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SENATE BILL 6290

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State of Washington

54th Legislature

1996 Regular Session

By Senators Prentice, Fraser, Quigley and Pelz; by request of Insurance Commissioner

Read first time 01/10/96. Referred to Committee on Financial Institutions & Housing.

1 AN ACT Relating to minimum net worth requirements and the  
2 impairment of health care service contractors and health maintenance  
3 organizations; amending RCW 48.44.035, 48.44.037, and 48.46.235; adding  
4 a new section to chapter 48.44 RCW; and adding a new section to chapter  
5 48.46 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 48.44.035 and 1990 c 120 s 3 are each amended to read  
8 as follows:

9 (1) For purposes of this section only, "limited health care  
10 service" means dental care services, vision care services, mental  
11 health services, chemical dependency services, pharmaceutical services,  
12 podiatric care services, and such other services as may be determined  
13 by the commissioner to be limited health services, but does not include  
14 hospital, medical, surgical, emergency, or out-of-area services except  
15 as those services are provided incidentally to the limited health  
16 services set forth in this subsection.

17 (2) For purposes of this section only, a "limited health care  
18 service contractor" means a health care service contractor that offers  
19 one and only one limited health care service.

1       (3) Except as provided in subsection (4) of this section, every  
2 limited health care service contractor must maintain a minimum net  
3 worth of five hundred thousand dollars.

4       (4) A limited health care service contractor registered before the  
5 effective date of this act, must maintain a minimum net worth of:

6       (a) Twenty-five percent of the amount required by subsection (1) of  
7 this section by December 31, 1996;

8       (b) Fifty percent of the amount required by subsection (1) of this  
9 section by December 31, 1997;

10       (c) Seventy-five percent of the amount required by subsection (1)  
11 of this section by December 31, 1998; and

12       (d) One hundred percent of the amount required by subsection (1) of  
13 this section by December 31, 1999.

14       (5) For all limited health care service contractors that have had  
15 a certificate of registration for less than three years, their  
16 uncovered expenditures shall be either insured or guaranteed by a  
17 foreign or domestic carrier admitted in the state of Washington or by  
18 another carrier acceptable to the commissioner. All such contractors  
19 shall also deposit with the commissioner one-half of one percent of  
20 their projected premium for the next year in cash, approved surety  
21 bond, securities, or other form acceptable to the commissioner.

22       (~~(+4)~~) (6) For all limited health care service contractors that  
23 have had a certificate of registration for three years or more, their  
24 uncovered expenditures shall be assured by depositing with the  
25 insurance commissioner twenty-five percent of their last year's  
26 uncovered expenditures as reported to the commissioner and adjusted to  
27 reflect any anticipated increases or decreases during the ensuing year  
28 plus an amount for unearned prepayments; in cash, approved surety bond,  
29 securities, or other form acceptable to the commissioner. Compliance  
30 with subsection (~~(+3)~~) (5) of this section shall also constitute  
31 compliance with this requirement.

32       (~~(+5)~~) (7) If the assets of a domestic limited health care service  
33 contractor fall below the amount of its liabilities, plus the amount of  
34 any net worth required by this section, the commissioner shall at once  
35 ascertain the amount of the deficiency and serve notice upon the  
36 limited health care service contractor to cure the deficiency within  
37 ninety days after the service of notice.

38       (8) If the deficiency is not made good in cash or in assets  
39 eligible under this section for the investment of an insurer's funds,

1 and proof thereof filed with the commissioner within the ninety-day  
2 period, the limited health care service contractor is deemed insolvent  
3 and shall be proceeded against as authorized under this chapter.

4 (9) If the deficiency is not made good the limited health care  
5 service contractor may not issue or deliver any individual or group  
6 contract after the expiration of the ninety-day period.

7 (10) Limited health service contractors need not comply with RCW  
8 48.44.030 or 48.44.037.

