

# HOUSE BILL No. 5027

June 27, 1991, Introduced by Rep. Saunders and referred to the Committee on Insurance.

A bill to amend sections 102, 104, 105, 108, 201, 207, 403, and 608 of Act No. 350 of the Public Acts of 1980, entitled "The nonprofit health care corporation reform act," section 105 as amended by Act No. 430 of the Public Acts of 1980 and section 207 as amended by Act No. 260 of the Public Acts of 1989, being sections 550.1102, 550.1104, 550.1105, 550.1108, 550.1201, 550.1207, 550.1403, and 550.1608 of the Michigan Compiled Laws; to add sections 211a, 503a, and 606a; and to repeal certain parts of the act.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 102, 104, 105, 108, 201, 207, 403, and  
2 608 of Act No. 350 of the Public Acts of 1980, section 105 as  
3 amended by Act No. 430 of the Public Acts of 1980 and section 207  
4 as amended by Act No. 260 of the Public Acts of 1989, being  
5 sections 550.1102, 550.1104, 550.1105, 550.1108, 550.1201,

1 550.1207, 550.1403, and 550.1608 of the Michigan Compiled Laws,  
2 are amended and sections 211a, 503a, and 606a are added to read  
3 as follows:

4       Sec. 102. (1) It is the purpose of and intent of this act,  
5 and the policy of the legislature, to promote an appropriate dis-  
6 tribution of health care services for all residents of this  
7 state, to promote the progress of the science and art of health  
8 care in this state, and to assure for nongroup and group sub-  
9 scribers, reasonable access to, and reasonable cost and quality  
10 of, health care services, in recognition that the health care  
11 financing system is an essential part of the general health,  
12 safety, and welfare of the people of this state. Each corpora-  
13 tion subject to this act is declared to be a charitable and  
14 benevolent institution and its funds and property shall be exempt  
15 from taxation by this state or any political subdivision of this  
16 state.

17       (2) It is the intention of the legislature that this act  
18 shall be construed to provide for the regulation and supervision  
19 of nonprofit health care corporations by the commissioner of  
20 insurance so as to secure for all of the people of this state who  
21 apply for a certificate, the opportunity for access to health  
22 care services at a fair and reasonable price.

23       (3) It is the public policy of this state that, in the  
24 interest of facilitating access to health care services at a fair  
25 and reasonable price, an alternate, expeditious, and effective  
26 procedure for the resolution of issues and the maintenance of  
27 administrative appeals relative to provider class plans be

1 established and utilized, and to that end, the provisions of this  
 2 act regarding administrative review of those provider class plans  
 3 shall be construed so as to minimize uncertainty and delays.

4 (4) IT IS THE PURPOSE OF AND INTENT OF THE AMENDATORY ACT  
 5 THAT ADDED THIS SUBSECTION TO PRESERVE THE STATE'S INTEREST IN  
 6 THE HEALTH AND WELFARE OF ITS CITIZENS BY PREVENTING A SINGLE  
 7 HEALTH CARE CORPORATION FROM MONOPOLIZING THE HEALTH CARE MARKET,  
 8 TO ELIMINATE THE RESULTING NEGATIVE EFFECTS OF A MONOPOLY ON THE  
 9 STATE'S HEALTH CARE MARKET, TO RESTORE REASONABLE ACCESS TO HIGH  
 10 QUALITY HEALTH CARE AT REASONABLE COSTS, TO RETURN HEALTH CARE  
 11 CORPORATIONS TO COMPLIANCE WITH THIS SECTION WHICH PROVIDES THAT  
 12 HEALTH CARE CORPORATIONS SHALL BE REGULATED AND SUPERVISED BY THE  
 13 COMMISSIONER OF INSURANCE, AND TO RETURN EXISTING HEALTH CARE  
 14 CORPORATIONS TO COMPLIANCE WITH THE ORIGINAL LEGISLATIVE INTENT  
 15 WHICH PROVIDED FOR CHARITABLE, BENEVOLENT, TAX-EXEMPT INSTITU-  
 16 TIONS, ESTABLISHED TO PROMOTE AN APPROPRIATE DISTRIBUTION OF  
 17 HEALTH CARE SERVICES FOR THE BENEFIT OF ALL RESIDENTS OF THE  
 18 STATE.

