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Referred: Health, Education
and Social Services and
Finance

1 IN THE SENATE

BY KERTTULA

2 SENATE BILL NO. 251

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST 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 regulation."

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

11 * Section 1. AS 21 is amended by adding a new chapter to read:

12 CHAPTER 86. HEALTH MAINTENANCE ORGANIZATIONS.

13 Sec. 21.86.010. 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 of
25 this chapter shall submit an application for a certificate of authority
26 under (c) of this section within 60 days of the effective date of this
27 chapter. Each applicant may continue to operate until the commissioner
28 acts upon the application. In the event that an application is denied
29 under sec. 20 of this chapter, the applicant shall henceforth be treated

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2 has been revoked.

3 (c) Each application for a certificate of authority shall be
4 verified by an officer or authorized representative of the applicant,
5 shall be in a form prescribed by the commissioner, and shall set out
6 or be accompanied by the following:

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

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

14 (3) a list of the names, addresses, and official positions
15 of the persons who are to be responsible for the conduct of the affairs
16 of the applicant, including all members of the board of directors,
17 board of trustees, executive committee, or other 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 appli-
22 cant;

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

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

27 (7) a copy of the form of the group contract, if any, which
28 is to be issued to employers, unions, trustees, or other organizations;

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

1 liabilities, and sources of financial support. If the applicant's
2 financial affairs are audited by independent certified public accoun-
3 tants, a copy of the applicant's most recent regular certified financial
4 statement shall be considered to satisfy this requirement unless the
5 commissioner directs that additional or more recent financial informa-
6 tion is required for the proper administration of this chapter;

7 (9) a description of the proposed method of marketing the
8 plan, a financial plan which includes a three-year projection of the
9 initial operating results anticipated, and a statement as to the sources
10 of working capital as well as any other sources of funding;

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

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

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

22 (13) a description of the procedures and programs to be
23 implemented to meet the quality of health care requirements in sec. 20-
24 (b)(2) of this chapter;

25 (14) a description of the mechanism by which enrollees will
26 be given an opportunity to participate in matters of policy and opera-
27 tion under sec. 40(b) of this chapter;

28 (15) whatever other information the commissioner may require
29 to make the determinations required in sec. 20 of this chapter.

1 (d) A health maintenance organization shall, unless otherwise
2 provided for in this chapter, file a notice describing any modifica-
3 tion of the operation set out in the information required by (c) of
4 this section. The notice shall be filed with the commissioner before
5 the modification. If the commissioner does not disapprove within 30
6 days of filing, the modification shall be considered approved.

7 (e) The commissioner may promulgate regulations under the Admin-
8 istrative Procedure Act (AS 44.62) exempting from the filing require-
9 ments of (d) of this section those items he considers unnecessary.

10 Sec. 21.86.020. ISSUANCE OF CERTIFICATE OF AUTHORITY. (a) Upon
11 receipt of an application for issuance of a certificate of authority,
12 the commissioner shall immediately transmit copies of the application
13 and accompanying documents to the commissioner of health and social
14 services.

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

18 (1) has demonstrated the willingness and potential ability
19 to assure that the health care services will be provided in a manner
20 to assure both availability and accessibility of adequate personnel
21 and facilities and in a manner enhancing availability, accessibility
22 and continuity of service;

23 (2) has arrangements established in accordance with regula-
24 tions promulgated by the commissioner of health and social services
25 for an on-going quality of health care assurance program concerning
26 health care processes and outcomes; and

27 (3) has a procedure, established in accordance with regula-
28 tions of the commissioner of health and social services to develop,
29 compile, evaluate, and report statistics relating to the cost of its

1 operations, the pattern of utilization of its services, the availa-
2 bility and accessibility of its services, and such other matters as
3 may be reasonably required, by the commissioner of health and social
4 services.

5 (c) Within 30 days of receipt of the application for issuance
6 of a certificate of authority, the commissioner of health and social
7 services shall certify to the commissioner whether the proposed health
8 maintenance organization meets the requirements of (b) of this section.
9 If the commissioner of health and social services certifies that the
10 health maintenance organization does not meet these requirements, he
11 shall specify in what respects it is deficient.

