HOUSE SUBSTITUTE FOR

SENATE BILL NO. 1294

A bill to amend 1980 PA 350, entitled

"The nonprofit health care corporation reform act,"

by amending the title and sections 218, 401e, and 414b (MCL 550.1218, 550.1401e, and 550.1414b), the title as amended by 1994 PA 169, section 218 as added by 2002 PA 559, section 401e as added by 1996 PA 516, and section 414b as added by 2006 PA 413, and by adding sections 201a, 220, 400, 401m, 402d, 410b, 501c, and 620 and part 6A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to provide for the incorporation of nonprofit health
3 care corporations; to provide their rights, powers, and immunities;
4 to prescribe the powers and duties of certain state officers
5 relative to the exercise of those rights, powers, and immunities;

1 to prescribe certain conditions for the transaction of business by
2 those corporations in this state; to define the relationship of
3 health care providers to nonprofit health care corporations and to
4 specify their rights, powers, and immunities with respect thereto;
5 to provide for a Michigan caring program; to provide for the
6 regulation and supervision of nonprofit health care corporations by
7 the commissioner of insurance; to prescribe powers and duties of
8 certain other state officers with respect to the regulation and
9 supervision of nonprofit health care corporations; to provide for
10 the imposition of a regulatory fee; to regulate the merger or
11 consolidation of certain corporations; to prescribe an expeditious
12 and effective procedure for the maintenance and conduct of certain
13 administrative appeals relative to provider class plans; to provide
14 for certain administrative hearings relative to rates for health
15 care benefits; **TO PROVIDE FOR THE CREATION OF AND THE POWERS AND**
16 **DUTIES OF A NONPROFIT CORPORATION FOR THE PURPOSE OF RECEIVING AND**
17 **ADMINISTERING FUNDS FOR THE PUBLIC WELFARE;** to provide for certain
18 causes of action; to prescribe penalties and to provide civil fines
19 for violations of this act; and to repeal ~~certain~~ acts and parts of
20 acts.

21 **SEC. 201A. NOTWITHSTANDING SECTION 201, A HEALTH CARE**
22 **CORPORATION SHALL NOT BE FORMED IN THIS STATE ON OR AFTER THE**
23 **EFFECTIVE DATE OF THIS SECTION.**

24 Sec. 218. A health care corporation shall not do any of the
25 following:

26 (a) Take any action to change its nonprofit status.

27 (b) ~~Dissolve,~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 220,**

1 **DISSOLVE,** merge, consolidate, mutualize, or take any other action
2 that results in a change in direct or indirect control of the
3 health care corporation or sell, transfer, lease, exchange, option,
4 or convey assets that results in a change in direct or indirect
5 control of the health care corporation.
6 **SEC. 220. (1) NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE**
7 **CONTRARY, A HEALTH CARE CORPORATION MAY ESTABLISH, OWN, OPERATE,**
8 **AND MERGE WITH A NONPROFIT MUTUAL DISABILITY INSURER FORMED UNDER**
9 **CHAPTER 58 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.5800**
10 **TO 500.5840. THE SURVIVING ENTITY OF A MERGER DESCRIBED IN THIS**
11 **SUBSECTION IS THE NONPROFIT MUTUAL DISABILITY INSURER. A MERGER**
12 **DESCRIBED IN THIS SUBSECTION IS EXEMPT FROM THE APPLICATION OF**
13 **SECTIONS 1311 TO 1319 OF THE INSURANCE CODE OF 1956, 1956 PA 218,**
14 **MCL 500.1311 TO 500.1319.**
15 **(2) THE MERGER OF A HEALTH CARE CORPORATION WITH A NONPROFIT**
16 **MUTUAL DISABILITY INSURER IS EFFECTIVE UPON COMPLETION OF BOTH OF**
17 **THE FOLLOWING:**
18 **(A) THE ADOPTION OF A PLAN OF MERGER BY THE MAJORITY OF THE**
19 **BOARDS OF DIRECTORS OF BOTH THE HEALTH CARE CORPORATION AND THE**
20 **NONPROFIT MUTUAL DISABILITY INSURER. THE HEALTH CARE CORPORATION**
21 **SHALL INCLUDE IN THE PLAN OF MERGER THAT BEGINNING IN APRIL 2014**
22 **THE SURVIVING ENTITY OF A MERGER DESCRIBED IN SUBSECTION (1) SHALL**
23 **USE ITS BEST EFFORTS TO MAKE ANNUAL SOCIAL MISSION CONTRIBUTIONS IN**
24 **AN AGGREGATE AMOUNT OF UP TO $1,560,000,000.00 OVER A PERIOD OF UP**
25 **TO 18 YEARS BEGINNING IN APRIL 2014 TO THE MICHIGAN HEALTH**
26 **ENDOWMENT FUND CREATED UNDER PART 6A. IF ADOPTED, THE BOARDS OF**
27 **DIRECTORS SHALL SUBMIT THE PLAN OF MERGER TO THE COMMISSIONER FOR**

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1 HIS OR HER CONSIDERATION AS PROVIDED IN SUBDIVISION (B). A
2 NONPROFIT MUTUAL DISABILITY INSURER IS CONSIDERED TO BE MAKING ITS
3 BEST EFFORT UNDER THIS SUBDIVISION IF IT MAKES THE ANNUAL SOCIAL
4 MISSION CONTRIBUTION TO THE MICHIGAN HEALTH ENDOWMENT FUND CREATED
5 IN PART 6A WHEN THE NONPROFIT MUTUAL DISABILITY INSURER'S SURPLUS
6 IS AT LEAST 375% OF THE AUTHORIZED CONTROL LEVEL UNDER RISK-BASED
7 CAPITAL REQUIREMENTS.

