

Original sponsor: Health, Education  
and Social Services Committee

Offered: 4/17/74  
Referred: Commerce

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 787

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the creation of health maintenance  
7 organizations; prescribing their organization, powers  
8 and duties; and providing for their certification and  
9 registration."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 \* Section 1. AS 18 is amended by adding a new chapter to read:

12 CHAPTER 18. HEALTH MAINTENANCE ORGANIZATIONS.

13 Sec. 18.18.010. ESTABLISHMENT OF HEALTH MAINTENANCE ORGANIZATIONS.

14 (a) Notwithstanding any other provision of law, any person may apply  
15 to the commissioner for and obtain a certificate of authority to estab-  
16 lish and operate a health maintenance organization in compliance with  
17 this chapter. No person may establish or operate a health maintenance  
18 organization in this state, nor sell or offer to sell, or solicit offers  
19 to purchase or receive advance or periodic consideration in conjunction  
20 with a health maintenance organization without obtaining a certificate  
21 of authority under this chapter. A foreign corporation may qualify  
22 under this chapter, subject to its registration to do business in this  
23 state as a foreign corporation under AS 10.05.

24 (b) Every health maintenance organization on the effective date  
25 of this chapter shall submit an application for a certificate of author-  
26 ity under sec. 20 of this chapter within 60 days of the effective date of  
27 this chapter. Each applicant may continue to operate until the commis-  
28 sioner acts upon the application. In the event that an application is  
29 denied under sec. 30 of this chapter, the applicant shall henceforth be

1 treated as a health maintenance organization whose certificate of  
2 authority has been revoked.

3 Sec. 18.18.020. APPLICATION FOR CERTIFICATE OF AUTHORITY. (a)

4 Each application for a certificate of authority shall be verified by  
5 an officer or authorized representative of the applicant, shall be in  
6 a form prescribed by the commissioner, and shall set out or be accom-  
7 panied by the following:

8 (1) a copy of the basic organizational document, if any, of  
9 the applicant such as the articles of incorporation, articles of associ-  
10 ation, partnership agreement, trust agreement, or other applicable  
11 documents, and all amendments to them;

12 (2) a copy of the bylaws, rules, regulations, or similar  
13 document, if any, regulating the conduct of the internal affairs of the  
14 applicant;

15 (3) a list of the names, addresses, and official positions  
16 of the persons who are to be responsible for the conduct of the affairs  
17 of the applicant, including all members of the governing board or  
18 committee, the principal officers in the case of a corporation, and  
19 the partners or members in the case of a partnership or association;

20 (4) a copy of any contract made or to be made between any  
21 providers or persons listed in (3) of this subsection and the applicant;

22 (5) a statement generally describing the health maintenance  
23 organization, its health care plan or plans, services, facilities and  
24 personnel;

25 (6) a copy of the form of evidence of coverage to be issued  
26 to the enrollees;

27 (7) copies of all contract forms which the organization  
28 proposes to offer enrolled participants;

29 (8) financial statements showing the applicant's assets,

1 liabilities, sources of financial support and working capital, a finan-  
2 cial plan, and an estimate of the amount of time which will be required  
3 for the organization to break even;

4 (9) a description of the proposed method of marketing the  
5 plan;

6 (10) a power of attorney duly executed by the applicant, if  
7 not domiciled in this state, appointing the commissioner and his suc-  
8 cessors in office, and duly authorized deputies, as the true and lawful  
9 attorney of the applicant in and for this state upon whom all lawful  
10 process in any legal action or proceeding against the health maintenance  
11 organization on a cause of action arising in this state may be served;

12 (11) a statement reasonably describing the geographic area  
13 or areas to be served;

14 (12) a description of the complaint procedures to be utilized  
15 as required under sec. 100 of this chapter;

16 (13) a description of the procedures and programs to be  
17 implemented to meet the quality of health care requirements in sec.  
18 30(a)(2) of this chapter;

19 (14) a description of the mechanism by which enrollees will  
20 be given an opportunity to participate in matters of policy and opera-  
21 tion under sec. 50(b) of this chapter;

22 (15) whatever other information the commissioner may require  
23 to make the determinations required in sec. 30 of this chapter.