12 (d) The commissioner shall issue or deny a certificate of author-
13 ity to any person filing an application under sec. 10 of this chapter
14 within 30 days of receipt of the certification from the commissioner
15 of health and social services. Issuance of a certificate of authority
16 shall be granted upon payment of the application fee prescribed in
17 sec. 210 of this chapter if the commissioner is satisfied that the
18 following conditions are met:

19 (1) the persons responsible for the conduct of the affairs
20 of the applicant are competent, trustworthy, and possess good reputa-
21 tions;

22 (2) the commissioner of health and social services certifies,
23 in accordance with (a) - (c) of this section that the health mainte-
24 nance organization's proposed plan of operation meets the requirements
25 of (b) of this section;

26 (3) the health care plan constitutes an appropriate
27 mechanism whereby the health maintenance organization will effectively
28 provide or arrange for the provision of basic health care services on
29 a prepaid basis, through insurance or otherwise, except to the extent

1 of reasonable requirements for co-payments;

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

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

9 (B) the adequacy of working capital;

10 (C) any agreement with an insurer, a hospital or medi-
11 cal service corporation, a government, or any other organization
12 for insuring the payment of the cost of health care services or
13 the provision for automatic applicability of an alternative cover-
14 age in the event of discontinuance of the plan;

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

17 (E) any surety bond or deposit of cash or securities
18 submitted in accordance with sec. 120 of this chapter as a guaran-
19 tee that the obligations will be duly performed;

20 (5) the enrollees will be afforded an opportunity to partici-
21 pate in matters of policy and operation under sec. 40 of this chapter;

22 (6) nothing in the proposed method of operation, as shown
23 by the information submitted under sec. 10 of this chapter or by inde-
24 pendent investigation, is contrary to the public interest; and

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

27 (e) A certificate of authority may be denied only after compli-
28 ance with the requirements of sec. 210 of this chapter.

29 Sec. 21.86.030. POWERS OF HEALTH MAINTENANCE ORGANIZATIONS.

1 (a) The powers of a health maintenance organization include, but are
2 not limited to, the following:

3 (1) the purchase, lease, construction, renovation, operation,
4 or maintenance of hospitals, medical facilities, or both, and their
5 ancillary equipment, and whatever property that may reasonably be re-
6 quired for its principal office or for those other purposes that may
7 be necessary in the transaction of the business of the organization;

8 (2) the making of loans to a medical group under contract
9 with it in furtherance of its program or the making of loans to a cor-
10 poration or corporations under its control for the purpose of acquiring
11 or constructing medical facilities and hospitals or in furtherance of
12 a program providing health care services to enrollees;

13 (3) the furnishing of health care services through providers
14 which are under contract with or employed by the health maintenance
15 organization;

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

19 (5) the contracting with an insurance company licensed in
20 this state, or with a hospital or medical service corporation authorized
21 to do business in this state, for the provision of insurance, indemnity,
22 or reimbursement against the cost of health care services provided by
23 the health maintenance organization;

24 (6) the offering, in addition to basic health care services,
25 of:

26 (A) additional health care services;

27 (B) indemnity benefits covering out-of-area or emergency
28 services; and

29 (C) indemnity benefits, in addition to those relating

1 to out-of-area and emergency services, provided through insurers
2 or hospital or medical service corporations.

3 (b) A health maintenance organization shall file notice, with
4 adequate supporting information, with the commissioner before the
5 exercise of any power granted in (a)(1) or (2) of this section. The
6 commissioner shall disapprove that exercise of power if in his judgment
7 it would substantially and adversely affect the financial soundness
8 of the health maintenance organization and endanger its ability to
9 meet its obligations. If the commissioner does not disapprove within
10 30 days of the filing, it shall be considered approved.

11 (c) The commissioner may promulgate regulations under the Admin-
12 istrative Procedure Act (AS 44.62) exempting from the filing require-
13 ment of (b) of this section those activities having a minimal effect.

14 Sec. 21.86.040. GOVERNING BODY. (a) The governing body of a
15 health maintenance organization may include providers, other individuals,
16 or both.

17 (b) The governing body shall establish a mechanism to afford the
18 enrollees an opportunity to participate in matters of policy and opera-
19 tion through the establishment of advisory panels, by the use of
20 advisory referenda on major policy decisions, or through the use of
21 other mechanisms.

22 Sec. 21.86.050. FIDUCIARY RESPONSIBILITIES. A director, officer
23 or partner of a health maintenance organization who receives, collects,
24 disburses, or invests funds in connection with the activities of that
25 organization shall be responsible for those funds in a fiduciary rela-
26 tionship to the enrollees.