8 (B) THE APPROVAL OF THE PLAN OF MERGER BY THE COMMISSIONER.
9 THE COMMISSIONER SHALL MAKE A DETERMINATION TO APPROVE OR
10 DISAPPROVE A PLAN OF MERGER WITHIN 90 DAYS OF RECEIPT OF THE PLAN,
11 AND THE COMMISSIONER SHALL NOT UNREASONABLY WITHHOLD APPROVAL OF A
12 PLAN OF MERGER SUBMITTED UNDER SUBDIVISION (A).

13 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO THE
14 CONTRARY, THE DIRECTORS OF A HEALTH CARE CORPORATION MAY SERVE AS
15 INCORPORATORS OF THE CORPORATE BODY OF, DIRECTORS OF, OR OFFICERS
16 OF THE NONPROFIT MUTUAL DISABILITY INSURER FORMED THROUGH A MERGER
17 DESCRIBED IN SUBSECTION (1).

18 (4) A MERGER DESCRIBED IN SUBSECTION (1) IS THE DISSOLUTION OF
19 THE HEALTH CARE CORPORATION, AND THE SURVIVING NONPROFIT MUTUAL
20 DISABILITY INSURER ASSUMES THE PERFORMANCE OF ALL CONTRACTS AND
21 POLICIES OF THE MERGED HEALTH CARE CORPORATION THAT EXIST ON THE
22 DATE OF THE MERGER, INCLUDING THE PARTICIPATING HOSPITAL AGREEMENT[, AND ITS DEFINITION OF CERTIFICATE WHICH EXCLUDES AS COVERED SERVICES BENEFITS PROVIDED PURSUANT TO AUTOMOBILE NO-FAULT OR WORKER'S COMPENSATION COVERAGE,]
23 AND ALL RELATED CONTRACT OBLIGATIONS THAT RESULT FROM ORDERS
24 RELATING TO HOSPITAL PROVIDER CLASS PLANS THAT ARE ISSUED BY THE
25 COMMISSIONER AFTER JULY 1, 2012. HOWEVER, THE OFFICERS OF A HEALTH
26 CARE CORPORATION MAY PERFORM ANY ACT OR ACTS NECESSARY TO CLOSE THE
27 AFFAIRS OF THE MERGED HEALTH CARE CORPORATION AFTER THE DATE OF THE

1 **MERGER.**

2 **SEC. 400. (1) NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE**
3 **CONTRARY, THIS SECTION APPLIES TO THE USE OF A MOST FAVORED NATION**
4 **CLAUSE IN A PROVIDER CONTRACT ON AND AFTER FEBRUARY 1, 2013.**

5 **(2) SUBJECT TO SUBSECTION (3), BEGINNING FEBRUARY 1, 2013, A**
6 **HEALTH CARE CORPORATION SHALL NOT USE A MOST FAVORED NATION CLAUSE**
7 **IN ANY PROVIDER CONTRACT, INCLUDING A PROVIDER CONTRACT IN EFFECT**
8 **ON FEBRUARY 1, 2013, UNLESS THE MOST FAVORED NATION CLAUSE HAS BEEN**
9 **FILED WITH AND APPROVED BY THE COMMISSIONER. SUBJECT TO SUBSECTION**
10 **(3), BEGINNING FEBRUARY 1, 2013, A HEALTH CARE CORPORATION SHALL**
11 **NOT ENFORCE A MOST FAVORED NATION CLAUSE IN ANY PROVIDER CONTRACT**
12 **WITHOUT THE PRIOR APPROVAL OF THE COMMISSIONER.**

13 **(3) BEGINNING JANUARY 1, 2014, A HEALTH CARE CORPORATION SHALL**
14 **NOT USE A MOST FAVORED NATION CLAUSE IN ANY PROVIDER CONTRACT,**
15 **INCLUDING A PROVIDER CONTRACT IN EFFECT ON JANUARY 1, 2014.**

16 **(4) AS USED IN THIS SECTION, "MOST FAVORED NATION CLAUSE"**
17 **MEANS A CLAUSE THAT DOES ANY OF THE FOLLOWING:**

18 **(A) PROHIBITS, OR GRANTS A CONTRACTING HEALTH CARE CORPORATION**
19 **AN OPTION TO PROHIBIT, A PROVIDER FROM CONTRACTING WITH ANOTHER**
20 **PARTY TO PROVIDE HEALTH CARE SERVICES AT A LOWER RATE THAN THE**
21 **PAYMENT OR REIMBURSEMENT RATE SPECIFIED IN THE CONTRACT WITH THE**
22 **HEALTH CARE CORPORATION.**

23 **(B) REQUIRES, OR GRANTS A CONTRACTING HEALTH CARE CORPORATION**
24 **AN OPTION TO REQUIRE, A PROVIDER TO ACCEPT A LOWER PAYMENT OR**
25 **REIMBURSEMENT RATE IF THE PROVIDER AGREES TO PROVIDE HEALTH CARE**
26 **SERVICES TO ANY OTHER PARTY AT A LOWER RATE THAN THE PAYMENT OR**
27 **REIMBURSEMENT RATE SPECIFIED IN THE CONTRACT WITH THE HEALTH CARE**

1 **CORPORATION.**

2 **(C) REQUIRES, OR GRANTS A CONTRACTING HEALTH CARE CORPORATION**
3 **AN OPTION TO REQUIRE, TERMINATION OR RENEGOTIATION OF AN EXISTING**
4 **PROVIDER CONTRACT IF A PROVIDER AGREES TO PROVIDE HEALTH CARE**
5 **SERVICES TO ANY OTHER PARTY AT A LOWER RATE THAN THE PAYMENT OR**
6 **REIMBURSEMENT RATE SPECIFIED IN THE CONTRACT WITH THE HEALTH CARE**
7 **CORPORATION.**

8 **(D) REQUIRES A PROVIDER TO DISCLOSE, TO THE HEALTH CARE**
9 **CORPORATION OR ITS DESIGNEE, THE PROVIDER'S CONTRACTUAL PAYMENT OR**
10 **REIMBURSEMENT RATES WITH OTHER PARTIES.**

11 Sec. 401e. (1) Except as **OTHERWISE** provided in this section, a
12 health care corporation that has issued a nongroup certificate
13 shall renew or continue in force the certificate at the option of
14 the individual.

