

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

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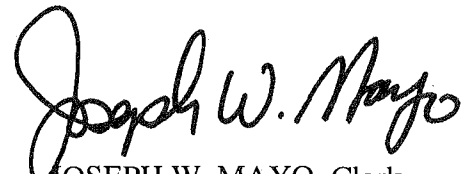
House of Representatives, April 30, 1997

An Act to Clarify the Charitable Status of Nonprofit Hospital and Medical Service Organizations, to Permit Their Creation of Health Insurance Affiliates and Their Conversion to Stock Insurers and to Ensure Regulatory Equity.

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Banking and Insurance suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative SAXL of Portland.

Cosponsored by President LAWRENCE of York and

Representatives: CAMPBELL of Holden, MAYO of Bath, MITCHELL of Vassalboro, SAXL of Bangor, THOMPSON of Naples, Senators: AMERO of Cumberland, HARRIMAN of Cumberland, LaFOUNTAIN of York.

Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 5 MRSA §194-A is enacted to read:

§194-A. Nonprofit hospital and medical service organizations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Affiliate" means a person who directly or indirectly controls or is controlled by or is under common control with the person specified.

B. "Charitable authority" means the Attorney General's authority over public charities under section 194, under the Attorney General's corresponding common law authority and under the nonprofit corporation laws.

C. "Charitable trust" means the entity described in subsection 5, paragraph B, subparagraph (1).

D. "Contract holder" means the employer, labor union, association, trustee, creditor or other entity to which a group contract evidencing coverage is issued.

E. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services or otherwise unless the power is solely the result of an official position with or a corporate office held by the person.

F. "Conversion" means the process by which a nonprofit hospital and medical service organization, with the approval of the superintendent pursuant to Title 24, section 2301, subsection 9-D, converts to a domestic stock insurer.

G. "Fair market value" means the value of an organization or an affiliate or of the assets of such an entity determined as if the entity had voting stock outstanding and 100% of its stock were freely transferrable and available for purchase without restrictions. In determining fair market values, consideration must be given to market value, investment or earnings value, net asset value and a control premium, if any. If a charitable trust receives, at the time of conversion, 100% of the shares of the then-outstanding stock of the converted domestic stock insurer, the charitable trust is regarded as having acquired

2 the fair market value of the organization unless the
3 superintendent finds that such outstanding stock does not
4 represent the fair market value of the organization.

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6 H. "Health insurance affiliate" means any domestic
7 for-profit stock insurer authorized under Title 24-A,
8 section 404 to provide health insurance or any domestic
9 for-profit health maintenance organization licensed under
10 Title 24-A, sections 4201 to 4229 formed, acquired, invested
11 in or otherwise established by a nonprofit hospital and
12 medical service organization.

13
14 I. "Materially changes its form" means conversion,
15 dissolution, merger, consolidation, amalgamation or
16 disposition of substantially all of an entity's business or
17 assets or any other change, including leasing, exchange,
18 restructuring and bulk reinsurance transfer and division
19 that transfers control of the entity or substantially
20 changes its legal or regulatory status.

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22 J. "Member" means a member of the nonprofit hospital and
23 medical service organization entitled to vote under the
24 articles or bylaws of the organization.

25
26 K. "Nonprofit hospital and medical service organization" or
27 "organization" means a corporation or other entity
28 authorized by the superintendent or organized pursuant to
29 this chapter for the purpose of providing nonprofit hospital
30 service plans within the meaning of Title 24, section 2301,
31 subsection 1 and nonprofit medical service plans within the
32 meaning of Title 24, section 2301, subsection 2. It does
33 not include any organization that provides only nonprofit
34 health care plans within the meaning of Title 24, section
35 2301, subsection 3.

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37 L. "Subscriber" means an individual who has subscribed to
38 one or more of the hospital, medical or health care service
39 plans or contracts offered by the organization through an
40 individual or family policy or group policy.

41
42 M. "Superintendent" means the Superintendent of the Bureau
43 of Insurance.

44 2. Charitable status of organization. Any nonprofit
45 hospital and medical service organization is a charitable and
46 benevolent institution and a public charity and its assets are
47 held for the purpose of fulfilling the charitable purposes of
48 the organization. The charitable purposes include, but are not
49 limited to, providing access to medical care through affordable
50 health insurance and affordable managed care products for persons

2 of all incomes, identifying and addressing the State's unmet
4 health care needs, particularly with regard to medically
6 uninsured and under-served populations, making services and care
8 available through participating providers and improving the
quality of care for medically uninsured and under-served
populations. The following ownership interests apply in any
proceeding in court or before the superintendent in which the
ownership of the organization is at issue or is relevant.

10 A. If the organization materially changes its form on or
12 before December 31, 2000, then 100% of the fair market value
14 of the organization is owned by the charitable trust upon
16 the approval or approval with modifications of the
charitable trust plan or modified charitable trust plan by
the court pursuant to subsection 5 and must be dedicated to
the fulfillment of the charitable trust.

18 B. If the organization materially changes its form after
20 December 31, 2000 and on or before December 31, 2005, then
22 95% of the fair market value of the organization is owned by
24 the charitable trust upon the approval or approval with
26 modifications of the charitable trust plan or modified
charitable trust plan by the court pursuant to subsection 5
and must be dedicated to the fulfillment of the charitable
trust; the remaining 5% is owned by subscribers in aggregate.

28 C. If the organization materially changes its form after
30 December 31, 2005 then 90% of the fair market value of the
32 organization is owned by the charitable trust upon the
34 approval or approval with modifications of the charitable
trust plan or modified charitable trust plan by the court
pursuant to subsection 5 and must be dedicated to the
fulfillment of the charitable trust; and the remaining 10%
is owned by subscribers in aggregate.

36 3. Superior Court proceeding. A nonprofit hospital and
38 medical service organization shall file a statement of ownership
40 interests and charitable purposes with the Attorney General by
42 December 31, 1997.

44 A. The statement of ownership interests and charitable
46 purposes must contain the following:

48 (1) A proposed notice, including, but not limited to,
notice by publication in newspapers of general
circulation in the State. and notice by letter sent
through regular mail to the members and contract
holders, containing, at a minimum:

2 (a) A description of the ownership interests in
3 the organization as set forth in subsection 2;

4 (b) A description of the organization's
5 charitable purposes as set forth in subsection 2;
6 and

7 (c) A description of the process by which any
8 person may file in Superior Court an objection to
9 the ownership interests and charitable purposes
10 set forth in subsection 2 and a claim of ownership
11 interest in the organization; and

12 (2) A description of the process for providing the
13 notice required in subparagraph (1).