27 Sec. 21.86.060. EVIDENCE OF COVERAGE AND CHARGES FOR HEALTH CARE
28 SERVICES. (a) Every enrollee residing in this state is entitled to
29 evidence of coverage under a health care plan. If the enrollee obtains

1 coverage under a health care plan through an insurance policy or a
2 contract issued by a hospital or medical service corporation, whether
3 by option or otherwise, the insurer or the hospital or medical service
4 corporation shall issue the evidence of coverage. Otherwise, the
5 health maintenance organization shall issue the evidence of coverage.

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

10 (c) An evidence of coverage shall contain

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

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

17 (A) the health care services and the insurance or other
18 benefits, if any, to which the enrollee is entitled under the
19 health care plan;

20 (B) any limitations on the services, kind of services,
21 benefits, or kind of benefits, to be provided, including any
22 deductible or co-payment feature;

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

25 (D) the total amount of payment for health care services
26 and the indemnity or service benefits, if any, which the enrollee
27 is obligated to pay with respect to individual contracts, or an
28 indication whether the plan is contributory or noncontributory with
29 respect to group certificates;

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

4 (d) Any subsequent change in the evidence of coverage may be
5 evidenced in a separate document issued to the enrollee.

6 (e) A copy of the form of the evidence of coverage to be used in
7 this state, and any amendment to it, shall be subject to the filing
8 and approval requirements of (b) of this section unless it is subject
9 to the jurisdiction of the commissioner under the laws governing health
10 insurance or hospital or medical service corporations, in which event
11 the filing and approval provisions of these laws shall apply. To the
12 extent, however, that those provisions do not apply, the requirements
13 in (c) of this section are applicable.

14 (f) No schedule of charges for enrollee coverage for health care
15 services, or amendment to it, may be used in conjunction with any health
16 care plan until a copy of the schedule, or amendment to it, has been
17 filed with and approved by the commissioner.

18 (g) The charges may be established in accordance with actuarial
19 principles for various categories of enrollees, provided that charges
20 applicable to an enrollee may not be individually determined based on
21 the status of his health. However, the charges shall not be excessive,
22 inadequate, or unfairly discriminatory. A certification, by a qualified
23 actuary, to the appropriateness of the charges, based on reasonable
24 assumptions, shall accompany the filing along with adequate supporting
25 information.

26 (h) The commissioner shall, within a reasonable period, approve
27 any form if the requirements of (a) - (e) of this section are met and
28 any schedule of charges if the requirements of (f) and (g) of this
29 section are met. It shall be unlawful to issue a form or to use a

1 schedule of charges until approved. If the commissioner disapproves
2 the filing, he shall notify the filer. In the notice, the commissioner
3 shall specify the reasons for his disapproval. A hearing will be
4 granted within 30 days after a request in writing by the person filing.
5 If the commissioner does not disapprove any form or schedule of charges
6 within 30 days of the filing of the forms or charges, they shall be
7 considered approved.

8 (1) The commissioner may require the submission of whatever rele-
9 vant information he considers necessary in determining whether to approve
10 or disapprove a filing made under this section.

11 Sec. 21.86.070. ANNUAL REPORT. (a) Every health maintenance
12 organization shall annually, before March 1, file a report verified by
13 at least two principal officers with the commissioner, with a copy to
14 the commissioner of health and social services, covering the preceding
15 calendar year.

16 (b) The report shall be on forms prescribed by the commissioner
17 and shall include:

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

21 (2) any material changes in the information submitted under
22 sec. 10(c) of this chapter;

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

26 (4) a summary of information compiled under sec. 20(b)(3)
27 of this chapter in the form required by the commissioner of health and
28 social services; and

29 (5) whatever other information relating to the performance

1 of the health maintenance organization that is necessary to enable the
2 commissioner to carry out his duties under this chapter.

3 Sec. 21.86.080. INFORMATION TO ENROLLEES. Every health mainte-
4 nance organization shall annually provide to its enrollees

5 (1) the most recent annual statement of financial condition
6 including a balance sheet and summary of receipts and disbursements;

7 (2) a description of the organizational structure and opera-
8 tion of the health care plan and a summary of any material changes
9 since the issuance of the last report;

10 (3) a description of services and information as to where
11 and how to secure them; and

12 (4) a clear and understandable description of the health
13 maintenance organization's method for resolving enrollee complaints.