15 (2) Except as **OTHERWISE** provided in this section, a health
16 care corporation that has issued a group certificate shall renew or
17 continue in force the certificate at the option of the sponsor of
18 the plan.

19 (3) Guaranteed renewal is not required in cases of fraud,
20 intentional misrepresentation of material fact, lack of payment, if
21 the health care corporation no longer offers that particular type
22 of coverage in the market, or if the individual or group moves
23 outside the service area.

24 **(4) A HEALTH CARE CORPORATION SHALL NOT DISCONTINUE OFFERING A**
25 **PARTICULAR PLAN OR PRODUCT IN THE NONGROUP OR GROUP MARKET UNLESS**
26 **THE HEALTH CARE CORPORATION DOES ALL OF THE FOLLOWING:**

27 **(A) PROVIDES NOTICE TO THE COMMISSIONER AND TO EACH COVERED**

1 INDIVIDUAL OR GROUP, AS APPLICABLE, PROVIDED COVERAGE UNDER THE
2 PLAN OR PRODUCT OF THE DISCONTINUATION AT LEAST 90 DAYS BEFORE THE
3 DATE OF THE DISCONTINUATION.
4 (B) OFFERS TO EACH COVERED INDIVIDUAL OR GROUP, AS APPLICABLE,
5 PROVIDED COVERAGE UNDER THE PLAN OR PRODUCT THE OPTION TO PURCHASE
6 ANY OTHER PLAN OR PRODUCT CURRENTLY BEING OFFERED IN THE NONGROUP
7 MARKET OR GROUP MARKET, AS APPLICABLE, BY THAT HEALTH CARE
8 CORPORATION WITHOUT EXCLUDING OR LIMITING COVERAGE FOR A
9 PREEXISTING CONDITION OR PROVIDING A WAITING PERIOD.
10 (C) ACTS UNIFORMLY WITHOUT REGARD TO ANY HEALTH STATUS FACTOR
11 OF ENROLLED INDIVIDUALS OR INDIVIDUALS WHO MAY BECOME ELIGIBLE FOR
12 COVERAGE IN MAKING THE DETERMINATION TO DISCONTINUE COVERAGE AND IN
13 OFFERING OTHER PLANS OR PRODUCTS.
14 (5) A HEALTH CARE CORPORATION SHALL NOT DISCONTINUE OFFERING
15 ALL COVERAGE IN THE NONGROUP OR GROUP MARKET UNLESS THE HEALTH CARE
16 CORPORATION DOES ALL OF THE FOLLOWING:
17 (A) PROVIDES NOTICE TO THE COMMISSIONER AND TO EACH COVERED
18 INDIVIDUAL OR GROUP, AS APPLICABLE, OF THE DISCONTINUATION AT LEAST
19 180 DAYS BEFORE THE DATE OF THE EXPIRATION OF COVERAGE.
20 (B) DISCONTINUES ALL HEALTH BENEFIT PLANS ISSUED IN THE
21 NONGROUP OR GROUP MARKET FROM WHICH THE HEALTH CARE CORPORATION
22 WITHDREW AND DOES NOT RENEW COVERAGE UNDER THOSE PLANS.
23 (6) IF A HEALTH CARE CORPORATION DISCONTINUES COVERAGE UNDER
24 SUBSECTION (5), THE HEALTH CARE CORPORATION SHALL NOT PROVIDE FOR
25 THE ISSUANCE OF ANY HEALTH BENEFIT PLANS IN THE NONGROUP OR GROUP
26 MARKET FROM WHICH THE HEALTH CARE CORPORATION WITHDREW DURING THE
27 5-YEAR PERIOD BEGINNING ON THE DATE OF THE DISCONTINUATION OF THE

1 LAST PLAN NOT RENEWED UNDER THAT SUBSECTION.
2 SEC. 401M. UNTIL JANUARY 1, 2014, A HEALTH CARE CORPORATION
3 ESTABLISHED, MAINTAINED, OR OPERATING IN THIS STATE SHALL OFFER
4 HEALTH CARE BENEFITS TO ALL RESIDENTS OF THIS STATE REGARDLESS OF
5 HEALTH STATUS.
6 SEC. 402D. (1) A QUALIFIED HEALTH PLAN OFFERED THROUGH AN
7 AMERICAN HEALTH BENEFIT EXCHANGE IN THIS STATE PURSUANT TO THE
8 PATIENT PROTECTION AND AFFORDABLE CARE ACT, PUBLIC LAW 111-148, AS
9 AMENDED BY THE HEALTH CARE AND EDUCATION RECONCILIATION ACT OF
10 2010, PUBLIC LAW 111-152, SHALL NOT PROVIDE COVERAGE FOR ELECTIVE
11 ABORTION. THIS SECTION DOES NOT PROHIBIT AN INDIVIDUAL,
12 ORGANIZATION, OR EMPLOYER PARTICIPATING IN A QUALIFIED HEALTH PLAN
13 OFFERED THROUGH AN AMERICAN HEALTH BENEFIT EXCHANGE IN THIS STATE
14 FROM PURCHASING OPTIONAL SUPPLEMENTAL COVERAGE FOR ELECTIVE
15 ABORTION OUTSIDE OF THE EXCHANGE AS PROVIDED IN SUBSECTION (2).
16 (2) A HEALTH CARE CORPORATION GROUP OR NONGROUP CERTIFICATE
17 OFFERED OUTSIDE OF AN AMERICAN HEALTH BENEFIT EXCHANGE SHALL NOT
18 PROVIDE COVERAGE FOR ELECTIVE ABORTIONS EXCEPT BY AN OPTIONAL RIDER
19 FOR WHICH AN ADDITIONAL PREMIUM HAS BEEN PAID BY THE PURCHASER.
20 (3) AN EMPLOYER MAY PURCHASE AN OPTIONAL RIDER TO PROVIDE
21 COVERAGE FOR AN ELECTIVE ABORTION IF THE EMPLOYER PROVIDES NOTICE
22 TO EACH EMPLOYEE THAT ELECTIVE ABORTION WILL BE INCLUDED AS A RIDER
23 TO HIS OR HER HEALTH COVERAGE AND THAT THE COVERAGE MAY BE USED BY
24 A COVERED DEPENDENT WITHOUT NOTICE TO THE EMPLOYEE.
25 (4) THIS SECTION DOES NOT REQUIRE A HEALTH CARE CORPORATION OR
26 EMPLOYER TO PROVIDE OR OFFER TO PROVIDE AN OPTIONAL RIDER FOR
27 ELECTIVE ABORTION COVERAGE.