14 B. Within 45 days after the organization has filed its
15 statement of ownership interests and charitable purposes,
16 the Attorney General shall file in Superior Court for
17 Kennebec County an action under its charitable authority
18 seeking approval or approval with modifications of the
19 statement or any amended statement filed by the organization
20 with the Attorney General's consent.

21 C. The Superior Court shall approve or approve with
22 modifications the notice provisions in the statement and
23 issue orders to accomplish that notice.

24 D. The organization shall pay the costs of providing the
25 notice ordered by the Superior Court.

26 E. Any objection by any person to the designation of
27 ownership interests or the description of charitable
28 purposes and any claim of ownership interest in the
29 organization must be filed within 90 days after issuance of
30 the notice ordered by the Superior Court.

31 F. The Superior Court shall hold a hearing on any
32 objections to the designation of ownership interests and
33 charitable purposes set forth in subsection 2 and any claim
34 of ownership interest in the organization and shall approve
35 the designation of ownership interests and charitable
36 purposes unless the court determines that the designation is
37 unlawful.

38 G. The judgment of the Superior Court, after exhaustion of
39 all appeals, is final, binding and conclusive as to all
40 matters expressly determined in the judgment of the Superior
41 Court. Any claim of rights, title and interest in the
42 nonprofit hospital or medical service organization is barred
43 by this section.

2 except to the extent the claim is determined to be valid in
3 any final judgment of the Superior Court. The sole remedy
4 of persons claiming any right, title or interest in the
5 nonprofit hospital or medical service organization is to
6 seek adjudication of the claim pursuant to this section.

7 **4. Representation of charitable interests.** The Attorney
8 General is the sole person authorized to represent the charitable
9 interests of beneficiaries of the charitable obligations of a
10 nonprofit hospital and medical service organization and any
11 health insurance affiliate in any proceeding before any court or
12 any administrative agency. The Attorney General may enforce the
13 organization's charitable obligations in an action in Superior
14 Court under the Attorney General's charitable authority.

15 A. The board of directors of a nonprofit hospital and
16 medical service organization, exercising its business
17 judgment, has the responsibility to fulfill the
18 organization's charitable obligation, subject only to the
19 Attorney General's authority to represent the charitable
20 interests of beneficiaries of the organization's charitable
21 obligation, any other applicable law and the
22 superintendent's authority to enforce Title 24 and Title
23 24-A.

24 B. A nonprofit hospital and medical service organization
25 shall reimburse the Attorney General and the superintendent
26 for the costs of any experts or consultants retained by the
27 Attorney General or the superintendent in connection with
28 any matter before any court or any administrative agency
29 relating to the organization's charitable value and
30 charitable obligations.

31 **5. Charitable trust plan.** A nonprofit hospital and medical
32 service organization shall submit a charitable trust plan to the
33 Attorney General at the same time that it submits a conversion
34 plan with the superintendent for approval of a conversion to a
35 domestic stock insurer pursuant to Title 24, section 2301,
36 subsection 9-D.

37 A. Within 60 days of the organization's submission of the
38 charitable trust plan to the Attorney General, the Attorney
39 General shall file an action under the Attorney General's
40 charitable authority in Superior Court seeking approval,
41 approval with modifications, or disapproval of the
42 charitable trust plan or of any amended charitable trust
43 plan submitted to the Attorney General by the organization
44 with the consent of the Attorney General.

2 B. An organization may not convert to a domestic stock
3 insurer under Title 24, section 2301, subsection 9-D until
4 the Superior Court has approved or approved with
5 modifications its charitable trust plan. The court may not
6 approve or approve with modifications the charitable trust
7 plan unless it finds that the charitable trust plan meets
8 the following requirements.

9
10 (1) The plan describes the charitable trust or trusts
11 that will receive the ownership interest in the
12 organization following its conversion to a domestic
13 stock insurer. For purposes of this section, a
14 charitable trust:

15 (a) Must be a new or existing trust or nonprofit
16 corporation formed under state law;

17 (b) Must be a charitable entity that qualifies
18 for federal income tax exemption under the United
19 States Internal Revenue Code of 1986, as amended,
20 Section 501 (c)(3) or (c)(4);

21 (c) May not be controlled by the converted
22 domestic stock insurer;

23 (d) May not have more than one of its directors
24 serve as a director of the domestic stock insurer;
25 and

26 (e) May not have as a director any person who in
27 the prior 3 years has been a director or officer
28 of the organization, the domestic stock insurer or
29 any affiliate of either.

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33 (2) The charitable mission of the charitable trust
34 must include, but not be limited to, serving the
35 State's unmet health care needs, particularly with
36 regard to medically uninsured and under-served
37 populations, providing access to care and improving
38 quality of care for those populations.

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41 (3) The charitable trust plan provides for the fair
42 and equitable use by the charitable trust of its
43 ownership interest in the organization to fulfill the
44 charitable mission of the charitable trust.

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47 (4) The charitable trust plan requires the charitable
48 trust to report annually to the Attorney General as to
49 its charitable activities and grant making relating to
50 the use of its ownership interest in the organization

2 and to make that annual report available to the public
4 at both the Department of the Attorney General and the
6 office of the charitable trust.

8 (5) The charitable trust plan requires the charitable
10 trust, at all times when the charitable trust owns
12 stock in any converted stock insurer and for 5 calendar
14 years after any such ownership, to provide audited
16 financial statements on a calendar-year basis and other
18 reports, as may be required, to the superintendent and
20 the Attorney General at the time and in the manner as
22 either the Attorney General or the superintendent
24 prescribes.

26 (6) The charitable trust plan states the ownership
28 interests of the charitable trust approved by the
30 Superior Court in the proceeding set forth in
32 subsection 3.

34 (7) The charitable trust shall have in place
36 procedures and policies to prohibit conflicts on
38 interests, including those associated with grant-making
40 activities that may benefit the organization, its
42 affiliates or those entities with ownership interests
44 in affiliates, including their directors or officers.

46 C. The superintendent has the right to intervene in the
48 Superior Court proceeding.

50 D. In approving, disapproving or approving with
52 modification the charitable trust plan, the Superior Court
54 may not review a decision of methodologies for determining
56 the fair market value of the organization, the methodology
58 for allocating and transferring to the owners the ownership
60 interest set forth in the statement of ownership interests
62 and charitable purposes approved by the Superior Court or
64 the fair market value of the organization. This paragraph
66 does not in any way limit the appeal rights of any person
68 under the Maine Rules of Civil Procedure, Rule 80(c) or
70 under the Maine Administrative Procedure Act from the
72 superintendent's decision on these matters pursuant to Title
74 24, section 2301, subsection 9-D.