24 (b) A health maintenance organization shall, unless otherwise  
25 provided for in this chapter, file a notice describing any modification  
26 of the operation set out in the information required by (a) of this  
27 section. The notice shall be filed with the commissioner before the  
28 modification. If the commissioner does not disapprove within 45 days  
29 of filing, the modification shall be considered approved. The

1 commissioner may promulgate regulations under the Administrative Proce-  
2 dure Act (AS 44.62) exempting from the filing requirements of this  
3 subsection those items he considers unnecessary.

4 Sec. 18.18.030. ISSUANCE OF CERTIFICATE OF AUTHORITY. (a) Upon  
5 receipt of an application for issuance of a certificate of authority,  
6 the commissioner shall immediately transmit copies of the application  
7 and accompanying documents to the commissioner of health and social  
8 services.

9 (b) The commissioner of health and social services shall deter-  
10 mine whether the applicant for a certificate of authority, with respect  
11 to health care services to be furnished:

12 (1) has demonstrated the willingness and potential ability  
13 to assure that the health care services will be provided in a manner  
14 to assure availability and accessibility of adequate personnel and  
15 facilities, and continuity of service;

16 (2) has arrangements established in accordance with regula-  
17 tions promulgated by the commissioner for an on-going quality of health  
18 care assurance program concerning health care processes and outcomes;

19 (3) has a procedure, established in accordance with regula-  
20 tions of the commissioner, to develop, compile, evaluate, and report  
21 statistics relating to the cost of its operations, the pattern of  
22 utilization of its services, the availability and accessibility of its  
23 services, and such other matters as may be reasonably required by the  
24 commissioner;

25 (c) Within 30 days of receipt of the application for issuance  
26 of a certificate of authority, the commissioner of health and social  
27 services shall certify to the commissioner whether the proposed health  
28 maintenance organization meets the requirements of (b) of this section.  
29 If the commissioner of health and social services certifies that the

1 health maintenance organization does not meet these requirements, he  
2 shall specify in what respects it is deficient.

3 (d) The commissioner shall issue or deny a certificate of author-  
4 ity to any person filing an application under sec. 20 of this chapter  
5 within 30 days of receipt of the certification from the commissioner  
6 of health and social services. Issuance of a certificate of authority  
7 shall be granted upon payment of the application fee prescribed in  
8 sec. 160 of this chapter if the commissioner is satisfied that the  
9 following conditions are met:

10 (1) the commissioner of health and social services certifies,  
11 in accordance with (a) - (c) of this section that the health mainte-  
12 nance organization's proposed plan of operation meets the requirements  
13 of (b) of this section;

14 (2) the health care plan constitutes an appropriate  
15 mechanism whereby the health maintenance organization will effectively  
16 provide or arrange for the provision of basic health care services on  
17 a prepaid basis, through insurance or otherwise, except to the extent  
18 of reasonable requirements for co-payments;

19 (3) the health maintenance organization is financially  
20 responsible and may reasonably be expected to meet its obligations to  
21 enrollees and prospective enrollees; in making this determination, the  
22 commissioner may consider

23 (A) the financial soundness of the health care plan's  
24 arrangements for health care services and the schedule of charges  
25 used in connection with them;

26 (B) the adequacy of working capital;

27 (C) any agreement with an insurer, a hospital or medical  
28 service corporation, a government agency, or any other organization  
29 for paying or insuring the payment of the cost of health care

1 services or the provision for automatic applicability of an alter-  
2 native coverage in the event of discontinuance of the plan;

3 (D) any agreement with providers for the provision of  
4 health care services; and

5 (E) any surety bond or deposit of cash or securities  
6 submitted in accordance with sec. 110 of this chapter as a guarantee  
7 that the obligations will be duly performed;

8 (4) the enrollees will be afforded an opportunity to partici-  
9 pate in matters of policy and operation under sec. 50 of this chapter;

10 (5) nothing in the proposed method of operation, as shown by  
11 the information submitted under sec. 20 of this chapter or by independent  
12 investigation, is contrary to the public interest;

13 (6) the health maintenance organization assures that the  
14 procedures for offering and terminating contracts for health care services  
15 with enrollees are equitable in comparison to prevailing health insurance  
16 subscription practices; and

17 (7) any deficiencies certified by the commissioner of health  
18 and social services have been corrected.

