

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 351B-5 and adding Section 367.4 as follows:

6 (215 ILCS 5/351B-5) (from Ch. 73, par. 963B-5)

7 Sec. 351B-5. Applicability of other Code provisions. All
8 policies of accident and health insurance issued under this
9 Article shall be subject to the provisions of Sections 356c,
10 subsection (a) of Section 356g, 356h, 356n, 367.4, 367c, 367d,
11 370, 370a, and 370e of this Code.

12 (Source: P.A. 86-1407; 87-792; 87-1066.)

13 (215 ILCS 5/367.4 new)

14 Sec. 367.4. Reporting of claims information to group health
15 plan sponsor.

16 (a) In this Section, "group health plan", "health insurance
17 coverage", "health insurance issuer", and "plan sponsor" have
18 the meanings ascribed to those terms in the Illinois Health
19 Insurance Portability and Accountability Act.

20 "Summary health information" means information that may be
21 individually identifiable health information and (i) that
22 summarizes the claims history, claims expenses, or type of

1 claims experienced by individuals for whom a plan sponsor has
2 provided health benefits under a group health plan and (ii)
3 from which the information identifying an individual, a
4 relative or employer of the individual, or a member of the
5 individual's household has been deleted, except that
6 information describing geographic subdivisions of a State need
7 only be aggregated to the level of a 5-digit zip code.

8 (b) A group health plan, or a health insurance issuer or
9 health maintenance organization with respect to a group health
10 plan, shall disclose summary health information to a plan
11 sponsor with 50 or more employees if the plan sponsor requests
12 the summary health information for the purpose of (i) obtaining
13 premium bids from health plans for providing health insurance
14 coverage under the group health plan or (ii) modifying,
15 amending, or terminating the group health plan.

16 The plan documents of the group health plan must be amended
17 to incorporate provisions to do the following:

18 (1) Establish the permitted and required uses and
19 disclosures of such information by the plan sponsor.

20 (2) Provide that the plan sponsor agrees to not use or
21 further disclose the information other than as permitted or
22 required by the plan documents or as required by law.

23 (3) Provide that the plan sponsor agrees to not use or
24 disclose the information for employment-related actions
25 and decisions or in connection with any other benefit or
26 employee benefit plan of the plan sponsor.

1 (4) Provide that the plan sponsor agrees to report to
2 the group health plan any use or disclosure of the
3 information that is inconsistent with the uses or
4 disclosures provided for of which it becomes aware.

5 (5) Provide that the plan sponsor agrees to make
6 available the information required to provide an
7 accounting of disclosures.

8 (6) Provide that the plan sponsor agrees to make its
9 internal practices, books, and records relating to the use
10 and disclosure of the summary health information received
11 from the group health plan available to the Director for
12 purposes of determining compliance by the group health plan
13 with this Section.

14 (7) Provide that the plan sponsor agrees to, if
15 feasible, return or destroy all protected health
16 information received from the group health plan that the
17 sponsor still maintains in any form and retain no copies of
18 such information when no longer needed for the purpose for
19 which disclosure was made, except that, if such return or
20 destruction is not feasible, limit further uses and
21 disclosures to those purposes that make the return or
22 destruction of the information infeasible.

23 (c) A health insurance issuer may not report any
24 information required under this Section the release of which is
25 prohibited by State or federal law or regulation.

26 (d) A health insurance issuer must provide information

1 under this Section in the aggregate, without any information
2 through which a specific individual covered under the plan may
3 be identified.

4 (e) Information obtained by a plan sponsor under this
5 Section is confidential. The sponsor may use the information
6 only for purposes relating to obtaining and maintaining health
7 insurance coverage for the sponsor's employees (if the sponsor
8 is an employer) or members (if the sponsor is an employee
9 organization).

10 Section 10. The Health Care Purchasing Group Act is amended
11 by changing Section 5 as follows:

12 (215 ILCS 123/5)

13 Sec. 5. Purpose; applicability of Illinois Health
14 Insurance Portability and Accountability Act.

15 (a) The purpose and intent of this Act is to authorize the
16 formation, operation, and regulation of health care purchasing
17 groups (referred to in this Act as "HPGs") as described by this
18 Act, to authorize the sale and regulation of health insurance
19 products for employers that are sold to HPGs, and to encourage
20 the development of financially secure and cost effective
21 markets for the basic health care needs of employers,
22 employees, and their dependents in this State. Nothing in this
23 Act authorizes an employer to join with other employers to
24 self-insure through risk pooling.