14 Sec. 21.86.090. OPEN ENROLLMENT. (a) After a health maintenance
15 organization has been in operation 24 months, it shall have an annual
16 open enrollment period of at least one month during which it accepts
17 enrollees up to the limits of its capacity, as determined by the
18 health maintenance organization, in the order in which they apply for
19 enrollment. A health maintenance organization may apply to the com-
20 missioner for authorization to impose those underwriting restrictions
21 upon enrollment that are necessary to preserve its financial stability,
22 to prevent excessive adverse selection by prospective enrollees, or
23 to avoid unreasonably high or unmarketable charges for enrollee cover-
24 age for health care services. The commissioner shall approve or deny
25 the application within 30 days of the receipt of the application from
26 the health maintenance organization.

27 (b) Health maintenance organizations providing or arranging for
28 services exclusively on a group contract basis may limit the open
29 enrollment provided for in (a) of this section to all members of the

1 group or groups covered by the contract.

2 Sec. 21.86.100. COMPLAINT SYSTEM. (a) Every health maintenance
3 organization shall establish and maintain a complaint system which has
4 been approved by the commissioner, after consultation with the commis-
5 sioner of health and social services, to provide reasonable procedures
6 for the resolution of written complaints initiated by enrollees con-
7 cerning health care services.

8 (b) Each health maintenance organization shall submit to the
9 commissioner and the commissioner of health and social services an
10 annual report in a form prescribed by the commissioner, after consulta-
11 tion with the commissioner of health and social services, which shall
12 include:

13 (1) a description of the procedures of such complaint system;

14 (2) the total number of complaints handled through such
15 complaint system and a compilation of causes underlying the complaints
16 filed; and

17 (3) the number, amount, and disposition of malpractice
18 claims settled during the year by the health maintenance organization
19 and any of the providers used by it.

20 (c) The health maintenance organization shall maintain records
21 of written complaints filed with it concerning other than health care
22 services and shall submit to the commissioner a summary report at those
23 times and in the format that the commissioner may require. The com-
24 plaints involving other persons shall be referred to those persons with
25 a copy to the commissioner.

26 (d) The commissioner or the commissioner of health and social
27 services may examine the complaint system.

28 Sec. 21.86.110. INVESTMENTS. With the exception of investments
29 made in accordance with sec. 30(a)(1) and (2) and sec. 30(b) and (c)

1 of this chapter, the investable funds of a health maintenance organiza-
2 tion shall be invested only in securities or other investments permitted
3 by the law of this state for the investment of assets constituting
4 the legal reserves of life insurance companies or such other securities
5 or investments as the commissioner may permit.

6 Sec. 21.86.120. PROTECTION AGAINST INSOLVENCY. Each health
7 maintenance organization shall furnish a surety bond in an amount satis-
8 factory to the commissioner or deposit with the commissioner cash or
9 securities acceptable to him in at least the same amount as a guarantee
10 that the obligations to the enrollees will be performed. The commis-
11 sioner may waive this requirement whenever satisfied that the assets
12 of the organization or its contracted with insurers, hospital or medical
13 service corporations, governments, or other organizations are sufficient
14 to reasonably ensure the performance of its obligations.

15 Sec. 21.86.130. PROHIBITED PRACTICES. (a) No health maintenance
16 organization, or representative of it, may cause or knowingly permit
17 the use of advertising which is untrue or misleading, solicitation
18 which is untrue or misleading, or any form of evidence of coverage
19 which is deceptive. For purposes of this chapter

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

24 (2) a statement or item of information shall be considered
25 to be misleading, whether or not it may be literally untrue, if, in
26 the total context in which the statement is made or the item of infor-
27 mation is communicated, the statement or item of information may be
28 reasonably understood by a reasonable person, not possessing special
29 knowledge regarding health care coverage, as indicating any benefit or

1 advantage or the absence of any exclusion, limitation, or disadvantage
2 of possible significance to an enrollee of, or person considering
3 enrollment in, a health care plan, if the benefit or advantage or
4 absence of limitation, exclusion or disadvantage does not in fact exist;

5 (3) an evidence of coverage shall be considered to be decep-
6 tive if the evidence of coverage taken as a whole, and with considera-
7 tion given to typography and format, as well as language, is such as
8 to cause a reasonable person, not possessing special knowledge regarding
9 health care plans and evidences of coverage for them, to expect bene-
10 fits, services, charges, or other advantages which the evidence of
11 coverage does not provide or which the health care plan issuing the
12 evidence of coverage does not regularly make available for enrollees
13 covered under such evidence of coverage.

14 (b) AS 45.50.471 - 45.50.561 and AS 21.36 apply to health mainte-
15 nance organizations, health care plans and evidences of coverage except
16 to the extent that the commissioner determines by regulation that the
17 nature of health maintenance organizations, health care plans and
18 evidences of coverage render these sections clearly inappropriate.