19 (e). A certificate of authority may be denied only after compliance  
20 with the requirements of sec. 150 of this chapter.

21 Sec. 18.18.040. POWERS OF HEALTH MAINTENANCE ORGANIZATIONS. (a)  
22 The powers of a health maintenance organization include, but are not  
23 limited to, the following:

24 (1) the purchase, lease, construction, renovation, opera-  
25 tion, or maintenance of hospitals, medical facilities, or both, and  
26 their ancillary equipment, and whatever property that may reasonably be  
27 required for its principal office or for those other purposes that may  
28 be necessary in the transaction of the business of the organization;

29 (2) the making of loans to a medical group under contract

1 with it in furtherance of its program or the making of loans to a cor-  
2 poration or corporations under its control for the purpose of acquiring  
3 or constructing medical facilities and hospitals or in furtherance of  
4 a program providing health care services to enrollees;

5 (3) the furnishing of prepaid health care services through  
6 providers which are under contract with or employed by the health  
7 maintenance organization;

8 (4) the contracting with any person for the performance on  
9 its behalf of certain functions such as marketing, enrollment, and  
10 administration;

11 (5) the contracting with an insurance company licensed in  
12 this state, or with a hospital or medical service corporation authorized  
13 to do business in this state, for the provision of insurance, indemnity,  
14 or reimbursement against the cost of health care services provided by  
15 the health maintenance organization;

16 (6) the offering, in addition to basic health care services,  
17 of

18 (A) additional health care services;

19 (B) indemnity benefits covering out-of-area or emergency  
20 services; and

21 (C) indemnity benefits, in addition to those relating  
22 to out-of-area and emergency services, provided through insurers  
23 or hospital or medical service corporations;

24 (7) the acceptance of payments or grants from governmental  
25 or private agencies or persons.

26 (b) A health maintenance organization shall file notice, with  
27 adequate supporting information, with the commissioner of commerce  
28 before the exercise of any power granted in (a)(1) or (2) of this  
29 section. The commissioner shall disapprove that exercise of power if

1 in his judgment it would substantially and adversely affect the finan-  
2 cial soundness of the health maintenance organization and endanger its  
3 ability to meet its obligations. If the commissioner does not disapprove  
4 within 30 days of the filing, it shall be considered approved.

5 Sec. 18.18.050. GOVERNING BODY. (a) The governing body of a  
6 health maintenance organization may include providers or enrollees.

7 (b) The governing body shall establish and utilize a mechanism  
8 to afford the enrollees an opportunity to participate in matters of  
9 policy and operation through the establishment of advisory panels, by  
10 the use of advisory referenda on major policy decisions, or through the  
11 use of other mechanisms.

12 Sec. 18.18.060. FIDUCIARY RESPONSIBILITIES. A director, officer  
13 or partner of a health maintenance organization who receives, collects,  
14 disburses, or invests funds in connection with the activities of that  
15 organization shall be responsible for those funds in a fiduciary rela-  
16 tionship to the enrollees.

17 Sec. 18.18.070. EVIDENCE OF COVERAGE AND CHARGES FOR HEALTH CARE  
18 SERVICES. (a) Every enrollee residing in this state is entitled to  
19 evidence of coverage under a health care plan. If the enrollee obtains  
20 coverage under a health care plan through an insurance policy or a  
21 contract issued by a hospital or medical service corporation, whether  
22 by option or otherwise, the insurer or the hospital or medical service  
23 corporation shall issue the evidence of coverage. Otherwise, the  
24 health maintenance organization shall issue the evidence of coverage.

25 (b) No evidence of coverage, or amendment to it, may be issued  
26 or delivered to a person in this state until a copy of the form of the  
27 evidence of coverage, or amendment to it, has been filed with and  
28 approved by the commissioner.