1 **(5) THIS SECTION DOES NOT APPLY TO BENEFITS PROVIDED UNDER**
2 **TITLE XIX OF THE SOCIAL SECURITY ACT, 42 USC 1396 TO 1396W-5.**
3 **(6) THIS SECTION DOES NOT CREATE A RIGHT TO ABORTION.**
4 **(7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A**
5 **PERSON SHALL NOT PERFORM AN ABORTION THAT IS PROHIBITED BY LAW.**
6 **(8) THIS SECTION APPLIES TO CERTIFICATES ISSUED OR RENEWED IN**
7 **THIS STATE ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION.**
8 **(9) AS USED IN THIS SECTION:**
9 **(A) "ELECTIVE ABORTION" MEANS THE INTENTIONAL USE OF AN**
10 **INSTRUMENT, DRUG, OR OTHER SUBSTANCE OR DEVICE TO TERMINATE A**
11 **WOMAN'S PREGNANCY FOR A PURPOSE OTHER THAN TO INCREASE THE**
12 **PROBABILITY OF A LIVE BIRTH, TO PRESERVE THE LIFE OR HEALTH OF THE**
13 **CHILD AFTER LIVE BIRTH, OR TO REMOVE A DEAD FETUS. ELECTIVE**
14 **ABORTION DOES NOT INCLUDE EITHER OF THE FOLLOWING:**
15 **(*i*) THE PRESCRIPTION OF OR USE OF A DRUG OR DEVICE INTENDED AS**
16 **A CONTRACEPTIVE.**
17 **(*ii*) THE INTENTIONAL USE OF AN INSTRUMENT, DRUG, OR OTHER**
18 **SUBSTANCE OR DEVICE BY A PHYSICIAN TO TERMINATE A WOMAN'S PREGNANCY**
19 **IF THE WOMAN'S PHYSICAL CONDITION, IN THE PHYSICIAN'S REASONABLE**
20 **MEDICAL JUDGMENT, NECESSITATES THE TERMINATION OF THE WOMAN'S**
21 **PREGNANCY TO AVERT HER DEATH.**
22 **(B) "QUALIFIED HEALTH PLAN" MEANS THAT TERM AS DEFINED IN**
23 **SECTION 1301 OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT,**
24 **PUBLIC LAW 111-148.**
25 **(C) "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED OR OTHERWISE**
26 **AUTHORIZED TO ENGAGE IN THE PRACTICE OF MEDICINE OR THE PRACTICE OF**
27 **OSTEOPATHIC MEDICINE AND SURGERY UNDER ARTICLE 15 OF THE PUBLIC**

1 **HEALTH CODE, 1978 PA 368, MCL 333.16101 TO 333.18838.**
2 **SEC. 410B. NOTWITHSTANDING SECTION 410A(8), FOR A CERTIFICATE**
3 **DELIVERED, ISSUED FOR DELIVERY, OR RENEWED IN THIS STATE ON OR**
4 **AFTER JANUARY 1, 2014, THE PREMIUM FOR A GROUP CONVERSION**
5 **CERTIFICATE UNDER SECTION 410A SHALL BE DETERMINED ONLY BY USING**
6 **THE RATING FACTORS SET FORTH IN SECTION 3474A OF THE INSURANCE CODE**
7 **OF 1956, 1956 PA 218, MCL 500.3474A.**
8 Sec. 414b. (1) A health care corporation may offer group
9 wellness coverage. Wellness coverage may provide for an appropriate
10 rebate or reduction in premiums or for reduced copayments,
11 coinsurance, or deductibles, or a combination of these incentives,
12 for participation in any health behavior wellness, maintenance, or
13 improvement program offered by the employer. The employer shall
14 provide evidence of demonstrative maintenance or improvement of the
15 members' health behaviors as determined by assessments of agreed-
16 upon health status indicators between the employer and the health
17 care corporation. Any rebate or premium provided by the health care
18 corporation is presumed to be appropriate unless credible data
19 demonstrate otherwise, but shall not exceed ~~10%~~ **30%** of paid
20 premiums**, UNLESS OTHERWISE APPROVED BY THE COMMISSIONER**. A health
21 care corporation shall make available to employers all wellness
22 coverage plans that it markets to employers in this state.
23 (2) A health care corporation may offer nongroup wellness
24 coverage. Wellness coverage may provide for an appropriate rebate
25 or reduction in premiums or for reduced copayments, coinsurance, or
26 deductibles, or a combination of these incentives, for
27 participation in any health behavior wellness, maintenance, or

1 improvement program approved by the health care corporation. The
2 member shall provide evidence of demonstrative maintenance or
3 improvement of the individual's or family's health behaviors as
4 determined by assessments of agreed-upon health status indicators
5 between the member and the health care corporation. Any rebate of
6 premium provided by the health care corporation is presumed to be
7 appropriate unless credible data demonstrate otherwise, but shall
8 not exceed ~~10%~~ **30%** of paid premiums**, UNLESS OTHERWISE APPROVED BY**
9 **THE COMMISSIONER**. A health care corporation shall make available to
10 individuals all wellness coverage plans that it markets to
11 individuals in this state.