76 6. Modified charitable trust plan. Whenever an
78 organization materially changes its form, other than through
80 conversion to a domestic stock insurer pursuant to Title 24,
82 section 2301, subsection 9-D, the Attorney General may file an
84 action in Superior Court under the Attorney General's charitable
86 authority requesting the court to order the organization to

2 submit a modified charitable trust plan containing such
3 provisions set forth in subsection 5, paragraph B as the court
4 determines are reasonable under the circumstances. The Superior
5 Court, after hearing, shall approve, approve with modifications
6 or disapprove the modified charitable trust plan. The
7 superintendent has the right to intervene in the Superior Court
8 proceeding. An organization shall notify the Attorney General of
9 the organization's intent to materially change its form at the
10 same time as the organization notifies the superintendent.

11 **7. Affiliates providing health insurance.** This subsection
12 governs affiliates' organizations.

13 **A. A nonprofit hospital and medical service organization**
14 **shall notify the Attorney General upon directly or**
15 **indirectly forming, acquiring, investing in or otherwise**
16 **establishing a health insurance affiliate. Notice must be**
17 **given at the time and in the manner that the Attorney**
18 **General establishes.**

19 **B. Each health insurance affiliate shall expressly have as**
20 **corporate purposes the furtherance of the charitable and**
21 **benevolent purposes of any nonprofit and charitable owners.**

22 **(1) Subject to subparagraph (2), the health insurance**
23 **affiliate may further its charitable and benevolent**
24 **purposes by:**

25 **(a) The provision of direct charitable services;**
26 **or**

27 **(b) The payment of distributions or dividends to**
28 **any nonprofit and charitable owner.**

29 **(2) The payment by the health insurance affiliate of**
30 **distributions or dividends to any owner will not**
31 **fulfill a health insurance affiliate's charitable and**
32 **benevolent purposes if the payment of such**
33 **distributions or dividends unreasonably interferes with**
34 **the health insurance affiliate's ability to fulfill its**
35 **charitable and benevolent purposes through the**
36 **provision of direct charitable services.**

37 **(3) If the nonprofit hospital and medical service**
38 **organization holding an ownership interest in a health**
39 **insurance affiliate materially changes its form and the**
40 **Superior Court has approved or approved with**
41 **modifications a charitable trust plan or modified**
42 **charitable trust plan, the charitable and benevolent**
43 **purposes of the affiliate shall not be affected.**

2 purposes of the health insurance affiliate terminate
 unless the Superior Court determines otherwise.

4 C. Any charitable entity that owns or controls an ownership
 interest in a health insurance affiliate must be treated as
6 having acquired that ownership interest in furtherance of
 the charitable purposes and obligations of the charitable
8 entity.

10 D. The Attorney General may enforce the charitable
 obligations of a health insurance affiliate under this
12 subsection under the Attorney General's charitable authority
 to the same extent as if the health insurance affiliate were
14 a nonprofit and charitable organization.

16 E. A nonprofit hospital and medical service organization
 shall file with the Attorney General a charitable activities
18 plan upon its sale of any ownership interest in a health
 insurance affiliate or upon the sale or other disposition of
20 substantially all the assets of the health insurance
 affiliate.

22 (1) The charitable activities plan must set forth the
24 charitable activities that the nonprofit hospital and
 medical service organization intends to pursue with the
26 revenues or proceeds received from the sale of any
 ownership interest in a health insurance affiliate or
28 the sale or other disposition of substantially all the
 assets of the health insurance affiliate.

30 (2) If the Attorney General concludes that the
32 charitable activities plan does not fairly and
 equitably fulfill the nonprofit hospital and medical
34 service organization's charitable obligations, the
 Attorney General shall bring an action in Superior
36 Court under the Attorney General's charitable authority
 to challenge the charitable activities plan. The
38 Attorney General shall provide to the superintendent
 prior written notice of any such action. The
40 superintendent has the right to intervene in such
 action. If the Superior Court determines that the
42 organization's charitable activities plan does not
 fairly and equitably fulfill the organization's
44 charitable obligations, the court shall issue orders
 necessary to remedy the inadequacies in the charitable
46 activities plan, including, but not limited to, placing
 the revenues or proceeds into a new or existing
48 charitable entity.

2 (3) The charitable and benevolent purposes and
4 charitable obligations of a health insurance affiliate
6 terminate upon a sale of the ownership interest owned
8 or controlled by a nonprofit hospital and medical
 service organization, provided that the charitable
 activities plan filed with the Attorney General in
 connection with the sale has been approved by the
 Attorney General or the Superior Court.

10 F. Each health insurance affiliate shall file an annual
12 report with the Attorney General at the time and in the
14 manner as the Attorney General shall establish describing
16 the efforts that the affiliate has undertaken to fulfill its
 charitable and benevolent purposes, including, but not
 limited to, all direct charitable activities and grant
 making.

18 G. The sale by an organization of its equity in a health
20 insurance affiliate to a 3rd party for fair market value
 does not constitute a conversion of charitable assets.

22 **Sec. 2. 24 MRSA §2301, sub-§9-B, ¶A,** as enacted by PL 1993, c.
24 702, Pt. A, §1, is repealed and the following enacted in its
 place:

26 A. An organization that provides only nonprofit health care
28 plans within the meaning of subsection 3 may become a mutual
30 insurer under a plan and procedure approved by the
 superintendent after a hearing.

32 **Sec. 3. 24 MRSA §2301, sub-§9-D** is enacted to read:

34 9-D. Conversion to a domestic stock insurer. Conversion of
36 a nonprofit hospital and medical service organization to a
 domestic stock insurer is governed by this subsection.

38 A. A nonprofit hospital and medical service organization or
40 other entity authorized by the superintendent or organized
42 pursuant to this chapter for the purpose of providing
44 nonprofit hospital service plans within the meaning of
 subsection 1 and nonprofit medical service plans within the
 meaning of subsection 2 may convert to a domestic stock
 insurer subject to the provisions of this subsection.

46 B. As used in this subsection, unless the context otherwise
 indicates, the following terms have the following meanings.

48 (1) "Charitable trust" has the meaning set forth in
50 Title 5, section 194-A, subsection 1, paragraph C.