19 Sec. 104. (1) "Administrative procedures act" means THE  
 20 ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306 of the Public  
 21 Acts of 1969, as amended, being sections 24.201 to ~~24.315~~  
 22 24.328 of the Michigan Compiled Laws, or a successor act.

23 (2) "Bargaining representative" means a representative des-  
 24 ignated or selected by a majority of employees for the purposes  
 25 of collective bargaining ~~in respect to~~ CONCERNING rates of pay,  
 26 wages, hours of employment, or other conditions of employment  
 27 ~~relative to~~ AFFECTING the employees ~~so~~ represented.

1 (3) "Certificate" means a contract between a health care  
2 corporation and a subscriber or a group of subscribers under  
3 which health care benefits are provided to members, including,  
4 SUBJECT TO SECTION 211A, a contract containing an administrative  
5 services only or cost-plus arrangement. A certificate includes  
6 any approved riders amending the contract.

7 (4) "Collective bargaining agreement" means an agreement  
8 entered into between the employer and the bargaining representa-  
9 tive of its employees, and includes those agreements entered into  
10 on behalf of groups of employers with the bargaining representa-  
11 tive of their employees pursuant to the national labor relations  
12 act, CHAPTER 372, 49 STAT. 449, 29 U.S.C. 151 to ~~169~~ 158 AND  
13 159 TO 169, under Act No. 176 of the Public Acts of 1939, as  
14 amended, being sections 423.1 to 423.30 of the Michigan Compiled  
15 Laws, or under Act No. 336 of the Public Acts of 1947, as  
16 amended, being sections 423.201 to 423.216 of the Michigan  
17 Compiled Laws.

18 (5) "Commissioner" means the commissioner of insurance.  
19 Commissioner includes an authorized designee of the commissioner,  
20 if written notice of the delegation of authority has been given  
21 as provided in section 601.

22 (6) "Contingency reserve" means the sum of all assets minus  
23 the sum of all liabilities of a health care corporation, as shown  
24 in the annual financial statement filed under section 602.

25 Sec. 105. (1) "Health care benefit" means the right under a  
26 certificate to have payment made by a health care corporation for  
27 a specified health care service AND, SUBJECT TO SECTION 211A,

1 regardless of whether or not the payment is made pursuant to an  
2 administrative services only or cost-plus arrangement.

3 (2) "Health care corporation" means a nonprofit hospital  
4 service corporation, medical care corporation, or a consolidated  
5 hospital service and medical care corporation incorporated or  
6 reincorporated under this act, or incorporated or consolidated  
7 under former Act No. 108 or 109 of the Public Acts of 1939.

8 (3) "Health care facility" means a facility or agency as  
9 defined in section ~~22104~~ 22205 of THE PUBLIC HEALTH CODE, Act  
10 No. 368 of the Public Acts of 1978, being section ~~333.22104~~  
11 333.22205 of the Michigan Compiled Laws, and includes a home  
12 health agency, or other facility with the approval of the  
13 commissioner.

14 (4) "Health care provider" or "provider", except as provided  
15 in section 301(8)(a), means a health care facility; a person  
16 licensed, certified, or registered under parts 161 to 182 of Act  
17 No. 368 of the Public Acts of 1978, as amended, being sections  
18 333.16101 to 333.18237 of the Michigan Compiled Laws; any other  
19 person or facility, with the approval of the commissioner, who or  
20 which meets the standards set by the health care corporation for  
21 all contracting providers; and, for purposes of section 414a, any  
22 person or facility who or which provides intermediate or outpa-  
23 tient care for substance abuse, as defined in section 414a.

24 (5) "Health care services" means services provided, ordered,  
25 or prescribed by a health care provider, including health and  
26 rehabilitative services and medical supplies, medical and  
27 rehabilitative services and medical supplies, medical prosthetics

1 and devices, and medical services ancillary or incidental to the  
2 provision of those services.