12 (3) A health care corporation is not required to continue any
13 health behavior wellness, maintenance, or improvement program or to
14 continue any incentive associated with a health behavior wellness,
15 maintenance, or improvement program.

16 **SEC. 501C. BEGINNING JANUARY 1, 2014, A HEALTH CARE**
17 **CORPORATION SHALL ESTABLISH AND MAINTAIN A PROVIDER NETWORK THAT,**
18 **AT A MINIMUM, SATISFIES ANY NETWORK ADEQUACY REQUIREMENTS IMPOSED**
19 **BY THE COMMISSIONER PURSUANT TO FEDERAL LAW.**

20 **SEC. 620. (1) NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE**
21 **CONTRARY, A CERTIFICATE DELIVERED, ISSUED FOR DELIVERY, OR RENEWED**
22 **IN THIS STATE ON OR AFTER JANUARY 1, 2014 BY A HEALTH CARE**
23 **CORPORATION IS SUBJECT TO THE POLICY AND CERTIFICATE ISSUANCE AND**
24 **RATE FILING REQUIREMENTS OF THE INSURANCE CODE OF 1956, 1956 PA**
25 **218, MCL 500.100 TO 500.8302, INCLUDING THE RATING FACTOR**
26 **REQUIREMENTS OF SECTION 3474A OF THE INSURANCE CODE OF 1956, 1956**
27 **PA 218, MCL 500.3474A.**

1 (2) FOR A CERTIFICATE DELIVERED, ISSUED FOR DELIVERY, OR
2 RENEWED IN THIS STATE ON OR AFTER JANUARY 1, 2014, SUBJECT TO THE
3 PRIOR APPROVAL OF THE COMMISSIONER, A HEALTH CARE CORPORATION MAY
4 ESTABLISH REASONABLE OPEN ENROLLMENT PERIODS.
5 (3) THE COMMISSIONER SHALL ESTABLISH MINIMUM STANDARDS FOR THE
6 FREQUENCY AND DURATION OF OPEN ENROLLMENT PERIODS ESTABLISHED UNDER
7 SUBSECTION (2). THE COMMISSIONER SHALL UNIFORMLY APPLY THE MINIMUM
8 STANDARDS FOR THE FREQUENCY AND DURATION OF OPEN ENROLLMENT PERIODS
9 ESTABLISHED UNDER THIS SUBSECTION TO ALL HEALTH CARE CORPORATIONS.
10 (4) A HEALTH CARE CORPORATION OFFERING COVERAGE DURING AN OPEN
11 ENROLLMENT PERIOD ESTABLISHED UNDER SUBSECTION (2) SHALL NOT DENY
12 OR CONDITION THE ISSUANCE OR EFFECTIVENESS OF A CERTIFICATE AND
13 SHALL NOT DISCRIMINATE IN THE PRICING OF THE CERTIFICATE ON THE
14 BASIS OF HEALTH STATUS, CLAIMS EXPERIENCE, RECEIPT OF HEALTH CARE,
15 OR MEDICAL CONDITION.
16 PART 6A
17 MICHIGAN HEALTH ENDOWMENT FUND
18 SEC. 651. AS USED IN THIS PART:
19 (A) "BOARD" MEANS THE MICHIGAN HEALTH ENDOWMENT FUND BOARD
20 CREATED IN SECTION 652.
21 (B) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE
22 FUND APPOINTED BY THE BOARD UNDER SECTION 654.
23 (C) "FUND" MEANS THE MICHIGAN HEALTH ENDOWMENT FUND ORGANIZED
24 AS A NONPROFIT CORPORATION UNDER SECTION 653.
25 SEC. 652. (1) THE MICHIGAN HEALTH ENDOWMENT FUND BOARD IS
26 CREATED TO ORGANIZE AND GOVERN THE FUND. THE BOARD IS THE
27 INCORPORATOR OF THE FUND FOR THE PURPOSES OF THE NONPROFIT