1 (b) All health insurance contracts issued under this Act
2 are subject to the Illinois Health Insurance Portability and
3 Accountability Act.

4 (c) All health insurance contracts issued under this Act
5 are subject to Section 367.4 of the Illinois Insurance Code.

6 (Source: P.A. 90-337, eff. 1-1-98; 90-567, eff. 1-23-98.)

7 Section 15. The Health Maintenance Organization Act is
8 amended by changing Section 5-3 as follows:

9 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

10 Sec. 5-3. Insurance Code provisions.

11 (a) Health Maintenance Organizations shall be subject to
12 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
13 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
14 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
15 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 364.01, 367.2,
16 367.2-5, 367.4, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 401,
17 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1,
18 paragraph (c) of subsection (2) of Section 367, and Articles
19 IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of
20 the Illinois Insurance Code.

21 (b) For purposes of the Illinois Insurance Code, except for
22 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health
23 Maintenance Organizations in the following categories are
24 deemed to be "domestic companies":

1 (1) a corporation authorized under the Dental Service
2 Plan Act or the Voluntary Health Services Plans Act;

3 (2) a corporation organized under the laws of this
4 State; or

5 (3) a corporation organized under the laws of another
6 state, 30% or more of the enrollees of which are residents
7 of this State, except a corporation subject to
8 substantially the same requirements in its state of
9 organization as is a "domestic company" under Article VIII
10 1/2 of the Illinois Insurance Code.

11 (c) In considering the merger, consolidation, or other
12 acquisition of control of a Health Maintenance Organization
13 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

14 (1) the Director shall give primary consideration to
15 the continuation of benefits to enrollees and the financial
16 conditions of the acquired Health Maintenance Organization
17 after the merger, consolidation, or other acquisition of
18 control takes effect;

19 (2) (i) the criteria specified in subsection (1)(b) of
20 Section 131.8 of the Illinois Insurance Code shall not
21 apply and (ii) the Director, in making his determination
22 with respect to the merger, consolidation, or other
23 acquisition of control, need not take into account the
24 effect on competition of the merger, consolidation, or
25 other acquisition of control;

26 (3) the Director shall have the power to require the

1 following information:

2 (A) certification by an independent actuary of the
3 adequacy of the reserves of the Health Maintenance
4 Organization sought to be acquired;

5 (B) pro forma financial statements reflecting the
6 combined balance sheets of the acquiring company and
7 the Health Maintenance Organization sought to be
8 acquired as of the end of the preceding year and as of
9 a date 90 days prior to the acquisition, as well as pro
10 forma financial statements reflecting projected
11 combined operation for a period of 2 years;

12 (C) a pro forma business plan detailing an
13 acquiring party's plans with respect to the operation
14 of the Health Maintenance Organization sought to be
15 acquired for a period of not less than 3 years; and

16 (D) such other information as the Director shall
17 require.

18 (d) The provisions of Article VIII 1/2 of the Illinois
19 Insurance Code and this Section 5-3 shall apply to the sale by
20 any health maintenance organization of greater than 10% of its
21 enrollee population (including without limitation the health
22 maintenance organization's right, title, and interest in and to
23 its health care certificates).

24 (e) In considering any management contract or service
25 agreement subject to Section 141.1 of the Illinois Insurance
26 Code, the Director (i) shall, in addition to the criteria

1 specified in Section 141.2 of the Illinois Insurance Code, take
2 into account the effect of the management contract or service
3 agreement on the continuation of benefits to enrollees and the
4 financial condition of the health maintenance organization to
5 be managed or serviced, and (ii) need not take into account the
6 effect of the management contract or service agreement on
7 competition.