29 (c) An evidence of coverage shall contain

1 (1) no provisions or statements which are unjust, unfair,  
2 inequitable, misleading, deceptive, which encourage misrepresentation,  
3 or which are untrue, misleading or deceptive as defined in sec. 130(a)  
4 of this chapter; and

5 (2) a clear and complete statement, if a contract, or a  
6 reasonably complete summary, if a certificate, of

7 (A) the health care services and the insurance or other  
8 benefits, if any, to which the enrollee is entitled under the  
9 health care plan;

10 (B) any limitations on the services, kind of services,  
11 benefits, or kind of benefits, to be provided, including any  
12 deductible or co-payment feature;

13 (C) where and in what manner information is available  
14 as to how services may be obtained;

15 (D) the total amount of payment for health care services  
16 and the indemnity or service benefits, if any, which the enrollee  
17 is obligated to pay with respect to individual contracts, or an  
18 indication whether the plan is contributory or noncontributory with  
19 respect to group certificates;

20 (E) a clear and understandable description of the  
21 health maintenance organization's method for resolving enrollee  
22 complaints.

23 (d) Any subsequent change in the evidence of coverage shall be  
24 evidenced in a separate document issued to the enrollee.

25 (e) A copy of the form of the evidence of coverage to be used in  
26 this state, and any amendment to it, shall be subject to the filing and  
27 approval requirements of (b) of this section unless it is subject to  
28 the jurisdiction of the commissioner under the laws governing health  
29 insurance or hospital or medical service corporations, in which event

1 the filing and approval provisions of these laws shall apply. To the  
2 extent, however, that these provisions do not apply, the requirements  
3 in (c) of this section are applicable.

4 (f) No schedule of charges for enrollee coverage for health care  
5 services, or amendment to it, may be used in conjunction with any  
6 health care plan until a copy of the schedule, or amendment to it, has  
7 been filed with the commissioner.

8 (g) The commissioner shall, within a reasonable period, approve  
9 any form if the requirements of (a) - (e) of this section are met and  
10 any schedule of charges if the requirement of (f) of this section is  
11 met. It shall be unlawful to issue a form until approved. If the  
12 commissioner disapproves the filing, he shall notify the filer. In  
13 the notice, the commissioner shall specify the reasons for his dis-  
14 approval. A hearing will be granted within 30 days after a request in  
15 writing by the person filing. If the commissioner does not disapprove  
16 any form within 30 days of the filing of the forms, they shall be  
17 considered approved.

18 (h) The commissioner may require the submission of whatever rele-  
19 vant information he considers necessary in determining whether to approve  
20 or disapprove a filing made under this section.

21 Sec. 18.18.080. ANNUAL REPORT. (a) Every health maintenance  
22 organization shall annually, before March 1, file a report verified by  
23 at least two principal officers with the commissioner, covering the  
24 preceding calendar year.

25 (b) The report shall be on forms prescribed by the commissioner  
26 and shall include

27 (1) a financial statement of the organization, including its  
28 balance sheet and receipts and disbursements for the preceding year  
29 certified by an independent public accountant;

1 (2) any material changes in the information submitted under  
2 sec. 20(a) of this chapter;

3 (3) the number of persons enrolled during the year, the  
4 number of enrollees at the end of the year, and the number of enroll-  
5 ments terminated during the year;

6 (4) whatever other information relating to the performance  
7 of the health maintenance organization that is necessary to enable the  
8 commissioner to carry out his duties under this chapter.

9 Sec. 18.18.090. INFORMATION TO ENROLLEES. Every health mainte-  
10 nance organization shall annually provide to its enrollees

11 (1) the most recent annual statement of financial condi-  
12 tion including a balance sheet and summary of receipts and disburse-  
13 ments;

14 (2) a description of services and information as to where  
15 and how to secure them; and

16 (3) a clear and understandable description of the health  
17 maintenance organization's method for resolving enrollee complaints.

18 Sec. 18.18.100. COMPLAINT SYSTEM. (a) Every health maintenance  
19 organization shall establish and maintain a complaint system to provide  
20 reasonable procedures for the resolution of written complaints initi-  
21 ated by enrollees concerning health care services.

22 (b) The health maintenance organization shall maintain records of  
23 written complaints filed with it and shall submit to the commissioner  
24 a summary report at those times and in the format that the commissioner  
25 may require. The complaints involving other persons shall be referred  
26 to those persons with a copy to the commissioner.