- 2 (2) "Charitable trust plan" means the plan submitted
3 to the Attorney General pursuant to Title 5, section
4 194-A, subsection 5.
- 6 (3) "Conversion" means the process by which an
7 organization, with the approval of the superintendent
8 pursuant to this subsection, converts to a domestic
9 stock insurer pursuant to this subsection.
- 10 (4) "Conversion plan" means a written plan that sets
11 forth the provisions required by the superintendent,
12 that is filed with the superintendent pursuant to this
13 subsection, that sets forth a complete description of
14 the proposed conversion and that contains sufficient
15 detail to permit the superintendent to make the
16 findings required under this subsection.
- 18 (5) "Converted stock insurer" means the domestic stock
19 insurer resulting from a conversion pursuant to this
20 subsection.
- 22 (6) "Fair market value" means the value of an
23 organization or an affiliate or the value of the assets
24 of such an entity determined as if the entity had
25 voting stock outstanding and 100% of its stock were
26 freely transferrable and available for purchase without
27 restrictions. In determining fair market values,
28 consideration must be given to market value, investment
29 or earnings value, net asset value and a control
30 premium, if any. If a charitable trust receives, at
31 the time of conversion, 100% of the shares of the
32 then-outstanding stock of the converted domestic stock
33 insurer, the charitable trust is regarded as having
34 acquired the fair market value of the organization,
35 unless the superintendent finds that such outstanding
36 stock does not represent the fair market value of the
37 organization.
- 38 (7) "Member" means a member of the organization
39 entitled to vote under the articles or bylaws of the
40 organization.
- 42 (8) "Nonprofit hospital and medical service
43 organization" or "organization" means a corporation or
44 other entity authorized by the superintendent or
45 organized pursuant to this chapter for the purpose of
46 providing nonprofit hospital service plans within the
47 meaning of subsection 1 and nonprofit medical service
48 plans within the meaning of subsection 2. It does not

2 include any organization that provides only nonprofit
health care plans within the meaning of subsection 3.

4 (9) "Statement of ownership interests and charitable
purposes" means the statement filed with the Superior
6 Court pursuant to Title 5, section 194-A, subsection 3.

8 (10) "Subscriber" means an individual who subscribes
to one or more hospital or medical service plans or
10 contracts offered or issued by an organization through
an individual or family policy or group policy.

12 C. A nonprofit hospital and medical service organization
14 may, without the need for reincorporation, amend its charter
pursuant to this subsection to become a domestic stock
16 insurer under and pursuant to the terms and conditions of a
conversion plan that complies with this subsection and is
18 approved by the superintendent after an adjudicatory hearing
on the conversion. Notice of the hearing must be given to
20 the public and the organization's directors or trustees,
officers, employees, members and subscribers, all of whom
22 have the right to appear and be heard at the hearing. From
the date on which a conversion plan is filed with the
24 superintendent for approval, the conversion plan must be
available for public inspection and copying at the office of
26 the superintendent, at the principal executive office of the
organization that filed the conversion plan and at other
28 locations the superintendent designates.

30 D. Concurrent with the filing of the conversion plan with
the superintendent, the organization shall file a charitable
32 trust plan with the Attorney General pursuant to Title 5,
section 194-A and submit a copy to the superintendent. The
34 organization shall file a copy of the conversion plan with
the Attorney General at the time the organization files the
36 conversion plan with the superintendent. The superintendent
shall commence review of the conversion plan pursuant to
38 this subsection upon receipt by the superintendent of the
Superior Court's approval or approval with modifications of
40 the charitable trust plan or at such earlier time as the
superintendent determines necessary.

42 E. The superintendent may not issue final approval of a
44 conversion plan unless the superintendent finds that:

46 (1) The terms and conditions of the conversion
plan are fair and equitable and, in determining
48 what is fair and equitable, consideration may be
given to, but is not limited to, the factors set
50 forth in paragraph L;

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(2) The conversion plan is subject to approval by the vote of not less than 2/3 of the organization's board of directors;

(3) The conversion plan provides for the issuance of capital stock or assets of the converted stock insurer or a combination of stock and assets, without consideration, to the charitable trust equal to the charitable interest set forth in the organization's statement of ownership interests and charitable purposes, exclusive of any shares issued pursuant to this paragraph;

(4) The conversion plan provides for the issuance of capital stock or assets of the converted stock insurer or a combination of stock and assets, without consideration, to persons who were subscribers of the organization both on the date the conversion plan was filed with the superintendent and on each date in the previous 3-year period under a fair and reasonable formula consistent with and in the aggregate equal to the aggregate of the subscribers' interests set forth in the statement of ownership interests and charitable purposes, exclusive of any shares issued pursuant to this paragraph;

(5) Immediately after, and giving effect to the terms of, the conversion, the converted stock insurer would be in safe and sound financial condition and would have paid in capital stock and surplus in amounts not less than the minimum paid-in capital stock and surplus set forth under Title 24-A, section 410 required of a domestic stock insurer authorized to transact like kinds of insurance;

(6) The organization's management has not, through reduction in volume of new business written or cancellation or through any other means, sought to reduce, limit, or affect the number or identity of the organization's subscribers to be entitled to participate in the conversion plan or to secure for the individuals comprising management any unfair advantage through the conversion plan;

(7) The conversion plan provides that during the first 3 years after the conversion, to avoid

2 dilution of the value of the shares issued in the
4 conversion, the converted stock insurer and its
6 affiliates may not issue shares greater in
8 seniority, including voting rights or dividends,
10 than the shares issued under the conversion plan.
12 The superintendent may waive the provisions
14 contained in this subparagraph if the
16 superintendent, in the superintendent's sole
18 discretion, determines that the charitable trust
20 has control, as defined in Title 24-A, section
22 222, of the converted stock insurer;

24 (8) The conversion plan is consistent with the
26 charitable trust plan and does not adversely
28 affect the distribution of the organization's
30 value to the charitable trust; and

32 (9) The conversion plan complies with law.

34 F. The conversion plan must include the proposed articles
36 of incorporation and bylaws of the converted stock insurer
38 and all references in this subsection to the conversion plan
40 are deemed to include such instruments.

42 G. Paragraph E, subparagraphs (3) and (4) do not prohibit
44 the inclusion in the conversion plan of provisions under
46 which the converted stock insurer would make a simultaneous
48 offering of shares of its capital stock for cash to either
50 or both of its directors, officers and employees as a group
or the public, in each case under terms and conditions and
pursuant to valuation procedures the superintendent
approves. In no event may an excess of 3% of the aggregate
shares of capital stock to be issued by the converted stock
insurer pursuant to the conversion plan be offered for
purchase by the directors, officers and employees, in the
aggregate, of the organization and all shares offered
pursuant to any provisions of the conversion plan permitted
by paragraph E must be priced in a manner consistent with
the fair market value of the aggregate equity of the
converted stock insurer to be outstanding following the
completion of the conversion plan, established pursuant to
paragraph I.

52 H. The conversion plan sets forth a comparative premium
54 rate analysis of the organization's major plans and product
56 offerings, comparing actual premium rates for the 3-year
58 period before the filing of the conversion plan and
60 projected premium rates for the 3-year period following the
proposed conversion. The rate analysis must address the
projected impact, if any, of the proposed conversion upon

2 the cost to subscribers as well as the projected impact, if
4 any, of the proposed conversion upon the organization's
6 underwriting profit, investment income, tax position and
8 loss and claim reserves, including the effect, if any, of
10 adverse market or risk selection on reserves.