1 CORPORATION ACT, 1982 PA 162, MCL 450.2101 TO 450.3192.
2 (2) THE BOARD SHALL ADOPT A CONFLICT OF INTEREST POLICY. A
3 BOARD MEMBER WITH A DIRECT OR INDIRECT INTEREST IN ANY MATTER
4 BEFORE THE FUND SHALL DISCLOSE THE MEMBER'S INTEREST TO THE BOARD
5 BEFORE THE BOARD TAKES ANY ACTION ON THE MATTER. THE BOARD SHALL
6 RECORD THE MEMBER'S DISCLOSURE IN THE MINUTES OF THE BOARD MEETING.
7 IF A BOARD MEMBER OR A MEMBER OF HIS OR HER IMMEDIATE FAMILY,
8 ORGANIZATIONALLY OR INDIVIDUALLY, WOULD DERIVE A DIRECT AND
9 SPECIFIC BENEFIT FROM A DECISION OF THE BOARD, THAT MEMBER SHALL
10 RECUSE HIMSELF OR HERSELF FROM THE DISCUSSION AND VOTE ON THE
11 ISSUE.
12 (3) SUBJECT TO THIS SUBSECTION, THE GOVERNOR SHALL APPOINT THE
13 MEMBERS OF THE BOARD WITH THE ADVICE AND CONSENT OF THE SENATE. ON
14 OR BEFORE THE EXPIRATION OF 60 DAYS AFTER THE EFFECTIVE DATE OF
15 THIS SECTION, THE GOVERNOR SHALL APPOINT THE FOLLOWING INITIAL
16 MEMBERS OF THE BOARD WITH THE ADVICE AND CONSENT OF THE SENATE:
17 (A) ONE MEMBER FROM A LIST OF 3 OR MORE INDIVIDUALS
18 RECOMMENDED BY THE SENATE MAJORITY LEADER.
19 (B) ONE MEMBER FROM A LIST OF 3 OR MORE INDIVIDUALS
20 RECOMMENDED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.
21 (C) ONE MEMBER REPRESENTING THE INTERESTS OF MINOR CHILDREN.
22 (D) ONE MEMBER REPRESENTING THE INTERESTS OF SENIOR CITIZENS.
23 (E) TWO MEMBERS OF THE GENERAL PUBLIC.
24 (F) ONE MEMBER REPRESENTING THE BUSINESS COMMUNITY.
25 (G) ONE MEMBER FROM A LIST OF 3 OR MORE INDIVIDUALS
26 RECOMMENDED BY THE HOUSE MINORITY LEADER.
27 (H) ONE MEMBER FROM A LIST OF 3 OR MORE INDIVIDUALS

1 RECOMMENDED BY THE SENATE MINORITY LEADER.
2 (4) A VACANCY IN THE BOARD SHALL BE FILLED IN THE SAME MANNER
3 AS THE INITIAL APPOINTMENT OF THAT MEMBER UNDER SUBSECTION (3).
4 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A BOARD MEMBER
5 SHALL SERVE FOR A TERM OF 4 YEARS OR UNTIL A SUCCESSOR IS
6 APPOINTED, WHICHEVER IS LATER. FOR AN INITIAL MEMBER APPOINTED TO
7 THE BOARD UNDER SUBSECTION (3), 3 MEMBERS SHALL SERVE FOR 2-YEAR
8 TERMS, 3 MEMBERS SHALL SERVE FOR 3-YEAR TERMS, AND 3 MEMBERS SHALL
9 SERVE FOR 4-YEAR TERMS.
10 (5) SIX MEMBERS OF THE BOARD CONSTITUTE A QUORUM FOR THE
11 TRANSACTION OF BUSINESS AT A MEETING OF THE BOARD. AN AFFIRMATIVE
12 VOTE OF 5 BOARD MEMBERS IS NECESSARY FOR OFFICIAL ACTION OF THE
13 BOARD.
14 (6) THE BUSINESS THAT THE BOARD MAY PERFORM SHALL BE CONDUCTED
15 AT A MEETING OF THE BOARD THAT IS HELD IN THIS STATE, IS OPEN TO
16 THE PUBLIC, AND IS HELD IN A PLACE THAT IS AVAILABLE TO THE GENERAL
17 PUBLIC. HOWEVER, THE BOARD MAY ESTABLISH REASONABLE RULES AND
18 REGULATIONS TO MINIMIZE DISRUPTION OF A MEETING OF THE BOARD. AT
19 LEAST 10 DAYS AND NOT MORE THAN 60 DAYS BEFORE A MEETING, THE BOARD
20 SHALL PROVIDE PUBLIC NOTICE OF ITS MEETING AT ITS PRINCIPAL OFFICE
21 AND ON ITS INTERNET WEBSITE. THE BOARD SHALL INCLUDE IN THE PUBLIC
22 NOTICE OF ITS MEETING THE ADDRESS WHERE BOARD MINUTES REQUIRED
23 UNDER SUBSECTION (7) MAY BE INSPECTED BY THE PUBLIC. THE BOARD MAY
24 MEET IN A CLOSED SESSION FOR ANY OF THE FOLLOWING PURPOSES:
25 (A) TO CONSIDER THE HIRING, DISMISSAL, SUSPENSION, OR
26 DISCIPLINING OF BOARD MEMBERS OR ITS EMPLOYEES OR AGENTS.
27 (B) TO CONSULT WITH ITS ATTORNEY.

1 **(C) TO COMPLY WITH STATE OR FEDERAL LAW, RULES, OR REGULATIONS**
2 **REGARDING PRIVACY OR CONFIDENTIALITY.**
3 **(7) THE BOARD SHALL KEEP MINUTES OF EACH MEETING. BOARD**
4 **MINUTES SHALL BE OPEN TO PUBLIC INSPECTION, AND THE BOARD SHALL**
5 **MAKE THE MINUTES AVAILABLE AT THE ADDRESS DESIGNATED ON THE PUBLIC**
6 **NOTICE OF ITS MEETING UNDER SUBSECTION (6). THE BOARD SHALL MAKE**
7 **COPIES OF THE MINUTES AVAILABLE TO THE PUBLIC AT THE REASONABLE**
8 **ESTIMATED COST FOR PRINTING AND COPYING. THE BOARD SHALL INCLUDE**
9 **ALL OF THE FOLLOWING IN ITS BOARD MINUTES:**
10 **(A) THE DATE, TIME, AND PLACE OF THE MEETING.**
11 **(B) BOARD MEMBERS WHO ARE PRESENT AND ABSENT.**
12 **(C) BOARD DECISIONS MADE AT A MEETING OPEN TO THE PUBLIC.**
13 **(D) ALL ROLL CALL VOTES TAKEN AT THE MEETING.**
14 **(8) BOARD MEMBERS SHALL SERVE WITHOUT COMPENSATION. HOWEVER,**
15 **BOARD MEMBERS MAY BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY**
16 **EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS**
17 **BOARD MEMBERS.**
18 **SEC. 653. (1) THE BOARD SHALL ORGANIZE A NONPROFIT**
19 **CORPORATION, ON A NONSTOCK, DIRECTORSHIP BASIS, UNDER THE NONPROFIT**
20 **CORPORATION ACT, 1982 PA 162, MCL 450.2101 TO 450.3192. THE**
21 **NONPROFIT CORPORATION SHALL BE KNOWN AS THE MICHIGAN HEALTH**
22 **ENDOWMENT FUND AND IS ORGANIZED TO RECEIVE AND ADMINISTER FUNDS FOR**
23 **THE PUBLIC WELFARE.**
24 **(2) THE PURPOSE OF THE FUND IS TO BENEFIT THE HEALTH AND**
25 **WELLNESS OF MINOR CHILDREN AND SENIORS THROUGHOUT THIS STATE WITH A**
26 **SIGNIFICANT FOCUS IN THE FOLLOWING AREAS:**
27 **(A) INFANT MORTALITY.**