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

22 (d) No health maintenance organization, unless licensed as an
23 insurer, may use in its name, contracts, or literature any of the
24 words "insurance", "casualty", "surety", "mutual", or any other words
25 descriptive of the insurance, casualty, or surety business or decep-
26 tively similar to the name or description of any insurance or surety
27 corporation doing business in this state.

28 Sec. 21.86.140. REGULATION OF AGENTS. The commissioner may,
29 after notice and hearing, promulgate under the Administrative Procedure

1 Act (AS 44.62) reasonable regulations that are necessary to provide
2 for the licensing of agents. An agent means a person directly or
3 indirectly associated with a health care plan who engages in sollicita-
4 tion or enrollment.

5 Sec. 21.86.150. POWERS OF INSURERS AND HOSPITAL AND MEDICAL SER-
6 VICE CORPORATIONS. (a) An insurance company licensed in this state,
7 or a hospital or medical service corporation authorized to do business
8 in this state, may either directly or through a subsidiary or affiliate
9 organize and operate a health maintenance organization under the provi-
10 sions of this chapter. Notwithstanding any other law which may be
11 inconsistent with this chapter, any two or more insurance companies,
12 hospital or medical service corporations, or subsidiaries or affiliates
13 of them, may jointly organize and operate a health maintenance organiza-
14 tion. The business of insurance is considered to include the providing
15 of health care by a health maintenance organization owned or operated
16 by an insurer or a subsidiary of it.

17 (b) Notwithstanding any provision of insurance and hospital or
18 medical service corporation laws (ch. 87 of this title), an insurer
19 or a 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. Among other things, under these contracts, the insurer or
26 hospital or medical service corporation may make benefit payments to
27 health maintenance organizations for health care services rendered by
28 providers in accordance with the health care plan.

29 Sec. 21.86.160. EXAMINATIONS. (a) The commissioner may make

1 an examination of the affairs of any health maintenance organization
2 and providers with whom that organization has contracts, agreements, or
3 other arrangements under its health care plan as often as he considers
4 necessary for the protection of the interests of the people of this
5 state but at least once every three years.

6 (b) The commissioner of health and social services may make an
7 examination concerning the quality of health care services of any health
8 maintenance organization and providers with whom the organization has
9 contracts, agreements, or other arrangements under its health care plan
10 as often as he considers necessary for the protection of the interests
11 of the people of this state but at least once every three years.

12 (c) Every health maintenance organization and provider shall
13 submit its books and records relating to the health care plan to the
14 examinations and in every way facilitate them. For the purpose of
15 examinations, the commissioner and the commissioner of health and
16 social services may administer oaths to, and examine the officers and
17 agents of the health maintenance organization and the principals of
18 the providers concerning their business.

19 (d) The expenses of examinations under this section shall be
20 assessed against the organization being examined and remitted to the
21 commissioner or the commissioner of health and social services for
22 whom the examination is being conducted, for deposit in the general
23 fund.

24 (e) Instead of an examination, the commissioner or the commis-
25 sioner of health and social services may accept the report of an exami-
26 nation made by the commissioner of commerce or insurance or commis-
27 sioner of public health or health and social services of another state.

28 Sec. 21.86.170. SUSPENSION OR REVOCATION OF CERTIFICATE OF
29 AUTHORITY. (a) The commissioner may suspend or revoke any certificate

1 of authority issued to a health maintenance organization under this
2 chapter if he finds that any of the following conditions exist:

3 (1) the health maintenance organization is operating signi-
4 ficantly in contravention of its basic organizational document, its
5 health care plan, or in a manner contrary to that described in and
6 reasonably inferred from any other information submitted under sec. 10
7 of this chapter, unless amendments to the submissions have been filed
8 with and approved by the commissioner;

9 (2) the health maintenance organization issues evidence of
10 coverage or uses a schedule of charges for health care services which
11 do not comply with the requirements of sec. 60 of this chapter;

12 (3) the health care plan does not provide or arrange for
13 basic health care services;

14 (4) the commissioner of health and social services certifies
15 to the commissioner that

16 (A) the health maintenance organization does not meet
17 the requirements of sec. 20(b) of this chapter; or

18 (B) the health maintenance organization is unable to
19 fulfill its obligations to furnish health care services as required
20 under its health care plan;

21 (5) the health maintenance organization is no longer finan-
22 cially responsible and may reasonably be expected to be unable to
23 meet its obligations to enrollees or prospective enrollees;