27 Sec. 18.18.110. PROTECTION AGAINST INSOLVENCY. As a guarantee  
28 that the obligations to enrollees will be performed, a health maintenance  
29 organization shall furnish a surety bond in the following amount or

1 deposit with the commissioner cash on securities acceptable to him in  
2 at least the same amount:

3	2500 or less enrollees	\$10,000
4	2501 - 3500 enrollees	15,000
5	3501 - 4500 enrollees	20,000
6	4501 - 5500 enrollees	25,000
7	5501 or more enrollees	30,000

8 Sec. 18.18.120. POWERS OF INSURERS AND HOSPITAL AND MEDICAL SER-  
9 VICE CORPORATIONS. (a) An insurance company licensed in this state,  
10 or a hospital or medical service corporation authorized to do business  
11 in this state, may either directly or through a subsidiary or affiliate  
12 organize and operate a health maintenance organization under the provi-  
13 sions of this chapter. Notwithstanding any other law which may be  
14 inconsistent with this chapter, any two or more insurance companies,  
15 hospital or medical service corporations, or subsidiaries or affiliates  
16 of them, may jointly organize and operate a health maintenance organiza-  
17 tion.

18 (b) Notwithstanding any provision of AS 21, an insurer or a  
19 hospital or medical service corporation may contract with a health  
20 maintenance organization to provide insurance or similar protection  
21 against the cost of care provided through health maintenance organiza-  
22 tions and to provide coverage in the event of the failure of the health  
23 maintenance organization to meet its obligations. The enrollees of  
24 a health maintenance organization constitute a permissible group under  
25 these laws.

26 Sec. 18.18.130. PROHIBITED PRACTICES. (a) No health maintenance  
27 organization, or representative of it, may cause or knowingly permit  
28 the use of advertising which is untrue or misleading, solicitation  
29 which is untrue or misleading, or any form of evidence of coverage

1 which is deceptive. For purposes of this chapter

2 (1) a statement or item of information shall be considered  
3 to be untrue if it does not conform to fact in any respect which is or  
4 may be significant to an enrollee of, or person considering enrollment  
5 in, a health care plan;

6 (2) a statement or item of information shall be considered  
7 to be misleading, whether or not it may be literally untrue, if, in  
8 the total context in which the statement is made or the item of infor-  
9 mation is communicated, the statement or item of information may be  
10 reasonably understood by a reasonable person, not possessing special  
11 knowledge regarding health care coverage, as indicating any benefit or  
12 advantage or the absence of any exclusion, limitation, or disadvantage  
13 of possible significance to an enrollee of, or person considering  
14 enrollment in, a health care plan, if the benefit or advantage or  
15 absence of limitation, exclusion or disadvantage does not in fact exist;

16 (3) an evidence of coverage shall be considered to be decep-  
17 tive if the evidence of coverage taken as a whole, and with considera-  
18 tion given to typography and format, as well as language, is such as  
19 to cause a reasonable person, not possessing special knowledge regarding  
20 health care plans and evidences of coverage for them, to expect bene-  
21 fits, services, charges, or other advantages which the evidence of  
22 coverage does not provide or which the health care plan issuing the  
23 evidence of coverage does not regularly make available for enrollees  
24 covered under such evidence of coverage.

25 (b) AS 45.50.471 - 45.50.561 apply to health maintenance organiza-  
26 tions, health care plans and evidences of coverage except to the extent  
27 that the commissioner determines by regulation that the nature of health  
28 maintenance organizations, health care plans and evidences of coverage  
29 render these sections clearly inappropriate.

1 (c) An enrollee may not be cancelled or nonrenewed except for the  
2 failure to pay the charge for the coverage, or for those other reasons  
3 as may be promulgated by regulation by the commissioner.

4 (d) No health maintenance organization, unless licensed as an  
5 insurer, may use in its name, contracts, or literature any of the words  
6 "insurance", "casualty", "surety", "mutual", or any other words descrip-  
7 tive of the insurance, casualty, or surety business or deceptively  
8 similar to the name or description of any insurance or surety corpora-  
9 tion doing business in this state.