1 (B) WELLNESS PROGRAMS AND FITNESS PROGRAMS.

2 (C) ACCESS TO HEALTHY FOOD.

3 (D) TECHNOLOGY ENHANCEMENTS.

4 (E) HEALTH-RELATED TRANSPORTATION NEEDS.

5 (F) FOODBORNE ILLNESS PREVENTION.

6 (3) THE FUND MAY AWARD GRANTS FOR PROJECTS THAT WILL PROMOTE
7 THE PURPOSE OF THE FUND DESCRIBED IN SUBSECTION (2). THE BOARD
8 SHALL ESTABLISH A COMPREHENSIVE AND COMPETITIVE PROCESS TO AWARD
9 GRANTS. THE BOARD SHALL NOT AWARD A GRANT THAT IS LONGER THAN 3
10 YEARS IN DURATION.

11 (4) THE FUND HAS THE POWER AND DUTIES OF A NONPROFIT
12 CORPORATION UNDER THE NONPROFIT CORPORATION ACT, 1982 PA 162, MCL
13 450.2101 TO 450.3192. IF A CONFLICT BETWEEN A POWER OR DUTY OF THE
14 FUND UNDER THIS SECTION CONFLICTS WITH A POWER OR DUTY UNDER OTHER
15 STATE LAW, THIS SECTION CONTROLS.

16 (5) THE BOARD SHALL IMPLEMENT A PROGRAM THAT DISBURSES
17 FOUNDATION MONEY TO SUBSIDIZE THE COST OF INDIVIDUAL MEDIGAP
18 COVERAGE TO SENIOR CITIZENS IN THIS STATE WHO DEMONSTRATE A
19 FINANCIAL NEED IN ORDER TO BE ABLE TO PURCHASE INDIVIDUAL MEDIGAP
20 COVERAGE. SUBJECT TO APPROVAL BY THE ATTORNEY GENERAL, THE
21 COMMISSIONER SHALL DEVELOP A MEANS TEST TO DETERMINE IF A SENIOR
22 CITIZEN APPLICANT IS ELIGIBLE FOR THE MEDIGAP COVERAGE SUBSIDY
23 PROVIDED FOR IN THIS SUBSECTION.

24 (6) BEGINNING AUGUST 1, 2016 AND ENDING DECEMBER 31, 2021, THE
25 BOARD SHALL DISBURSE $120,000,000.00 TO SUBSIDIZE THE COST OF
26 INDIVIDUAL MEDIGAP COVERAGE PURCHASED BY SENIOR CITIZENS IN THIS
27 STATE, SUBJECT TO THE MEANS TEST REQUIRED IN SUBSECTION (5).

1 SEC. 654. (1) THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR OF
2 THE FUND. THE EXECUTIVE DIRECTOR IS THE CHIEF EXECUTIVE OFFICER OF
3 THE FUND AND SERVES AT THE PLEASURE OF THE BOARD. THE EXECUTIVE
4 DIRECTOR MAY EMPLOY STAFF AND HIRE CONSULTANTS AS NECESSARY WITH
5 THE APPROVAL OF THE BOARD. THE BOARD SHALL DETERMINE COMPENSATION
6 FOR THE EXECUTIVE DIRECTOR AND STAFF EMPLOYED UNDER THIS SUBSECTION
7 AND SHALL APPROVE CONTRACTS UNDER THIS SUBSECTION.
8 (2) THE EXECUTIVE DIRECTOR SHALL DISPLAY ON THE FUND INTERNET
9 WEBSITE INFORMATION RELEVANT TO THE PUBLIC, AS DEFINED BY THE
10 BOARD, CONCERNING THE FUND'S OPERATIONS AND EFFICIENCIES, AS WELL
11 AS THE BOARD'S ASSESSMENTS OF THOSE ACTIVITIES.
12 SEC. 655. (1) SUBJECT TO THIS SECTION, THE BOARD MAY DISBURSE
13 MONEY CONTRIBUTED TO THE FUND EACH YEAR, NOT INCLUDING ANY
14 INTEREST, EARNINGS, OR UNREALIZED GAINS OR LOSSES ON THOSE
15 CONTRIBUTIONS, FOR THE PURPOSES OF THE FUND AS DESCRIBED IN SECTION
16 653. THE BOARD MAY EXPEND A PORTION OF THE MONEY CONTRIBUTED TO THE
17 FUND IN EACH YEAR ACCORDING TO THE FOLLOWING SCHEDULE:
18 (A) YEARS 1 THROUGH 4, 80%.
19 (B) YEARS 5 THROUGH 8, 67%.
20 (C) YEARS 9 THROUGH 12, 60%.
21 (D) YEARS 13 THROUGH 18, 25%.
22 (2) ON AND AFTER THE DATE THAT THE ACCUMULATED PRINCIPAL IN
23 THE FUND REACHES $750,000,000.00, THE BOARD SHALL MAINTAIN THAT
24 AMOUNT FOR INVESTMENT TO PROVIDE AN ONGOING INCOME TO THE FUND. ON
25 AND AFTER THE DATE THAT THE ACCUMULATED PRINCIPAL IN THE FUND
26 REACHES $750,000,000.00, THE BOARD SHALL NOT ALLOW THE ACCUMULATED
27 PRINCIPAL OF THE FUND TO FALL BELOW $750,000,000.00 DUE TO