12 I. The conversion plan must include an appraisal of the
14 fair market value, or range of values, of the aggregate
16 equity of the converted stock insurer to be outstanding upon
18 completion of the conversion plan and, if a range of values,
20 the methodology for fixing a final value coincident with the
22 completion of the transactions provided for in the
24 conversion plan.

26 (1) The appraisal must enable determinations of value
28 for purposes of:

30 (a) The amount of cash or other assets that
32 subscribers or the charitable trust will be
34 entitled to receive, without consideration, under
36 the provisions of the conversion plan required by
38 paragraph E, subparagraphs (3) and (4); and

40 (b) The price of any shares to be issued pursuant
42 to the optional provisions of a conversion plan
44 permitted by paragraph G.

46 (2) The appraisal required by this paragraph must be
48 prepared by persons independent of the organization,
50 experienced and expert in the area of corporate
appraisal and acceptable to the superintendent. The
appraisal must be in form and content acceptable to the
superintendent and contain a complete and detailed
description of the elements that make up the appraisal,
justification for the methodology employed and
sufficient support for the conclusions reached in the
appraisal.

(3) To the extent that the appraisal is based on a
capitalization of the pro forma income of the converted
stock insurer, the appraisal must indicate the basis
for determination of the income to be derived from any
proceeds of the sale of stock and demonstrate the
appropriateness of the earnings-multiple used,
including assumptions made regarding future earnings
growth.

(4) To the extent that the appraisal is based on the
comparison of the capital stock of the converted stock
insurer with outstanding capital stock of existing

2 stock entities offering comparable insurance products,
3 the existing stock entities must be reasonably
4 comparable to the converting stock insurer in terms of
5 such factors as size, market area, competitive
6 conditions, profit history and expected future earnings.

7 (5) In those instances when the superintendent
8 determines that the appraisal is materially deficient
9 or substantially incomplete, the superintendent may
10 deem the entire conversion plan materially deficient or
11 substantially incomplete and decline to further process
12 or reject the application for conversion.

13 (6) The converting organization shall submit to the
14 superintendent information demonstrating to the
15 satisfaction of the superintendent the independence and
16 expertise of any person preparing the appraisal or
17 related materials under this paragraph.

18 (7) An appraiser may not serve as an underwriter or
19 selling agent under the same conversion plan and an
20 affiliate of an appraiser may not act as an underwriter
21 or selling agent unless procedures are followed and
22 representations made to ensure that an appraiser is
23 separate from the underwriter or selling agent
24 affiliate and the underwriter or selling agent
25 affiliate does not make recommendations or in any way
26 have an impact on the appraisal.

27 (8) An appraiser may not receive any other fee except
28 the fee for services rendered in connection with the
29 appraisal.

30 J. A director, officer, agent or employee of the
31 organization or any other person may not receive any fee,
32 commission or other valuable consideration whatsoever other
33 than that person's usual and regular salary and compensation
34 for in any manner aiding, promoting or assisting in a
35 conversion under this section or any related transaction,
36 except as set forth in the conversion plan and approved by
37 the superintendent. For the purposes of this paragraph,
38 "usual and regular salary and compensation" does not include
39 any salary, compensation or other economic benefit that is
40 in any way contingent on completion of the conversion. This
41 provision does not prohibit the payment of reasonable fees
42 and compensation to attorneys-at-law, accountants and
43 actuaries for services performed in the independent practice
44 of their professions, even though also directors of the
45 organization.

2 K. For the purpose of determining whether a conversion plan
3 meets the requirements of this subsection and any other
4 relevant provisions of this Title and Title 24-A, the
5 superintendent may employ staff personnel and outside
6 consultants including, without limitation, financial
7 advisors, bankers, actuaries, attorneys and accountants.
8 All costs related to the review of a conversion plan,
9 including those costs attributable to the use of staff
10 personnel, must be borne by the organization making the
11 filing.

12 L. In making a determination under paragraph E,
13 subparagraph (1) as to whether a conversion plan is fair and
14 equitable, the superintendent shall consider, among other
15 factors, the following:

16 (1) Whether the conversion plan complies with the
17 provisions of and purposes of this subsection and any
18 rules of the superintendent that may be adopted under
19 this subsection and

20 (2) Whether the conversion plan would adversely
21 affect, in any manner, the services to be rendered to
22 subscribers.

23 M. The superintendent may aggregate any transactions that
24 are part of a plan or series of like transactions to
25 determine whether those transactions constitute a conversion.

26 N. The superintendent, in the superintendent's sole
27 discretion, may determine when an application for conversion
28 under this subsection is complete and may request additional
29 information from the organization the superintendent
30 determines necessary to review the application and
31 conversion plan. The superintendent may also conduct an
32 examination under Title 24-A, section 221 to obtain any
33 information the superintendent determines necessary in
34 connection with an application for conversion or transaction
35 or series of transactions that the superintendent determines
36 constitute a conversion under paragraph K. The failure of
37 the organization to provide the information or cooperate in
38 the examination, in addition to other applicable penalties,
39 constitutes grounds for denial of the application for
40 conversion.

41 O. The Attorney General has the right to intervene as a
42 party in a proceeding before the superintendent and, if the
43 Attorney General intervenes, has the right to receive any
44 documents or other information received by the
45 superintendent in connection with the proceeding. The
46 Attorney General may also request the superintendent to
47 produce any documents or other information in the possession
48 of the superintendent in connection with the proceeding.
49 The superintendent may also request the Attorney General to
50 produce any documents or other information in the possession

2 Attorney General is subject to all confidentiality
3 provisions for those documents or that information that
4 apply to the superintendent.

5 P. The superintendent may adopt rules, not inconsistent
6 with the provisions of this subsection, the superintendent
7 determines necessary or desirable and appropriate to effect
8 the purposes of this subsection. Rules adopted under this
9 subsection are routine technical rules pursuant to Title 5,
10 chapter 375, subchapter II-A.

11 **Sec. 4. 24 MRSA §2308-A is enacted to read:**

12 **§2308-A. Health insurance affiliates**

13 1. Definitions. As used in this section, unless the
14 context otherwise indicates, the following terms have the
15 following meanings.

16 A. "Foreign health service plan" means a nonprofit hospital
17 and medical service organization or similar entity organized
18 under the laws of another state.

19 B. "Health insurance affiliate" means any domestic
20 for-profit stock insurer authorized under Title 24-A,
21 section 404 to provide health insurance or any domestic
22 for-profit stock health maintenance organization licensed
23 under Title 24-A, sections 4201 to 4229 that is formed,
24 acquired, invested in or otherwise established by a
25 nonprofit hospital and medical service organization.

