  
14 modification with the commissioner.

15 Sec. 30. (1) A TPA may only provide administrative services  
16 pursuant to a written service contract. For the duration of the  
17 service contract, a TPA shall maintain at its principal adminis-  
18 trative office the TPA's books and records of all transactions  
19 under the service contract in accordance with generally accepted  
20 accounting principles or as required by ERISA.

21 (2) IF A SERVICE CONTRACT CONTAINS A PROVISION FOR THE ARBI-  
22 TRATION OF A DISPUTE AS TO THE MALPRACTICE OF A HEALTH CARE PRO-  
23 FESSIONAL WHO DELIVERS HEALTH CARE SERVICES PURSUANT TO A PLAN,  
24 THE PROVISION FOR ARBITRATION SHALL MEET THE REQUIREMENTS OF THE  
25 MICHIGAN PROSPECTIVE MEDICAL MALPRACTICE ARBITRATION ACT.

1       (3) ~~-(2)-~~ A TPA and a manager are a fiduciary when  
2 collecting, expending, and maintaining money for the payment of  
3 claims pursuant to the service contract.

4       Section 2. This amendatory act shall not take effect unless  
5 Senate Bill No. \_\_\_\_\_ or House Bill No. 4973 (request  
6 no. 02667'87) of the 84th Legislature is enacted into law.