3       Sec. 108. (1) "Reimbursement arrangement" means policies,  
4 practices, and methods by which a health care corporation makes  
5 payments to a provider to implement the provider class plan.

6       (2) "Small subscriber group" means a group of less than 150  
7 subscribers.

8       (3) "Subscriber" means an individual who contracts for  
9 health care benefits, either individually or through a group,  
10 with a health care corporation. ~~Subscriber~~ SUBJECT TO SECTION  
11 211A, SUBSCRIBER includes an individual whose contract contains  
12 an administrative services only or cost-plus arrangement autho-  
13 rized under section 207(1)(g).

14       Sec. 201. (1) A health care corporation shall not be  
15 incorporated in this state except under this act.

16       (2) Not less than 7 persons, all of whom shall be residents  
17 of this state, may form a health care corporation under this act  
18 for the purpose of providing 1 or more health care benefits at  
19 the expense of the corporation to persons or groups of persons  
20 who become subscribers to the plan, under certificates ~~which~~  
21 THAT will entitle each subscriber to certain health care services  
22 by providers with which the corporation has contracted for that  
23 purpose.

24       (3) A certificate shall not provide for the payment of cash  
25 or any other material benefit to a subscriber or the estate of a  
26 subscriber on account of death, illness, or injury except ~~where~~  
27 IF payment is made to a subscriber for health care services by a

1 provider who has not entered into a participating contract with  
2 the corporation or to reimburse a subscriber who has made, or is  
3 obligated to make, payment directly to a provider.

4 (4) A health care corporation shall not be subject to the  
5 laws of this state with respect to insurance corporations, except  
6 as provided in this act. A health care corporation shall not be  
7 subject to the laws of this state with respect to corporations  
8 generally.

9 (5) A health care corporation subject to this act is  
10 declared to be a charitable and benevolent institution ~~—~~ and  
11 its funds and property shall be exempt from taxation by this  
12 state or any political subdivision of this state.

13 (6) A person shall not act as a health care corporation or  
14 issue a certificate except as authorized by and pursuant to a  
15 certificate of authority granted to the person by the commis-  
16 sioner pursuant to this act.

17 (7) A health care corporation shall provide only the kinds  
18 of health care benefits and certificates authorized by this act.  
19 A health care corporation shall not make or issue a certificate  
20 relative to health care benefits except as approved or otherwise  
21 authorized under this act.

22 (8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A  
23 HEALTH CARE CORPORATION SHALL NOT DIRECTLY OR INDIRECTLY OPERATE,  
24 CONTROL, OR USE THE INFLUENCE OF AN INDEPENDENT COMMITTEE AS  
25 DEFINED IN SECTION 208 OF THE MICHIGAN CAMPAIGN FINANCE ACT, ACT  
26 NO. 388 OF THE PUBLIC ACTS OF 1976, BEING SECTION 169.208 OF THE  
27 MICHIGAN COMPILED LAWS, OR A POLITICAL COMMITTEE AS DEFINED IN

1 SECTION 11 OF ACT NO. 388 OF THE PUBLIC ACTS OF 1976, BEING  
2 SECTION 169.211 OF THE MICHIGAN COMPILED LAWS. A HEALTH CARE  
3 CORPORATION WHO VIOLATES THIS SUBSECTION MAY BE SUBJECT TO A  
4 CIVIL FINE OF NOT MORE THAN \$10,000.00 FOR EACH VIOLATION.

5 Sec. 207. (1) A health care corporation, subject to any  
6 limitation provided in this act, in any other statute of this  
7 state, or in its articles of incorporation, may do any or all of  
8 the following:

9 (a) Contract to provide computer services and other adminis-  
10 trative consulting services to 1 or more providers or groups of  
11 providers, if the services are primarily designed to result in  
12 cost savings to subscribers.

13 (b) Engage in experimental health care projects to explore  
14 more efficient and economical means of implementing the  
15 corporation's programs, or the corporation's goals as prescribed  
16 in section 504 and the purposes of this act, to develop incen-  
17 tives to promote alternative methods and alternative providers,  
18 including nurse midwives, nurse anesthetists, and nurse practi-  
19 tioners, for delivering health care, including preventive care  
20 and home health care.