9 **Sec. 2.** RCW 48.44.037 and 1990 c 120 s 4 are each amended to read  
10 as follows:

11 ~~(1)((a)) Except as provided in subsection (2) of this section,~~  
12 ~~every health care service contractor must ((have)) maintain a minimum~~  
13 ~~net worth ((of one million five hundred thousand dollars at the time of~~  
14 ~~initial registration under this chapter and a net worth of one million~~  
15 ~~dollars thereafter. The commissioner is authorized to establish~~  
16 ~~standards for reviewing a health care service contractor's financial~~  
17 ~~integrity when, for any reason, its net worth is reduced below one~~  
18 ~~million dollars. When satisfied that such a health care service~~  
19 ~~contractor is financially stable and not hazardous to its enrolled~~  
20 ~~participants, the commissioner may waive compliance with the one~~  
21 ~~million dollar net worth standard otherwise required by this~~  
22 ~~subsection. When such a health care service contractor's net worth~~  
23 ~~falls below five hundred thousand dollars, the commissioner shall~~  
24 ~~require that net worth be increased to one million dollars.~~

25 ~~(b) A health care service contractor who fails to maintain the~~  
26 ~~required net worth must cure that defect in compliance with an order of~~  
27 ~~the commissioner rendered in conformity with rules adopted under~~  
28 ~~chapter 34.05 RCW. The commissioner may take appropriate action to~~  
29 ~~assure that the continued operation of the health care service~~  
30 ~~contractor will not be hazardous to its enrolled participants)) equal~~  
31 ~~to the greater of:~~

32 (a) Three million dollars; or

33 (b) Two percent of annual premium revenues as reported on the most  
34 recent annual financial statement filed with the commissioner on the  
35 first one hundred fifty million dollars of premium and one percent of  
36 annual premium on the premium in excess of one hundred fifty million  
37 dollars.

1       (2) A health care service contractor registered before (~~June 7,~~  
2 ~~1990,~~) the effective date of this act that, on the effective date of  
3 this act, has the minimum net worth required by subsection (1) of this  
4 section must continue to maintain the minimum net worth required by  
5 subsection (1) of this section. A health care service contractor  
6 registered before the effective date of this act that, on the effective  
7 date of this act, does not have the minimum net worth required by  
8 subsection (1) of this section must maintain a net worth of:

9       (a) (~~Twenty-five~~) The amount required immediately prior to the  
10 effective date of this act until December 31, 1996;

11       (b) Fifty percent of the amount required by subsection (1) of this  
12 section by December 31, (~~1990~~) 1996;

13       (~~(b) Fifty~~) (c) Sixty-six and one-third percent of the amount  
14 required by subsection (1) of this section by December 31, (~~1991~~)  
15 1997;

16       (~~(c) Seventy-five~~) (d) Eighty-three and one-third percent of the  
17 amount required by subsection (1) of this section by December 31,  
18 (~~1992~~) 1998; and

19       (~~(d)~~) (e) One hundred percent of the amount required by  
20 subsection (1) of this section by December 31, (~~1993~~) 1999.

21       (3)(a) In determining net worth, no debt shall be considered fully  
22 subordinated unless the subordination is in a form acceptable to the  
23 commissioner. An interest obligation relating to the repayment of a  
24 subordinated debt must be similarly subordinated.

25       (b) The interest expenses relating to the repayment of a fully  
26 subordinated debt shall not be considered uncovered expenditures.

27       (c) A subordinated debt incurred by a note meeting the requirement  
28 of this section, and otherwise acceptable to the commissioner, shall  
29 not be considered a liability and shall be recorded as equity.

30       (4) Every health care service contractor shall, when determining  
31 liabilities, include an amount estimated in the aggregate to provide  
32 for any unearned premium and for the payment of all claims for health  
33 care expenditures which have been incurred, whether reported or  
34 unreported, which are unpaid and for which the organization is or may  
35 be liable, and to provide for the expense of adjustment or settlement  
36 of the claims.

37       Liabilities shall be computed in accordance with regulations  
38 adopted by the commissioner upon reasonable consideration of the

1 ascertained experience and character of the health care service  
2 contractor.

3 (5) All income from reserves on deposit with the commissioner shall  
4 belong to the depositing health care service contractor and shall be  
5 paid to it as it becomes available.

6 (6) Any funded reserve required by this chapter shall be considered  
7 an asset of the health care service contractor in determining the  
8 organization's net worth.

9 (7) A health care service contractor that has made a securities  
10 deposit with the commissioner may, at its option, withdraw the  
11 securities deposit or any part thereof after first having deposited or  
12 provided in lieu thereof an approved surety bond, a deposit of cash or  
13 securities, or any combination of these or other deposits of equal  
14 amount and value to that withdrawn. Any securities and surety bond  
15 shall be subject to approval by the commissioner before being  
16 substituted.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.44 RCW  
18 to read as follows:

19 (1) If the assets of a domestic health care service contractor fall  
20 below the amount of its liabilities, plus the amount of any net worth  
21 required by this chapter, the commissioner shall at once ascertain the  
22 amount of the deficiency and serve notice upon the health care service  
23 contractor to cure the deficiency within ninety days after the service  
24 of notice.