26 C. "Nonprofit hospital and medical service organization" or
27 "organization" means a corporation or other entity
28 authorized by the superintendent and organized pursuant to
29 this chapter for the purpose of providing nonprofit hospital
30 service plans within the meaning of section 2301, subsection
31 1 and nonprofit medical service plans within the meaning of
32 section 2301, subsection 2. It does not include any
33 organization that provides only nonprofit health care plans
34 within the meaning of section 2301, subsection 3.

35 D. "Ownership interest" means any equity interest in a
36 health insurance affiliate, including, without limitation,
37 capital stock, voting securities, securities convertible
38 into voting securities, general partnership shares, limited
39 partnership shares, surplus notes or other interests
40 possessing voting rights.

41 E. "Person" has the meaning set forth in Title 24-A,
42 section 222, subsection 2, paragraph E.

2 2. Authorization. A nonprofit hospital and medical service
3 organization may not, directly or indirectly, form, acquire,
4 invest in or otherwise establish a health insurance affiliate
5 unless:

6
7 A. The organization has substantial control over the health
8 insurance affiliate, which control for purposes of this
9 section may be satisfied by:

10 (1) Ownership of 50% or more of the outstanding
11 ownership interests of the health insurance affiliate;

12 (2) Ownership of or the power to vote, directly or
13 indirectly, 50% or more of the voting securities of the
14 health insurance affiliate;

15 (3) The legal authority to prevent any change in the
16 articles of incorporation, bylaws or other establishing
17 or governing documents of the health insurance
18 affiliate without its written consent;

19 (4) The legal authority to prevent any change in the
20 health insurance affiliate's legal status or trade
21 names, the geographic area in which the health
22 insurance affiliate operates or the fundamental type of
23 business in which the health insurance affiliate
24 engages without its consent; and

25 (5) Fifty percent or more control of the management of
26 operations of the health insurance affiliate.

27
28 An organization that does not meet the requirements of
29 subparagraphs (1), (2) and (5) is deemed to meet those
30 requirements if the organization and one or more nonprofit
31 hospital and medical service organizations or foreign health
32 service plans, in the aggregate, meet the requirements of
33 subparagraphs (1), (2) and (5);

34 B. No more than 20% of the ownership interests of the
35 health insurance affiliate, in the aggregate, are owned or
36 controlled by individuals, for-profit persons or nonprofit,
37 noncharitable persons, and each individual or person is a
38 health care provider, physician-hospital organization,
39 health insurer or health maintenance organization;

40 C. Any ownership interests not owned or controlled by the
41 organization under paragraph A, the organization and one or
42 more organizations or foreign health service plans under
43 paragraph A, the organization and one or more organizations
44 or foreign health service plans under
45 paragraph A, the organization and one or more organizations
46 or foreign health service plans under
47 paragraph A, the organization and one or more organizations
48 or foreign health service plans under

2 paragraph A or persons described under paragraph B are owned or
4 controlled by nonprofit charitable entities that qualify for
6 federal income tax exemption under the United States Internal
8 Revenue Code of 1986, Section 501(c)(3) or (c)(4), as amended;

10 D. No ownership interests of the health insurance affiliate
12 are owned or controlled by officers, directors or employees
14 of:

16 (1) The health insurance affiliate;

18 (2) Any person owning or controlling ownership
20 interests in the health insurance affiliate; or

22 (3) Any affiliate of a person described in
24 subparagraph (2);

26 E. The health insurance affiliate is subject to all
28 applicable provisions of Title 24-A; and

30 F. The organization provides written notice to the
32 superintendent at least 60 days prior to forming, acquiring,
34 investing in or otherwise establishing a health insurance
36 affiliate.

38 3. Control. For the purposes of this section and Title
40 24-A, section 222, a health insurance affiliate is deemed to be
42 controlled by the nonprofit hospital and medical service
44 organization, notwithstanding that the organization may not have
46 actual control. The superintendent, in the superintendent's sole
48 discretion, may waive the provisions of this subsection when the
organization owns or controls less than 50% of the ownership
interests of a health insurance affiliate pursuant to subsection
2, paragraph A.

4. Continuing obligations; penalties. In addition to all
requirements for obtaining or maintaining a certificate of
authority from the superintendent under Title 24-A, a health
insurance affiliate must continuously meet all requirements of
this section and Title 5, section 194-A, subsection 7. The
superintendent's determination that a health insurance affiliate
has failed to meet the requirements of this section or the
Superior Court's determination in an action brought by the
Attorney General that a health insurance affiliate has failed to
meet the requirements of Title 5, section 194-A, subsection 7
constitutes grounds for suspension or revocation of the health
insurance affiliate's certificate of authority under Title 24-A,
section 417 and grounds for commencement of delinquency
proceedings under Title 24-A, chapter 57. Upon any such failure,

2 any person who owns or controls any ownership interest in the
3 health insurance affiliate shall dispose of that ownership
4 interest within 18 months of the date of the failure as
5 determined by the superintendent or such other time as the
6 superintendent may prescribe. The superintendent may prescribe
7 that one owner shall dispose of its ownership interest to another
8 owner.

9
10 5. Capital contributions. Any person who acquires any
11 ownership interests in the health insurance affiliate shall make
12 capital contributions in cash or the cash equivalent in
13 proportion to that person's ownership interests in the health
14 insurance affiliate. The superintendent, in the superintendent's
15 sole discretion, may permit other forms of capital contributions
16 that do not have the effect of diluting the ownership or control
17 of the health insurance affiliate by the nonprofit hospital and
18 medical service organization.

19
20 6. Related parts transactions. In addition to the
21 requirements contained under Title 24-A and other applicable law,
22 all transactions between a health insurance affiliate and any
23 person who owns or controls an ownership interest in or is a
24 beneficial owner, as defined in Title 24-A, section 222,
25 subsection 2, paragraph A-1, of any ownership interest in the
26 health insurance affiliate, or who, directly or indirectly, has
27 the power to control the management, policies or operations of
28 the health insurance affiliate, must be arm's-length and for fair
29 value.

30
31 7. Distribution of working capital and surplus. No less
32 frequently than annually, a health insurance affiliate shall
33 distribute to those persons who own or control any ownership
34 interest providing for the right to receive dividends or
35 distributions any excess working capital and surplus, subject to
36 the Superior Court's determination in a proceeding under Title 5,
37 section 194-A and rules adopted and decisions issued by the
38 superintendent.

39
40 8. Investment restrictions. Any investment by a nonprofit
41 hospital and medical service organization in a health insurance
42 affiliate under this section is subject to all applicable
43 investment restrictions, including, without limitation, Title
44 24-A, section 222 and chapter 13-A.