21 (c) ~~For~~ SUBJECT TO SECTION 211A, FOR the purpose of pro-  
22 viding health care services to employees of this state, the  
23 United States, or an agency, instrumentality, or political subdi-  
24 vision of this state or the United States, or for the purpose of  
25 providing all or part of the costs of health care services to  
26 disabled, aged, or needy persons, contract with this state, the



1 United States, or an agency, instrumentality, or political  
2 subdivision of this state or the United States.

3 (d) ~~For~~ SUBJECT TO SECTION 211A, FOR the purpose of admin-  
4 istering any publicly supported health benefit plan, accept and  
5 administer funds, directly or indirectly, made available by a  
6 contract authorized under subdivision (c), or made available by  
7 or received from any private entity.

8 (e) ~~For~~ SUBJECT TO SECTION 211A, FOR the purpose of admin-  
9 istering any publicly supported health benefit plan, subcontract  
10 with any organization ~~which~~ THAT has contracted with this  
11 state, the United States, or an agency, instrumentality, or  
12 political subdivision of this state or the United States, for the  
13 administration or furnishing of health services or any publicly  
14 supported health benefit plan.

15 (f) ~~Provide~~ SUBJECT TO SECTION 211A, PROVIDE administra-  
16 tive services only and cost-plus arrangements for the federal  
17 medicare program established by parts A and B of title XVIII of  
18 the social security act, ~~42 U.S.C. 1395c to 1395w~~ CHAPTER 531,  
19 49 STAT. 620, 42 U.S.C. 1395c TO 1395i, 1395i-2 TO 1395i-4, 1395j  
20 TO 1395t, 1395u TO 1395w-2, AND 1395w-4; for the federal medicaid  
21 program established under title XIX of the social security act,  
22 ~~42 U.S.C. 1396 to 1396k; for the child health act of 1967, 42~~  
23 ~~U.S.C. 701 to 716~~ CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO  
24 1396f AND 1396i TO 1396u; UNDER TITLE V OF THE SOCIAL SECURITY  
25 ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 701 TO 703, 704, AND  
26 705 TO 709; for the program of medical and dental care  
27 established by the military medical benefits amendments of 1966,

1 Public Law 85-861, 80 Stat. 862; for the Detroit maternity and  
2 infant care--preschool, school, and adolescent project; and for  
3 any other health benefit program established under state or fed-  
4 eral law.

5 (g) ~~Provide~~ SUBJECT TO SECTION 211A, PROVIDE administra-  
6 tive services only and cost-plus arrangements for any health ben-  
7 efit plan established by a subscriber group, subject to the  
8 requirements of section 211.

9 (h) Establish, own, and operate a health maintenance organi-  
10 zation, subject to the requirements of the public health code,  
11 Act No. 368 of the Public Acts of 1978, as amended, being  
12 sections 333.1101 to 333.25211 of the Michigan Compiled Laws.

13 (i) Guarantee loans for the education of persons who are  
14 planning to enter or have entered a profession that is licensed,  
15 or certified, or registered under parts 161 to 182 of Act No. 368  
16 of the Public Acts of 1978, as amended, being sections 333.16101  
17 to 333.18237 of the Michigan Compiled Laws, and has been identi-  
18 fied by the commissioner, with the consultation of the office of  
19 health and medical affairs in the department of management and  
20 budget, as a profession whose practitioners are in insufficient  
21 supply in this state or specified areas of this state and who  
22 agree, as a condition of receiving a guarantee of a loan, to work  
23 in this state, or an area of this state specified in a listing of  
24 shortage areas for the profession issued by the commissioner, for  
25 a period of time determined by the commissioner.

26 (j) Receive donations to assist or enable the corporation to  
27 carry out its purposes, as provided in this act.

1 (k) Bring an action against an officer or director of the  
2 corporation.

3 (l) Designate and maintain a registered office and a resi-  
4 dent agent in that office upon whom service of process may be  
5 made.