10 Sec. 18.18.140. EXAMINATIONS. (a) The commissioner may make  
11 an examination of the affairs of any health maintenance organization  
12 and providers with whom that organization has contracts, agreements, or  
13 other arrangements under its health care plan as often as he considers  
14 necessary for the protection of the interests of the people of this  
15 state but at least once every three years.

16 (b) The commissioner of health and social services may make an  
17 examination concerning the quality of health care services of any  
18 health maintenance organization and providers with whom the organiza-  
19 tion has contracts, agreements, or other arrangements under its health  
20 care plan as often as he considers necessary for the protection of the  
21 interests of the people of this state but at least once every three  
22 years.

23 (c) Every health maintenance organization and provider shall  
24 submit its books and records relating to the health care plan to the  
25 examinations and in every way facilitate them. For the purpose of  
26 examinations, the commissioner may administer oaths to and examine the  
27 officers and agents of the health maintenance organization and the  
28 principals of the providers concerning their business.

29 Sec. 18.18.150. SUSPENSION OR REVOCATION OF CERTIFICATE OF  
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1 AUTHORITY. (a) The commissioner may suspend any certificate of  
2 authority issued to a health maintenance organization under this  
3 chapter if he finds that any of the following conditions exist:

4 (1) the health maintenance organization is operating signi-  
5 ficantly in contravention of its basic organizational document, its  
6 health care plan, or in a manner contrary to that described in and  
7 reasonably inferred from any other information submitted under sec. 20  
8 of this chapter, unless amendments to the submissions have been filed  
9 with and approved by the commissioner;

10 (2) the health maintenance organization issues evidence of  
11 coverage or uses a schedule of charges for health care services which  
12 do not comply with the requirements of sec. 30 or sec. 70 of this  
13 chapter;

14 (3) the health maintenance organization has failed to imple-  
15 ment a mechanism affording the enrollees an opportunity to participate  
16 in matters of policy and operation under sec. 50 of this chapter;

17 (4) the health maintenance organization has failed to imple-  
18 ment the complaint system required by sec. 100 of this chapter in a  
19 manner to reasonably resolve valid complaints;

20 (5) the health maintenance organization, or any person on  
21 its behalf, has advertised or merchandised its services in an untrue,  
22 misrepresentative, misleading, deceptive, or unfair manner;

23 (6) the health maintenance organization has otherwise failed  
24 to substantially comply with this chapter.

25 (b) The commissioner may revoke a certificate of authority issued  
26 to a health maintenance organization under this chapter if he finds  
27 that any of the following conditions exist:

28 (1) the commissioner of health and social services certifies  
29 to the commissioner that the health maintenance organization is unable

1 to fulfill its obligations to furnish health care services as required  
2 under its health care plan;

3 (2) the health maintenance organization is no longer  
4 financially responsible and may reasonably be expected to be unable to  
5 meet its obligations to enrollees or prospective enrollees.

6 (c) A certificate of authority shall be suspended or revoked only  
7 after compliance with the requirements of sec. 170 of this chapter.

8 (d) When the certificate of authority of a health maintenance  
9 organization is suspended, the health maintenance organization may not,  
10 during the period of the suspension, enroll any additional enrollees  
11 except newborn children or other newly acquired dependents of existing  
12 enrollees, and may not engage in any advertising or solicitation what-  
13 soever.

14 (e) When the certificate of authority of a health maintenance  
15 organization is revoked, the organization shall proceed, immediately  
16 following the effective date of the order of revocation, to wind up  
17 its affairs, and may conduct no further business except as may be  
18 essential to the orderly conclusion of the affairs of the organization.  
19 It shall engage in no further advertising or solicitation whatsoever.  
20 The commissioner may, by written order, permit the further operation  
21 of the organization that he may find to be in the best interest of  
22 enrollees, to the end that enrollees will be afforded the greatest  
23 practical opportunity to obtain continuing health care coverage.

24 Sec. 18.18.160. REGULATIONS. The commissioner may, in accordance  
25 with the Administrative Procedure Act (AS 44.62), promulgate reasonable  
26 regulations as are necessary to carry out the provisions of this  
27 chapter.

