

# SENATE BILL No. 1623

November 12, 2008, Introduced by Senator CROPSEY and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1980 PA 350, entitled  
"The nonprofit health care corporation reform act,"  
by amending section 207 (MCL 550.1207), as amended by 2003 PA 59.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

5           (a) Contract to provide computer services and other  
6           administrative consulting services to 1 or more providers or groups  
7           of providers, if the services are primarily designed to result in  
8           cost savings to subscribers.

9           (b) Engage in experimental health care projects to explore  
10          more efficient and economical means of implementing the

1 corporation's programs, or the corporation's goals as prescribed in  
2 section 504 and the purposes of this act, to develop incentives to  
3 promote alternative methods and alternative providers, including  
4 nurse midwives, nurse anesthetists, and nurse practitioners, for  
5 delivering health care, including preventive care and home health  
6 care.

7 (c) For the purpose of providing health care services to  
8 employees of this state, the United States, or an agency,  
9 instrumentality, or political subdivision of this state or the  
10 United States, or for the purpose of providing all or part of the  
11 costs of health care services to disabled, aged, or needy persons,  
12 contract with this state, the United States, or an agency,  
13 instrumentality, or political subdivision of this state or the  
14 United States.

15 (d) For the purpose of administering any publicly supported  
16 health benefit plan, accept and administer funds, directly or  
17 indirectly, made available by a contract authorized under  
18 subdivision (c), or made available by or received from any private  
19 entity.

20 (e) For the purpose of administering any publicly supported  
21 health benefit plan, subcontract with any organization that has  
22 contracted with this state, the United States, or an agency,  
23 instrumentality, or political subdivision of this state or the  
24 United States, for the administration or furnishing of health  
25 services or any publicly supported health benefit plan.

26 (f) Provide administrative services only and cost-plus  
27 arrangements for the federal medicare program established ~~by parts~~

1 ~~A and B of~~ **UNDER** title XVIII of the social security act, ~~chapter~~  
2 ~~531, 49 Stat. 620, 42 U.S.C. 1395c to 1395i, 1395i-2 to 1395i-5,~~  
3 ~~1395j to 1395t, 1395u to 1395w, and 1395w-2 to 1395w-4~~ **42 USC 1395**  
4 **TO 1395HHH**; for the federal medicaid program established under  
5 title XIX of the social security act, ~~chapter 531, 49 Stat. 620, 42~~  
6 ~~U.S.C. 1396 to 1396r-6, and 1396r-8 to 1396v~~ **42 USC 1396 TO 1396V**;  
7 for title V of the social security act, ~~chapter 531, 49 Stat. 620,~~  
8 ~~42 U.S.C. USC 701 to 704 and 705 to 710~~; for the program of medical  
9 and dental care established by the military medical benefits  
10 amendments of 1966, Public Law 85-861; ~~78 Stat. 862~~; for the  
11 Detroit maternity and infant care--preschool, school, and  
12 adolescent project; and for any other health benefit program  
13 established under state or federal law.

14 (g) Provide administrative services only and cost-plus  
15 arrangements for any noninsured health benefit plan, subject to the  
16 requirements of sections 211 and 211a.

17 (h) Establish, own, and operate a health maintenance  
18 organization, subject to the requirements of the insurance code of  
19 1956, 1956 PA 218, MCL 500.100 to 500.8302.

20 (i) Guarantee loans for the education of persons who are  
21 planning to enter or have entered a profession that is licensed,  
22 certified, or registered under parts 161 to 182 of the public  
23 health code, 1978 PA 368, MCL 333.16101 to 333.18237, and has been  
24 identified by the commissioner, with the consultation of the office  
25 of health and medical affairs in the department of management and  
26 budget, as a profession whose practitioners are in insufficient  
27 supply in this state or specified areas of this state and who

1 agree, as a condition of receiving a guarantee of a loan, to work  
2 in this state, or an area of this state specified in a listing of  
3 shortage areas for the profession issued by the commissioner, for a  
4 period of time determined by the commissioner.

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

7 (k) Bring an action against an officer or director of the  
8 corporation.

9 (l) Designate and maintain a registered office and a resident  
10 agent in that office upon whom service of process may be made.

11 (m) Sue and be sued in all courts and participate in actions  
12 and proceedings, judicial, administrative, arbitrative, or  
13 otherwise, in the same cases as natural persons.

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

17 (o) Subject to chapter 9 of the insurance code of 1956, 1956  
18 PA 218, MCL 500.901 to 500.947, invest and reinvest its funds and,  
19 for investment purposes only, purchase, take, receive, subscribe  
20 for, or otherwise acquire, own, hold, vote, employ, sell, lend,  
21 lease, exchange, transfer, or otherwise dispose of, mortgage,  
22 pledge, use, and otherwise deal in and with, bonds and other  
23 obligations, shares, or other securities or interests issued by  
24 entities other than domestic, foreign, or alien insurers, as  
25 defined in sections 106 and 110 of the insurance code of 1956, 1956  
26 PA 218, MCL 500.106 and 500.110, whether engaged in a similar or  
27 different business, or governmental or other activity, including

1 banking corporations or trust companies. However, a health care  
2 corporation may purchase, take, receive, subscribe for, or  
3 otherwise acquire, own, hold, vote, employ, sell, lend, lease,  
4 exchange, transfer, or otherwise dispose of bonds or other  
5 obligations, shares, or other securities or interests issued by a  
6 domestic, foreign, or alien insurer, so long as the activity meets  
7 all of the following:

