

**THE NONPROFIT HEALTH CARE CORPORATION REFORM ACT (EXCERPT)**  
**Act 350 of 1980**

**550.1101 Short title.**

Sec. 101. This act shall be known and may be cited as "the nonprofit health care corporation reform act".

**History:** 1980, Act 350, Eff. Apr. 3, 1981.

**Constitutionality:** Procedural fairness is required by the due process clause before governmental action drastically alters essential terms of the contract between nonprofit group health care plans and hospitals and nursing homes providing health care services; however, the guarantee of procedural due process does not necessarily require an adversary proceeding. Convalescent Center v Blue Cross, 414 Mich 247; 324 NW2d 851 (1982).

Administrative hearings under the Administrative Procedures Act, however informal, comport with the procedural fairness required by due process in the absence of an explicit statutory requirement that a contested evidentiary hearing be held. Convalescent Center v Blue Cross, 414 Mich 247; 324 NW2d 851 (1982).

This act is unconstitutional in the following three particulars:

(1) The act's provision for an actuary panel to resolve risk factor disputes is an unconstitutional delegation of legislative authority in that it lacks adequate standards (MCL 550.1205(6)).

(2) The statutory restrictions on administrative services only (ASO) contracts violate equal protection of the laws insofar as they result in arbitrary and discriminatory treatment of health care corporations vis-a-vis commercial insurers (MCL 550.1104(3), 550.1211, 550.1414a, 550.1415, and 550.1607(1)).

(3) The commissioner's authority to issue a cease and desist order based on probable cause against a health care corporation for noncompliance with the act establishes an improper burden of proof (MCL 550.1402(7)).

The Supreme Court ruling on these three areas of this act does not affect the constitutionality of the remainder of the act. Where, as here, the unconstitutional provisions are easily severable, the remainder of the act need not be affected. Blue Cross and Blue Shield of Michigan v Governor, 422 Mich 1; 367 NW2d 1 (1985).

**Compiler's note:** For transfer of the Department of Insurance and Office of the Commissioner on Insurance from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For transfer of authority, powers, duties, functions, and responsibilities of the insurance bureau and the commissioner of insurance to the commissioner of the office of financial and insurance services and the office of financial and insurance services, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

**Popular name:** Blue Cross-Blue Shield

**Popular name:** Act 350