28 Sec. 18.18.170. ADMINISTRATIVE PROCEDURES. (a) When the  
29 commissioner has reason to believe that grounds for the denial of an  
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1 application for a certificate of authority exist, or that grounds for  
2 the suspension or revocation of a certificate of authority exist, he  
3 shall notify the health maintenance organization in writing speci-  
4 fically stating the grounds for denial, suspension, or revocation and  
5 fixing a time for a hearing on the matter.

6 (b) A hearing officer shall be appointed by the commissioners of  
7 health and social services, commerce and revenue, and shall, after  
8 hearing at which the health maintenance organization and the commis-  
9 sioners testify, decide if the certificate of authority is to be  
10 denied, suspended or revoked. The decision of the hearing officer is  
11 binding upon the commissioner. The action, recommendation and findings  
12 of the hearing officer are subject to review. The court may, in  
13 disposing of the issue before it, modify, affirm, or reverse the order  
14 in whole or in part.

15 (c) The provisions of the Administrative Procedure Act (AS 44.62)  
16 apply to proceedings under this section to the extent they are not in  
17 conflict with (a) and (b) of this section.

18 Sec. 18.18.180. FEES. Every health maintenance organization  
19 subject to this chapter shall pay to the commissioner fees as follows:

- 20 (1) for filing an application for a certificate of authority  
21 or amendment to it . . . . . \$100
- 22 (2) for issuance of an initial certificate of authority  
23 or each renewal . . . . . \$ 65
- 24 (3) for filing annual statement of financial  
25 condition . . . . . \$ 10

26 Sec. 18.18.190. PENALTIES AND ENFORCEMENT. (a) The commis-  
27 sioner may, instead of suspension or revocation of a certificate of  
28 authority under sec. 150 of this chapter, levy an administrative  
29 penalty in an amount of \$100 if reasonable notice in writing is given

1 of the intent to levy the penalty and the health maintenance organi-  
2 zation has a reasonable time within which to remedy the defect in its  
3 operations which gave rise to the penalty citation. The commissioner  
4 may augment this penalty by an amount equal to the sum that he calcu-  
5 lates to be the damages suffered by enrollees or other members of the  
6 public.

7 (b) The commissioner may issue an order directing a health mainte-  
8 nance organization or a representative of a health maintenance organiza-  
9 tion to cease and desist from engaging in any act or practice in  
10 violation of the provisions of this chapter. Within 10 days after  
11 service of the cease and desist order, the respondent may request a  
12 hearing on the question of whether acts or practices in violation of  
13 this chapter have occurred. The hearings shall be conducted in  
14 accordance with the Administrative Procedure Act (AS 44.62).

15 (c) In the case of any violation of the provisions of this chapter,  
16 if the commissioner elects not to issue a cease and desist order, or  
17 in the event of noncompliance with a cease and desist order issued under  
18 this section, the commissioner may request the attorney general to  
19 institute a proceeding to obtain injunctive relief or seek other appro-  
20 priate relief in the superior court of the judicial district where the  
21 alleged violation occurred.

22 Sec. 18.18.200. FILINGS AND REPORTS AS PUBLIC DOCUMENTS. All  
23 applications, filings and reports required under this chapter shall be  
24 treated as public documents, under AS 40.21.

25 Sec. 18.18.210. STATUTORY CONSTRUCTION AND RELATIONSHIP TO OTHER  
26 LAWS. (a) Except as otherwise provided in this chapter, provisions  
27 of the insurance law and provisions of hospital or medical service  
28 corporation laws are not applicable to any health maintenance organiza-  
29 tion granted a certificate of authority under this chapter. This

1 provision does not apply to an insurer or hospital or medical service  
2 corporation licensed and regulated under the insurance laws or the  
3 hospital or medical service corporation laws of this state except with  
4 respect to its health maintenance organization activities authorized  
5 and regulated under this chapter.

6 (b) Solicitation of enrollees by a health maintenance organization  
7 granted a certificate of authority, or its representatives, may not be  
8 construed to violate any provision of law relating to solicitation or  
9 advertising by health professionals.