25 (2) If the deficiency is not made good in cash or in assets  
26 eligible under this chapter for the investment of an insurer's funds,  
27 and proof thereof filed with the commissioner within the ninety-day  
28 period, the health care service contractor is deemed insolvent and  
29 shall be proceeded against as authorized by this chapter.

30 (3) If the deficiency is not made good the health care service  
31 contractor may not issue or deliver any individual or group contract  
32 after the expiration of the ninety-day period.

33 **Sec. 4.** RCW 48.46.235 and 1990 c 119 s 5 are each amended to read  
34 as follows:

35 (1) Except as provided in subsection (2) of this section, every  
36 health maintenance organization must maintain a minimum net worth equal  
37 to the greater of:

1 (a) (~~One~~) Three million dollars; or

2 (b) Two percent of annual premium revenues as reported on the most  
3 recent annual financial statement filed with the commissioner on the  
4 first one hundred fifty million dollars of premium and one percent of  
5 annual premium on the premium in excess of one hundred fifty million  
6 dollars; or

7 (c) An amount equal to the sum of three months' uncovered  
8 expenditures as reported on the most recent financial statement filed  
9 with the commissioner.

10 (2) A health maintenance organization registered before (~~June 7,~~  
11 ~~1990,~~) the effective date of this act that, on the effective date of  
12 this act, has the minimum net worth required by subsection (1) of this  
13 section must continue to maintain the minimum net worth required by  
14 subsection (1) of this section. A health maintenance organization  
15 registered before the effective date of this act that, on the effective  
16 date of this act, does not have the minimum net worth required by  
17 subsection (1) of this section must maintain a minimum net worth of:

18 (a) (~~Twenty-five~~) The amount required immediately prior to the  
19 effective date of this act until December 31, 1996;

20 (b) Fifty percent of the amount required by subsection (1) of this  
21 section by December 31, (~~1990~~) 1996;

22 (~~(b) Fifty~~) (c) Sixty-six and one-sixth percent of the amount  
23 required by subsection (1) of this section by December 31, (~~1991~~)  
24 1997;

25 (~~(c) Seventy-five~~) (d) Eighty-three and one-third percent of the  
26 amount required by subsection (1) of this section by December 31,  
27 (~~1992~~) 1998; and

28 (~~(d)~~) (e) One hundred percent of the amount required by  
29 subsection (1) of this section by December 31, (~~1993~~) 1999.

30 (3)(a) In determining net worth, no debt shall be considered fully  
31 subordinated unless the subordination clause is in a form acceptable to  
32 the commissioner. An interest obligation relating to the repayment of  
33 a subordinated debt must be similarly subordinated.

34 (b) The interest expenses relating to the repayment of a fully  
35 subordinated debt shall not be considered uncovered expenditures.

36 (c) A subordinated debt incurred by a note meeting the requirement  
37 of this section, and otherwise acceptable to the commissioner, shall  
38 not be considered a liability and shall be recorded as equity.

1 (4) Every health maintenance organization shall, when determining  
2 liabilities, include an amount estimated in the aggregate to provide  
3 for any unearned premium and for the payment of all claims for health  
4 care expenditures that have been incurred, whether reported or  
5 unreported, which are unpaid and for which such organization is or may  
6 be liable, and to provide for the expense of adjustment or settlement  
7 of such claims.

8 Such liabilities shall be computed in accordance with rules  
9 promulgated by the commissioner upon reasonable consideration of the  
10 ascertained experience and character of the health maintenance  
11 organization.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.46 RCW  
13 to read as follows:

14 (1) If the assets of a domestic health maintenance organization  
15 fall below the amount of its liabilities, plus the amount of any net  
16 worth required by this chapter, the commissioner shall at once  
17 ascertain the amount of the deficiency and serve notice upon the health  
18 maintenance organization to cure the deficiency within ninety days  
19 after the service of notice.

20 (2) If the deficiency is not made good in cash or in assets  
21 eligible under this chapter for the investment of an insurer's funds,  
22 and proof thereof filed with the commissioner within the ninety-day  
23 period, the health maintenance organization is deemed insolvent and  
24 shall be proceeded against as authorized by this chapter.

25 (3) If the deficiency is not made good the health maintenance  
26 organization may not issue or deliver any health maintenance agreement  
27 after the expiration of the ninety-day period.

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