8 (f) Except for small employer groups as defined in the
9 Small Employer Rating, Renewability and Portability Health
10 Insurance Act and except for medicare supplement policies as
11 defined in Section 363 of the Illinois Insurance Code, a Health
12 Maintenance Organization may by contract agree with a group or
13 other enrollment unit to effect refunds or charge additional
14 premiums under the following terms and conditions:

15 (i) the amount of, and other terms and conditions with
16 respect to, the refund or additional premium are set forth
17 in the group or enrollment unit contract agreed in advance
18 of the period for which a refund is to be paid or
19 additional premium is to be charged (which period shall not
20 be less than one year); and

21 (ii) the amount of the refund or additional premium
22 shall not exceed 20% of the Health Maintenance
23 Organization's profitable or unprofitable experience with
24 respect to the group or other enrollment unit for the
25 period (and, for purposes of a refund or additional
26 premium, the profitable or unprofitable experience shall

1 be calculated taking into account a pro rata share of the
2 Health Maintenance Organization's administrative and
3 marketing expenses, but shall not include any refund to be
4 made or additional premium to be paid pursuant to this
5 subsection (f)). The Health Maintenance Organization and
6 the group or enrollment unit may agree that the profitable
7 or unprofitable experience may be calculated taking into
8 account the refund period and the immediately preceding 2
9 plan years.

10 The Health Maintenance Organization shall include a
11 statement in the evidence of coverage issued to each enrollee
12 describing the possibility of a refund or additional premium,
13 and upon request of any group or enrollment unit, provide to
14 the group or enrollment unit a description of the method used
15 to calculate (1) the Health Maintenance Organization's
16 profitable experience with respect to the group or enrollment
17 unit and the resulting refund to the group or enrollment unit
18 or (2) the Health Maintenance Organization's unprofitable
19 experience with respect to the group or enrollment unit and the
20 resulting additional premium to be paid by the group or
21 enrollment unit.

22 In no event shall the Illinois Health Maintenance
23 Organization Guaranty Association be liable to pay any
24 contractual obligation of an insolvent organization to pay any
25 refund authorized under this Section.

26 (Source: P.A. 93-102, eff. 1-1-04; 93-261, eff. 1-1-04; 93-477,

1 eff. 8-8-03; 93-529, eff. 8-14-03; 93-853, eff. 1-1-05;
2 93-1000, eff. 1-1-05; 94-906, eff. 1-1-07; 94-1076, eff.
3 12-29-06; revised 1-5-07.)

4 Section 20. The Limited Health Service Organization Act is
5 amended by changing Section 4003 as follows:

6 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

7 Sec. 4003. Illinois Insurance Code provisions. Limited
8 health service organizations shall be subject to the provisions
9 of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c,
10 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8,
11 155.04, 155.37, 355.2, 356v, 367.4, 368a, 401, 401.1, 402, 403,
12 403A, 408, 408.2, 409, 412, 444, and 444.1 and Articles IIA,
13 VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the
14 Illinois Insurance Code. For purposes of the Illinois Insurance
15 Code, except for Sections 444 and 444.1 and Articles XIII and
16 XIII 1/2, limited health service organizations in the following
17 categories are deemed to be domestic companies:

18 (1) a corporation under the laws of this State; or

19 (2) a corporation organized under the laws of another
20 state, 30% of more of the enrollees of which are residents
21 of this State, except a corporation subject to
22 substantially the same requirements in its state of
23 organization as is a domestic company under Article VIII
24 1/2 of the Illinois Insurance Code.

1 (Source: P.A. 91-549, eff. 8-14-99; 91-605, eff. 12-14-99;
2 91-788, eff. 6-9-00; 92-440, eff. 8-17-01.)

3 Section 25. The Voluntary Health Services Plans Act is
4 amended by changing Section 10 as follows:

5 (215 ILCS 165/10) (from Ch. 32, par. 604)

6 Sec. 10. Application of Insurance Code provisions. Health
7 services plan corporations and all persons interested therein
8 or dealing therewith shall be subject to the provisions of
9 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
10 149, 155.37, 354, 355.2, 356r, 356t, 356u, 356v, 356w, 356x,
11 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 364.01,
12 367.2, 367.4, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, and
13 412, and paragraphs (7) and (15) of Section 367 of the Illinois
14 Insurance Code.

15 (Source: P.A. 93-102, eff. 1-1-04; 93-529, eff. 8-14-03;
16 93-853, eff. 1-1-05; 93-1000, eff. 1-1-05; 94-1076, eff.
17 12-29-06.)