10 (c) A health maintenance organization authorized under this  
11 chapter may not be considered to be practicing medicine and is exempt  
12 from the provision of AS 08.64 relating to the practice of medicine.

13 Sec. 18.18.220. CONFIDENTIALITY OF MEDICAL INFORMATION. Any data  
14 or information pertaining to the diagnosis, treatment, or health of any  
15 enrollee or applicant obtained from that person or from any provider  
16 by any health maintenance organization shall be held in confidence and  
17 may not be disclosed to any person. However, to the extent that it may  
18 be necessary to carry out the purposes of this chapter, or upon the  
19 express consent of the enrollee or applicant, or under law or court  
20 order for the production of evidence or the discovery of it, or in the  
21 event of claim or litigation between a person and the health maintenance  
22 organization wherein that data or information is pertinent, disclosure  
23 may occur. A health maintenance organization may claim any statutory  
24 privileges against disclosure which the provider who furnished the  
25 information to the health maintenance organization may claim.

26 Sec. 18.18.230. COMMISSIONER'S AUTHORITY TO CONTRACT. The  
27 commissioner of health and social services, in carrying out his  
28 obligations under secs. 30(b) and 140(b) of this chapter, may contract  
29 with qualified persons to make recommendations concerning the deter-

1 minations required to be made by him. These recommendations may be  
2 accepted in full or in part by the commissioner.

3 Sec. 18.18.240. REGULATION OF AGENTS. The commissioner may,  
4 after notice and hearing, promulgate under the Administrative Procedure  
5 Act (AS 44.62) reasonable regulations that are necessary to provide for  
6 the licensing of agents. An agent means a person directly or indirectly  
7 associated with a health care plan who engages in solicitation or  
8 enrollment.

9 Sec. 18.18.250. DEFINITIONS. In this chapter

10 (1) "basic health care services" means health care services  
11 which an enrolled population might reasonably require in order to be  
12 maintained in good health, including as a minimum, emergency care,  
13 inpatient hospital and physician care, and outpatient medical services;

14 (2) "commissioner" means the commissioner of commerce;

15 (3) "enrollee" means an individual who has been enrolled in  
16 a health care plan;

17 (4) "evidence of coverage" means any certificate, agreement,  
18 or contract issued to an enrollee setting out the coverage to which  
19 he is entitled;

20 (5) "health care plan" means an arrangement whereby a person  
21 undertakes to provide, arrange for, pay for, or reimburse any part of  
22 the cost of any health care services and at least part of that arrange-  
23 ment consists of arranging for or the provision of health care services,  
24 as distinguished from mere indemnification against the cost of the  
25 services, on a prepaid basis through insurance or otherwise;

26 (6) "health care services" means any services included in  
27 the furnishing to any individual of medical or dental care, or hospitali-  
28 zation or incident to the furnishing of the care or hospitalization,  
29 as well as the furnishing to any person of any and all other services

1 for the purpose of preventing, alleviating, curing, or healing human  
2 illness or injury;

3 (7) "health maintenance organization" means a person who:

4 (A) provides or otherwise makes available to enrolled  
5 participants health care services, including at a minimum those  
6 basic health care services which are generally available on an  
7 insured or prepaid basis in the locality served by the organization;

8 (B) is compensated for the provision of basic health  
9 care services to enrolled participants solely on a predetermined  
10 periodic rate basis;

11 (C) provides physicians' services primarily (i) directly  
12 through physicians who are either employees or partners of such  
13 organization, or (ii) under arrangements with one or more groups  
14 of physicians; the group is compensated for its services primarily  
15 on the basis of an aggregate fixed sum or on a per capita basis  
16 and is provided with an effective incentive to avoid unnecessary  
17 inpatient utilization, regardless of whether the individual  
18 physician members of any such group are paid on a fee-for-service  
19 or other basis; and assures the availability, accessibility and  
20 quality of comprehensive health care services;

21 (8) "provider" means a physician, hospital, or other person  
22 which is licensed or otherwise authorized in this state to furnish  
23 health care services.

24 Sec. 18.18.260. SHORT TITLE. This chapter may be cited as the  
25 Alaska Health Maintenance Organization Act.  
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