1 **EXPENDITURES MADE FOR THE PURPOSES OF THE FUND AS DESCRIBED IN**
2 **SECTION 653.**
3 **(3) THE BOARD MAY EXPEND MONEY RECEIVED BY THE FUND FROM ANY**
4 **SOURCE IN A FISCAL YEAR THAT IS IN EXCESS OF THE AMOUNT REQUIRED TO**
5 **MAINTAIN THE ACCUMULATED PRINCIPAL GOALS AS DESCRIBED IN SUBSECTION**
6 **(2), NOT INCLUDING ANY INTEREST, EARNINGS, OR UNREALIZED GAINS OR**
7 **LOSSES ON THOSE FUNDS, ON THE REASONABLE ADMINISTRATIVE COSTS OF**
8 **THE FUND AND FOR THE PURPOSES OF THE FUND AS DESCRIBED IN SECTION**
9 **653. THE INVESTMENT OF FUND MONEY AND DONATIONS BY THE FUND ARE**
10 **UNDER THE EXCLUSIVE CONTROL AND DISCRETION OF THE EXECUTIVE**
11 **DIRECTOR AND THE BOARD.**
12 **(4) THE BOARD MAY INVEST ACCUMULATED PRINCIPAL IN THE FUND**
13 **ONLY IN SECURITIES PERMITTED BY THE LAWS OF THIS STATE FOR THE**
14 **INVESTMENT OF ASSETS OF LIFE INSURANCE COMPANIES, AS DESCRIBED IN**
15 **CHAPTER 9 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.901**
16 **TO 500.947.**
17 **(5) THE BOARD SHALL PROVIDE IN THE FUND'S ARTICLES OF**
18 **INCORPORATION OR BYLAWS FOR A SYSTEM OF FINANCIAL ACCOUNTING,**
19 **CONTROLS, AUDITS, AND REPORTS. THE BOARD ANNUALLY SHALL HAVE AN**
20 **AUDIT OF THE FUND CONDUCTED BY AN INDEPENDENT PUBLIC ACCOUNTANT**
21 **FIRM, AND THE AUDITOR'S AUDIT REPORT AND FINDINGS SHALL BE**
22 **SUBMITTED TO THE BOARD. THE EXPENSE OF AN AUDIT REQUIRED UNDER THIS**
23 **SUBSECTION IS CONSIDERED A REASONABLE ADMINISTRATIVE COST UNDER**
24 **SUBSECTION (3).**
25 **(6) THE BOARD SHALL APPOINT FROM ITS MEMBERS AN AUDIT**
26 **COMMITTEE CONSISTING OF NO LESS THAN 3 MEMBERS. AT A MINIMUM, THE**
27 **AUDIT COMMITTEE SHALL CONTRACT WITH AN INDEPENDENT AUDITING FIRM TO**

1 **PROVIDE AN ANNUAL FINANCIAL AUDIT IN ACCORDANCE WITH APPLICABLE**
2 **AUDITING STANDARDS.**
3 **(7) THE EXECUTIVE DIRECTOR SHALL DO ALL OF THE FOLLOWING:**
4 **(A) REVIEW AND CERTIFY THE REPORTS OF THE EXTERNAL AUDITOR.**
5 **(B) MAKE THE EXTERNAL AUDITOR REPORTS AVAILABLE TO THE BOARD**
6 **AND TO THE GENERAL PUBLIC.**
7 **(C) DEVELOP AND IMPLEMENT CORRECTIVE ACTIONS TO ADDRESS**
8 **WEAKNESSES IDENTIFIED IN AN AUDIT REPORT.**
9 **(8) THE FUND SHALL MEET ALL OF THE FOLLOWING FINANCIAL**
10 **TRANSPARENCY REQUIREMENTS:**
11 **(A) KEEP AN ACCURATE ACCOUNTING OF ALL ACTIVITIES, RECEIPTS,**
12 **AND EXPENDITURES AND ANNUALLY SUBMIT TO THE GOVERNOR, THE SENATE**
13 **AND HOUSE OF REPRESENTATIVES APPROPRIATIONS COMMITTEES, AND THE**
14 **SENATE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEES ON HEALTH**
15 **POLICY A REPORT REGARDING THOSE ACCOUNTINGS.**
16 **(B) FULLY COOPERATE WITH ANY INVESTIGATION CONDUCTED BY THIS**
17 **STATE OR A FEDERAL AGENCY UNDER ITS AUTHORITY UNDER STATE OR**
18 **FEDERAL LAW, TO DO ANY OF THE FOLLOWING:**
19 **(*i*) INVESTIGATE THE AFFAIRS OF THE FUND.**
20 **(*ii*) EXAMINE THE ASSETS AND RECORDS OF THE FUND.**
21 **(*iii*) REQUIRE PERIODIC REPORTS IN RELATION TO THE ACTIVITIES**
22 **UNDERTAKEN BY THE FUND.**
23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No. 1293 of the 96th Legislature is enacted into
25 law.