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

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

12 (iii) For an activity that occurred before ~~the effective date of~~  
13 ~~the amendatory act that added subparagraph (iv)~~ **JULY 23, 2003**, will  
14 not result in the health care corporation owning or controlling 10%  
15 or more of the voting securities of the insurer or will not  
16 otherwise result in the health care corporation having control of  
17 the insurer, either before or after ~~the effective date of the~~  
18 ~~amendatory act that added subparagraph (iv)~~ **JULY 23, 2003**. As used  
19 in this subparagraph and subparagraph (iv), "control" means that  
20 term as defined in section 115 of the insurance code of 1956, 1956  
21 PA 218, MCL 500.115.

22 (iv) Subject to section 218 and beginning on ~~the effective date~~  
23 ~~of the amendatory act that added this subparagraph~~ **JULY 23, 2003**,  
24 will not result in the health care corporation owning or  
25 controlling part or all of the insurer unless the transaction  
26 satisfies chapter 13 of the insurance code of 1956, 1956 PA 218,  
27 MCL 500.1301 to 500.1379, and the insurer being acquired is only

1 authorized to sell disability insurance as defined under section  
2 606 of the insurance code of 1956, 1956 PA 218, MCL 500.606, or  
3 under a statute or regulation in the insurer's domiciliary  
4 jurisdiction that is substantially similar to section 606 of the  
5 insurance code of 1956, 1956 PA 218, MCL 500.606.

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

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

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

15 (s) Make donations for the public welfare, including hospital,  
16 charitable, or educational contributions that do not significantly  
17 affect rates charged to subscribers.

18 (t) Participate with others in any joint venture with respect  
19 to any transaction that the health care corporation would have the  
20 power to conduct by itself.

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

23 (v) Make contracts, transact business, carry on its  
24 operations, have offices, and exercise the powers granted by this  
25 act in any jurisdiction, to the extent necessary to carry out its  
26 purposes under this act.

27 (w) Have and exercise all powers necessary or convenient to

1 effect any purpose for which the corporation was formed.

2 (x) Notwithstanding subdivision (o) or any other provision of  
3 this act, establish, own, and operate a domestic stock insurance  
4 company only for the purpose of acquiring, owning, and operating  
5 the state accident fund pursuant to chapter 51 of the insurance  
6 code of 1956, 1956 PA 218, MCL 500.5100 to 500.5114, so long as all  
7 of the following are met:

8 (i) For insurance products and services the insurer, whether  
9 directly or indirectly **THROUGH 1 OR MORE SUBSIDIARIES**, only  
10 transacts worker's compensation insurance and employer's liability  
11 insurance, transacts disability insurance limited to replacement of  
12 loss of earnings, and acts as an administrative services  
13 organization for an approved self-insured worker's compensation  
14 plan or a disability insurance plan limited to replacement of loss  
15 of earnings and does not transact any other type of insurance  
16 notwithstanding the authorization in chapter 51 of the insurance  
17 code of 1956, 1956 PA 218, MCL 500.5100 to 500.5114. This  
18 subparagraph does not preclude the insurer, ~~from providing either~~  
19 **WHETHER** directly or indirectly **THROUGH 1 OR MORE SUBSIDIARIES, FROM**  
20 **PROVIDING** noninsurance products and services as otherwise provided  
21 by law.

22 (ii) The activity is determined by the attorney general to be  
23 lawful under section 202.

24 (iii) The health care corporation does not directly or  
25 indirectly subsidize the use of any provider or subscriber  
26 information, loss data, contract, agreement, reimbursement  
27 mechanism or arrangement, computer system, or health care provider

1 discount to the insurer.

2 (iv) Members of the board of directors, employees, and officers  
3 of the health care corporation are not, directly or indirectly,  
4 employed by the insurer unless the health care corporation is  
5 fairly and reasonably compensated for the services rendered to the  
6 insurer if those services were paid for by the health care  
7 corporation.

8 (v) Health care corporation and subscriber funds are used only  
9 for the acquisition from the state of Michigan of the assets and  
10 liabilities of the state accident fund.

11 (vi) Health care corporation and subscriber funds are not used  
12 to operate or subsidize in any way the insurer including the use of  
13 such funds to subsidize contracts for goods and services. This  
14 subparagraph does not prohibit joint undertakings between the  
15 health care corporation and the insurer to take advantage of  
16 economies of scale or arm's-length loans or other financial  
17 transactions between the health care corporation and the insurer.

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

26 (3) An act of a health care corporation, otherwise lawful, is  
27 not invalid because the corporation was without capacity or power

1 to do the act. However, the lack of capacity or power may be  
2 asserted:

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

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

9 (c) In an action or special proceeding by the attorney general  
10 to enjoin the corporation from the transacting of unauthorized  
11 business, to set aside an unauthorized transaction, or to obtain  
12 other equitable relief.

13 (4) A health care corporation shall not condition the sale or  
14 vary the terms or conditions of any product sold by the corporation  
15 or by a subsidiary of the corporation by requiring the purchase of  
16 any other product from the corporation or from a subsidiary of the  
17 corporation.

18 Enacting section 1. This amendatory act is curative and  
19 intended to express the original intent of the legislature in 1999  
20 PA 210.