6 (m) Sue and be sued in all courts and participate in actions  
7 and proceedings, judicial, administrative, arbitratative, or other-  
8 wise, in the same cases as natural persons.

9 (n) Have a corporate seal, alter the seal, and use it by  
10 causing the seal or a facsimile to be affixed, impressed, or  
11 reproduced in any other manner.

12 (o) Invest and reinvest its funds and, for investment pur-  
13 poses only, purchase, take, receive, subscribe for, or otherwise  
14 acquire, own, hold, vote, employ, sell, lend, lease, exchange,  
15 transfer, or otherwise dispose of, mortgage, pledge, use, and  
16 otherwise deal in and with, bonds and other obligations, shares,  
17 or other securities or interests issued by entities other than  
18 domestic, foreign, or alien insurers, as defined in sections 106  
19 and 110 of the insurance code of 1956, Act No. 218 of the Public  
20 Acts of 1956, being sections 500.106 and 500.110 of the Michigan  
21 Compiled Laws, whether engaged in a similar or different busi-  
22 ness, or governmental or other activity, including banking corpo-  
23 rations or trust companies. However, a health care corporation  
24 may purchase, take, receive, subscribe for, or otherwise acquire,  
25 own, hold, vote, employ, sell, lend, lease, exchange, transfer,  
26 or otherwise dispose of bonds or other obligations, shares, or  
27 other securities or interests issued by a domestic, foreign, or

1 alien insurer, so long as the activity meets all of the  
2 following:

3 (i) Is determined by the attorney general to be lawful under  
4 section 202.

5 (ii) Is approved in writing by the commissioner as being in  
6 the best interests of the health care corporation and its  
7 subscribers.

8 (iii) Will not result in the health care corporation owning  
9 or controlling 10% or more of the voting securities of the  
10 insurer.

11 Nothing in this subdivision shall be interpreted as expanding the  
12 lawful purposes of a health care corporation under this act.

13 Except where expressly authorized by statute, a health care cor-  
14 poration shall not indirectly engage in any investment activity  
15 ~~which~~ THAT it may not engage in directly. A health care corpo-  
16 ration shall not guarantee or become surety upon a bond or other  
17 undertaking securing the deposit of public money.

18 (p) Purchase, receive, take by grant, gift, devise, bequest  
19 or otherwise, lease, or otherwise acquire, own, hold, improve,  
20 employ, use and otherwise deal in and with, real or personal  
21 property, or an interest therein, wherever situated.

22 (q) Sell, convey, lease, exchange, transfer or otherwise  
23 dispose of, or mortgage or pledge, or create a security interest  
24 in, any of its property, or an interest therein, wherever  
25 situated.

26 (r) Borrow money and issue its promissory note or bond for  
27 the repayment of the borrowed money with interest.

1 (s) Make donations for the public welfare, including  
2 hospital, charitable, or educational contributions ~~which~~ THAT  
3 do not significantly affect rates charged to subscribers.

4 (t) Participate with others in any joint venture ~~with~~  
5 ~~respect to any transaction which~~ THAT the health care corpora-  
6 tion would have the power to conduct by itself.

7 (u) Cease its activities and dissolve, subject to the  
8 commissioner's authority under section 606(2).

9 (v) Make contracts, transact business, carry on its opera-  
10 tions, have offices, and exercise the powers granted by this act  
11 in any jurisdiction ~~—~~ to the extent necessary to carry out its  
12 purposes under this act.

13 (w) Have and exercise all powers necessary or convenient to  
14 effect any purpose for which the corporation was formed.

15 (2) In order to ascertain the interests of senior citizens  
16 regarding the provision of medicare supplemental coverage, as  
17 described in section 202(1)(d)(v), and to ascertain the interests  
18 of senior citizens regarding the administration of the federal  
19 medicare program when acting as fiscal intermediary in this  
20 state, as described in section 202(1)(d)(vi), a health care cor-  
21 poration shall consult with the office of services to the aging  
22 and with senior citizens' organizations in this state.