45
46 9. Aggregate transactions. The superintendent may
47 aggregate any transactions that are part of a plan or series of
48 like transactions to determine whether those transactions comply
with this section and other applicable laws.

2 10. Oversight. In addition to other applicable provisions
4 of this Title and Title 24-A, an organization that owns or
 controls a health insurance affiliate and any affiliate of that
 organization:

6 A. Are subject to examination by the superintendent for the
8 purposes of determining compliance with this section;

10 B. Are subject to the jurisdiction of the superintendent
 and the courts of this State; and

12 C. Must appoint the superintendent as lawful agent for
14 receipt of service of process.

16 11. Attorney General to intervene. The Attorney General
18 has the right to intervene as a party in any proceeding before
20 the superintendent involving the health insurance affiliate and,
22 if the superintendent intervenes, has the right to review all
 documents or other information received by the superintendent or
 in connection with the proceeding. The Attorney General is
 subject to all confidentiality provisions for those documents or
 information that apply to the superintendent.

24 12. Rules. The superintendent may adopt rules to carry out
26 the purposes of this section. For purposes of Title 5, chapter
 375, subchapter II-A, these are routine technical rules.

28 **Sec. 5. 24 MRSA §2321**, as amended by PL 1991, c. 9, Pt. G, §5
30 and c. 48, §§1 and 2, is further amended to read:

32 **§2321. Rate filings on individual subscriber and membership**
 contracts

34 **1. Filing of rate information.** Every nonprofit hospital
36 and medical service organization shall file with the
38 superintendent, except as to group subscriber and membership
40 contracts other than group Medicare supplement contracts as
42 defined in Title 24-A, chapter 67 and group nursing home or
44 long-term care contracts as defined in Title 24-A, chapter 68,
46 every rate, rating formula and every modification of any of the
48 foregoing that it proposes to use. Every filing under this
50 subsection must state the effective date of the filing. Every
 filing under this subsection must be made not less than 90 60
 days in advance of the stated effective date unless the 90-day
 60-day requirement is waived by the superintendent and--the
 ~~effective--date--may--be--suspended--by--the--superintendent~~ for a
 period of time not to exceed 30 days. In the case of nursing
 home and long-term contracts, rates filed ~~prior--to--August--1,~~
 ~~1986,--are--effective--until--no--later--than--August--1,--1989,--~~ Rates
 ~~filed--on--or--after--August--1,--1986,--for--these--types--of--contracts~~

2 are effective for no more than 3 years, except that rates for
3 contracts with guaranteed level premiums are effective for the
4 duration of the contract.

6 **2. Filing information.** When a filing is not accompanied by
7 the information upon which the organization supports such filing,
8 or the superintendent does not have sufficient information to
9 determine whether such filing meets the requirements that the
10 rates not be excessive, inadequate or unfairly discriminatory,
11 the superintendent shall require the organization to furnish the
12 information upon which it supports the filing. A filing and
13 supporting information ~~is~~ are public ~~record~~ records within the
14 meaning of Title 1, section 402, subsection 3 and ~~becomes~~ become
15 part of the official record of any hearing held pursuant to
16 section 2322. For the purpose of determining whether the filing
17 produces rates that are not excessive, inadequate or unfairly
18 discriminatory, the superintendent and the Attorney General each
19 may employ consultants, including actuaries, and the reasonable
20 costs of the consultants, including actuaries, which must include
21 costs of testifying at any hearing held pursuant to section 2322,
22 must be borne by the organization making such filing. The
23 organization is not responsible for any costs from the Attorney
24 General exceeding \$40,000 for any filing.

26 ~~3. Three year review. Every organization must submit the~~
27 ~~rate filings for contracts set forth in subsection 1 at least~~
28 ~~every 3 years.~~

30 **4. Rate filings.** Any filing of rates, rate formulas and
31 modifications for Medicare supplement contracts as defined in
32 Title 24-A, chapter 67 and for individual health plans as defined
33 in Title 24-A, section 2736-C, subsection 1, paragraph C that
34 satisfies the criteria set forth in this subsection is subject to
35 the provisions of subsection 5. This section may not be
36 construed to create a presumption that a filing that fails to
37 satisfy the following criteria is excessive.

38 A. The weighted average rate increase for any filing does
39 not exceed the index of inflation multiplied by 1.5 and the
40 rate of increase for any subscriber does not exceed the
41 index of inflation multiplied by 1.7. For the purposes of
42 this subsection, "index of inflation" means the rate of
43 increase in medical costs for a section of the United States
44 selected by the superintendent that includes Maine for the
45 most recent 12-month period immediately preceding the date
46 of the filing for which data is available.

48 B. The nonprofit hospital and medical service organization
49 demonstrates in accordance with generally accepted actuarial
50 principles and practices that as of a date no more than 210

2 days prior to the filing the ratios of benefits incurred to
3 premiums earned for said products average no less than 80%
4 for the previous 12-month period.

5 **5. Rate hearing for exceptional circumstances.** A rate
6 hearing conducted with respect to filings that meet the criteria
7 in subsection 4 is subject to this subsection.

8
9
10 A. Any person requesting a hearing shall provide the
11 superintendent with a written statement detailing the
12 exceptional circumstances that justify a hearing
13 notwithstanding the satisfaction of the criteria in
14 subsection 4. A copy of the statement must also be provided
15 to the joint standing committee of the Legislature having
16 jurisdiction over insurance matters.

17
18 B. If the superintendent decides to hold a hearing, the
19 superintendent shall issue a written statement detailing the
20 exceptional circumstances that justify a hearing
21 notwithstanding the satisfaction of the criteria in
22 subsection 4. The superintendent shall provide a copy of
23 the statement to the joint standing committee of the
24 Legislature having jurisdiction over insurance matters.

25
26 C. In any hearing conducted under this subsection, the
27 rates are presumed not to be excessive and the Bureau of
28 Insurance and any intervening party have the burden of
29 establishing that the rates are excessive.

30 **Sec. 6. 24 MRSA §2321-A** is enacted to read:

31
32 **§2321-A. Standards for rates and rate filings**

33
34 In reviewing rates and rate modifications filed by a
35 nonprofit hospital or medical service organization in accordance
36 with this Title, the superintendent may not require the
37 organization to charge rates that are inadequate to enable it to
38 recover reasonably anticipated claims and administrative expenses
39 and make reasonable contributions to reserves.