23 (3) An act of a health care corporation, otherwise lawful,  
24 is not invalid because the corporation was without capacity or  
25 power to do the act. However, the lack of capacity or power may  
26 be asserted:

1 (a) In an action by a director or a member of the corporate  
2 body against the corporation to enjoin the doing of an act.

3 (b) In an action by or in the right of the corporation to  
4 procure a judgment in its favor against an incumbent or former  
5 officer or director of the corporation for loss or damage due to  
6 an unauthorized act of that officer or director.

7 (c) In an action or special proceeding by the attorney gen-  
8 eral to enjoin the corporation from the transacting of unautho-  
9 rized business, to set aside an unauthorized transaction, or to  
10 obtain other equitable relief.

11 SEC. 211A. (1) A HEALTH CARE CORPORATION SHALL NOT ENTER  
12 INTO ANY CONTRACTS CONTAINING AN ADMINISTRATIVE SERVICES ONLY OR  
13 COST PLUS ARRANGEMENT. A HEALTH CARE CORPORATION SHALL TERMINATE  
14 ALL EXISTING ADMINISTRATIVE SERVICES ONLY OR COST PLUS ARRANGE-  
15 MENTS BY NO LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THIS  
16 SECTION OR THE NEXT RENEWAL DATE FOR THE ADMINISTRATIVE SERVICES  
17 ONLY OR COST PLUS ARRANGEMENT, WHICHEVER IS SOONER.

18 (2) A HEALTH CARE CORPORATION SHALL NOTIFY ALL PARTICIPATING  
19 PROVIDERS AND PROVIDERS WHO PARTICIPATE ON AN INDIVIDUAL CASE OR  
20 SERVICE BASIS, AND WHO RECEIVE REIMBURSEMENT PURSUANT TO AN  
21 ADMINISTRATIVE SERVICES ONLY OR COST PLUS ARRANGEMENT, THAT THE  
22 APPLICABLE COVERAGE IS PURSUANT TO AN ADMINISTRATIVE SERVICES  
23 ONLY OR COST PLUS ARRANGEMENT AND THE DATE THAT IT WILL TERMINATE  
24 OR NOT BE RENEWED.

25 (3) A HEALTH CARE CORPORATION SHALL PROVIDE EACH SUBSCRIBER  
26 WHOSE CONTRACT FOR HEALTH CARE BENEFITS CONTAINS AN  
27 ADMINISTRATIVE SERVICES ONLY OR COST PLUS ARRANGEMENT WITH A NEW

1 IDENTIFICATION CARD BY NO LATER THAN 60 DAYS AFTER THE EFFECTIVE  
2 DATE OF THIS SECTION. THE IDENTIFICATION CARD SHALL CLEARLY DES-  
3 IGNATE THAT THE COVERAGE IS PURSUANT TO AN ADMINISTRATIVE SERV-  
4 ICES ONLY OR COST PLUS ARRANGEMENT.

5       Sec. 403. (1) A health care corporation, on a timely  
6 basis, shall pay to a member, TO A NONPARTICIPATING PROVIDER AT A  
7 MEMBER'S DIRECTION, or TO a participating provider benefits as  
8 are entitled and provided under the applicable certificate.  
9 ~~When~~ IF not paid on a timely basis, benefits payable to a  
10 member shall bear simple interest from a date 60 days after a  
11 satisfactory claim form was received by the health care corpora-  
12 tion, at a rate of 12% interest per annum. The interest shall be  
13 paid in addition to, and at the time of payment of, the claim.

14       (2) A health care corporation shall specify in writing the  
15 materials ~~which~~ THAT constitute a satisfactory claim form not  
16 later than 30 days after receipt of a claim, unless the claim is  
17 settled within 30 days. If a claim form is not supplied as to  
18 the entire claim, the amount supported by the claim form shall be  
19 considered to be paid on a timely basis if paid within 60 days  
20 after receipt of the claim form by the corporation.

21       SEC. 503A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT,  
22 A HEALTH CARE CORPORATION SHALL REIMBURSE FOR HEALTH CARE BENE-  
23 FITS RECEIVED AT A REASONABLE RATE BASED ON THE AVERAGE REIM-  
24 BURSEMENT RATE FOR THE SAME HEALTH CARE SERVICE BY THE SAME CLASS  
25 OF PROVIDERS IN ILLINOIS, INDIANA, OHIO, PENNSYLVANIA, AND  
26 WISCONSIN.

1        SEC. 606A. A HEALTH CARE CORPORATION SHALL NOT LEVY ANY  
2 PREMIUM INCREASE TO MAKE UP FOR ANY LOSS THAT HAS ARISEN FROM ANY  
3 ILLEGAL ACTIVITY OR ACT OF NONCOMPLIANCE WITH THIS ACT.

4        Sec. 608. (1) The rates charged to nongroup subscribers for  
5 each certificate shall be filed in accordance with section 610  
6 and shall be subject to the prior approval of the commissioner.  
7 Annually, the commissioner shall approve, disapprove, or modify  
8 and approve the proposed or existing rates for each certificate  
9 subject to the standard that the rates must be determined to be  
10 equitable, adequate, and not excessive, as defined in section 609  
11 AND SHALL BE COMMUNITY RATED. The burden of proof that rates to  
12 be charged meet these standards shall be upon the health care  
13 corporation proposing to use the rates.

14        (2) The methodology and definitions of each rating system,  
15 formula, component, and factor used to calculate rates for group  
16 subscribers for each certificate, including, SUBJECT TO SECTION  
17 211A, the methodology and definitions used to calculate adminis-  
18 trative costs for administrative services only and cost-plus  
19 arrangements, shall be filed in accordance with section 610 and  
20 shall be subject to the prior approval of the commissioner. The  
21 definition of a group, including any clustering principles  
22 applied to nongroup subscribers or small group subscribers for  
23 the purpose of group formation, shall be subject to the prior  
24 approval of the commissioner. The commissioner shall approve,  
25 disapprove, or modify and approve the methodology and definitions  
26 of each rating system, formula, component, and factor for each  
27 certificate subject to the standard that the resulting rates for



1 group subscribers must be determined to be equitable, adequate,  
2 and not excessive, as defined in section 609. In addition, the  
3 commissioner may REVIEW from time to time ~~review~~ the records of  
4 the corporation to determine proper application of a rating  
5 system, formula, component, or factor with respect to any group.  
6 The corporation shall refile for approval under this subsection  
7 ~~—~~ every 3 years ~~—~~ the methodology and definitions of each  
8 rating system, formula, component, and factor used to calculate  
9 rates for group subscribers, including, SUBJECT TO SECTION 211A,  
10 the methodology and definitions used to calculate administrative  
11 costs for administrative services only and cost-plus  
12 arrangements. The burden of proof that the resulting rates to be  
13 charged meet these standards shall be upon the health care corpo-  
14 ration proposing to use the rating system, formula, component, or  
15 factor.

16 (3) A proposed rate shall not take effect until a filing has  
17 been made with the commissioner and approved under section 607 or  
18 this section, as applicable, except as provided in subsections  
19 (4) and (5).

20 (4) Upon request by a health care corporation, the commis-  
21 sioner may allow rate adjustments to become effective prior to  
22 approval, for federal or state mandated benefit changes.  
23 However, a filing for these adjustments shall be submitted before  
24 the effective date of the mandated benefit changes. If the com-  
25 missioner disapproves or modifies and approves the rates, an  
26 adjustment shall be made retroactive to the effective date of the  
27 mandated benefit changes or additions.

1       (5) Implementation prior to approval may be allowed ~~when~~  
2 IF the health care corporation is participating with 1 or more  
3 health care corporations to underwrite a group whose employees  
4 are located in several states. Upon request from the commission-  
5 er, the corporation shall file with the commissioner, and the  
6 commissioner shall examine, the financial arrangement, formulae,  
7 and factors. If any are determined to be unacceptable, the com-  
8 missioner shall take appropriate action.

9       Section 2. Section 211 of Act No. 350 of the Public Acts of  
10 1980, being section 550.1211 of the Michigan Compiled Laws, is  
11 repealed effective 1 year after the effective date of this amen-  
12 datory act.