40
41 **Sec. 7. 24-A MRSA §2736**, as amended by PL 1985, c. 648, §10,
42 is further amended to read:

43
44 **§2736. Rate filings on individual health insurance policies**

45
46 **1. Filing of rate information.** Every insurer shall file
47 with the superintendent, except as to group policy rates other
48 than those for group Medicare supplement policies as defined in
49 chapter 67 and group nursing home care and long-term care
50 insurance as defined in chapter 68, every rate, rating formula,

2 classification of risks and every modification of any formula or
3 classification which that it proposes to use. Every such filing
4 must state the effective date of the filing. Every such filing
5 shall must be made not less than 60 days in advance of the stated
6 effective date, unless the 60-day requirement is waived by the
7 superintendent, and the effective date may be suspended by the
8 superintendent for a period of time not to exceed 30 days. In the
9 case of nursing home care and long-term care insurance policies,
10 rates filed ~~prior to August 1, 1986, shall be effective until no~~
11 ~~later than August 1, 1989. Rates filed on or after August 1,~~
12 ~~1986, for these types of policies shall be~~ are effective for no
13 more than 3 years, except that rates for contracts with
14 guaranteed level premiums shall ~~be~~ are effective for the duration
15 of the contract.

16 **2. Rate filing; public information.** When a filing is not
17 accompanied by the information upon which the insurer supports
18 such filing, or the superintendent does not have sufficient
19 information to determine whether such filing meets the
20 requirements that rates shall not be excessive, inadequate or
21 unfairly discriminatory, the superintendent shall require the
22 insurer to furnish the information upon which it supports the
23 filing. A filing and supporting information shall ~~be a~~ are public
24 ~~record~~ records within the meaning of Title 1, section 402,
25 subsection 3 and shall become part of the official record of any
26 hearing held pursuant to section 2736-A.

27 **3. Rate filings.** Any filing of rates, rating formulas and
28 modifications for Medicare supplement contracts as defined in
29 chapter 67 and for individual health plans as defined in section
30 2736-C, subsection 1, paragraph C that satisfies the criteria set
31 forth in this subsection is subject to the provisions of
32 subsection 4. This section may not be construed to create a
33 presumption that a filing that fails to satisfy the following
34 criteria is excessive.

35 A. The weighted average rate increase for any filing does
36 not exceed the index of inflation multiplied by 1.5 and the
37 rate of increase for any policyholder does not exceed the
38 index of inflation multiplied by 1.7. For the purposes of
39 this subsection, "index of inflation" means the rate of
40 increase in medical costs for a section of the United States
41 selected by the superintendent that includes Maine for the
42 most recent 12-month period immediately preceding the date
43 of the filing for which data is available.

44 B. The insurer demonstrates in accordance with generally
45 accepted actuarial principles and practices that as of a
46 date no more than 210 days prior to the filing the ratios of
47 premiums to claims are not less than 100 percent.

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benefits incurred to premiums earned for those benefits average no less than 80% for the previous 12-month period.

4. Rate hearing for exceptional circumstances. A rate hearing conducted with respect to filings that meet the criteria in subsection 3 is subject to this subsection.

A. Any person requesting a hearing shall provide the superintendent with a written statement detailing the exceptional circumstances that justify a hearing notwithstanding the satisfaction of the criteria in subsection 3. A copy of the statement must also be provided to the joint standing committee of the Legislature having jurisdiction over insurance matters.

B. If the superintendent decides to hold a hearing, the superintendent shall issue a written statement detailing the exceptional circumstances that justify a hearing notwithstanding the satisfaction of the criteria in subsection 3. The superintendent shall provide a copy of the statement to the joint standing committee of the Legislature having jurisdiction over insurance matters.

C. In any hearing conducted under this subsection, the rates are presumed not to be excessive and the Bureau of Insurance and any intervening party have the burden of establishing that the rates are excessive.

Sec. 8. Department of the Attorney General study. The Department of the Attorney General shall conduct a study of the competitiveness of the individual health and Medicare supplement lines of business and of the need for review of rate filings in those lines. The department shall consult with the Bureau of Insurance in conducting the study. The department shall submit a report of the study to the joint standing committee of the Legislature having jurisdiction over insurance matters by February 1, 1998.

Sec. 9. Statement of legislative intent. It is the intent of the Legislature that the Maine Revised Statutes, Title 5, section 194-A, subsection 2 confirm the prior declaration of the Legislature, as evidenced in the charter of Associated Hospital Services, Private and Special Law 1939, chapter 24, that the organization is a charitable and benevolent institution.

Sec. 10. Application provisions.

1. Application of existing statutes. The Maine Revised Statutes, Title 24 and Title 24-A, otherwise applicable to a nonprofit hospital and medical service organization, continue to

2 be applicable except to the extent that such provisions clearly
3 conflict with the requirements of this Act and that this Act does
4 not limit in any way the Superintendent of Insurance's authority
5 to regulate other insurers.

6 **2. Insurance premium tax exemption.** Any nonprofit hospital
7 and medical service organization, as defined in the Maine Revised
8 Statutes, Title 5, section 194-A, and its funds and property are
9 exempt from the insurance premium tax and all other state and
10 local taxes until such time as the organization converts to a
11 stock insurer.

12 **3. Superintendent of Insurance; application of standards.**
13 The Superintendent of Insurance shall apply the same legal
14 standards in reviewing all components, including, without
15 limitation, loss ratios and reserves, of rate filings of
16 nonprofit hospital and medical service organizations, as defined
17 under the Maine Revised Statutes, Title 24, section 2308-A as the
18 superintendent applies in reviewing rate filings of health
19 insurers under Title 24-A. The superintendent shall decide in
20 the superintendent's discretion which rate filings to review and
21 which not to review based upon a variety of factors including the
22 market share and market power of the organization or insurer in
23 the affected line of insurance.

24 **4. Superior Court; application of standards.** The Superior
25 Court in the proceeding set forth in the Maine Revised Statutes,
26 Title 5, section 194-A, subsection 3 shall apply all applicable
27 legal standards, including the legal standards applicable to
28 standing.

29 **5. Existing of future agreements, contracts, rights and
30 relationships.** This Act, including the statement of ownership
31 interests and charitable purposes approved by the Superior Court,
32 applies to and controls existing agreements, contracts, rights
33 and relationships now existing or hereafter arising between a
34 nonprofit hospital and medical service organization and its
35 members, subscribers and contract holders.

36 **6. Supremacy of law.** This Act supersedes and controls with
37 respect to any other laws of the State or any rules of any
38 administrative agency of the State.

39 **7. Attorney General's authority over charities.** This Act
40 does not limit in any way the Attorney General's authority over
41 charities except as expressly provided in this Act.

SUMMARY

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4 This bill clarifies the charitable status of nonprofit
6 hospital and medical service organizations, permits their
creation of health insurance affiliates, permits their conversion
to stock insurers and ensures regulatory equity.