24 (6) the health maintenance organization has failed to imple-
25 ment a mechanism affording the enrollees an opportunity to participate
26 in matters of policy and operation under sec. 40 of this chapter;

27 (7) the health maintenance organization has failed to imple-
28 ment the complaint system required by sec. 100 of this chapter in a
29 manner to reasonably resolve valid complaints;

1 (8) the health maintenance organization, or any person on
2 its behalf, has advertised or merchandised its services in an untrue,
3 misrepresentative, misleading, deceptive, or unfair manner;

4 (9) the continued operation of the health maintenance organi-
5 zation would be hazardous to its enrollees;

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

8 (b) A certificate of authority shall be suspended or revoked only
9 after compliance with the requirements of sec. 200 of this chapter.

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

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

26 Sec. 21.86.180. REHABILITATION, LIQUIDATION, OR CONSERVATION OF
27 HEALTH MAINTENANCE ORGANIZATION. Any rehabilitation, liquidation or
28 conservation of a health maintenance organization is considered to be
29 the rehabilitation, liquidation, or conservation of an insurance

1 company and shall be conducted under the supervision of the commissioner
2 under the law governing the rehabilitation, liquidation, or conservation
3 of insurance companies. The commissioner may apply for an order direct-
4 ing him to rehabilitate, liquidate, or conserve a health maintenance
5 organization upon any one or more grounds in accordance with law or
6 when in his opinion the continued operation of the health maintenance
7 organization would be hazardous either to the enrollees or to the
8 people of this state.

9 Sec. 21.86.190. REGULATIONS. The commissioner may, in accordance
10 with the Administrative Procedure Act (AS 44.62), promulgate reasonable
11 regulations as are necessary to carry out the provisions of this chapter.

12 Sec. 21.86.200. ADMINISTRATIVE PROCEDURES. (a) When the commis-
13 sioner has reason to believe that grounds for the denial of an applica-
14 tion for a certificate of authority exist, or that grounds for the
15 suspension or revocation of a certificate of authority exist, he shall
16 notify the health maintenance organization and the commissioner of
17 health and social services in writing specifically stating the grounds
18 for denial, suspension, or revocation and fixing a time, in accordance
19 with the Administrative Procedure Act (AS 44.62), for a hearing on the
20 matter.

21 (b) The commissioner of health and social services, or his desig-
22 nated representative, shall be in attendance at the hearing and shall
23 participate in the proceedings. The recommendation and findings of the
24 commissioner of health and social services with respect to matters
25 relating to the quality of health care services provided in connection
26 with any decision regarding denial, suspension, or revocation of a
27 certificate of authority, shall be conclusive and binding upon the
28 commissioner. After the hearing, or upon the failure of the health
29 maintenance organization to appear at the hearing, the commissioner

1 shall take action as is considered advisable on written findings which
2 shall be mailed to the health maintenance organization with a copy of
3 it to the commissioner of health and social services. The action of
4 the commissioner and the recommendation and findings of the commissioner
5 of health and social services is subject to review in accordance with
6 the Administrative Procedure Act (AS 44.62). The court may, in disposing
7 of the issue before it, modify, affirm, or reverse the order of the
8 commissioner in whole or in part.

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

12 Sec. 21.86.210. FEES. (a) Every health maintenance organization
13 subject to this chapter shall pay to the commissioner fees as follows:

- 14 (1) for filing an application for a certificate of authority
15 or amendment to it \$100
16 (2) for issuance of an initial certificate of authority,
17 or each renewal 65
18 (3) for filing annual statement of financial condition 10

19 Sec. 21.86.220. PENALTIES AND ENFORCEMENT. (a) The commissioner
20 may, instead of suspension or revocation of a certificate of authority
21 under sec. 170 of this chapter, levy an administrative penalty in an
22 amount of \$100 if reasonable notice in writing is given of the intent
23 to levy the penalty and the health maintenance organization has a
24 reasonable time within which to remedy the defect in its operations
25 which gave rise to the penalty citation. The commissioner may augment
26 this penalty by an amount equal to the sum that he calculates to be
27 the damages suffered by enrollees or other members of the public.

28 (b) A person who violates this chapter is guilty of a misdemeanor
29 and, upon conviction, is punishable by a fine not to exceed \$1,000,

1 or by imprisonment for a period not to exceed one year, or by both.

2 (c) If the commissioner or the commissioner of health and social
3 services for any reason has cause to believe that a violation of this
4 chapter has occurred or is threatened, the commissioner or commissioner
5 of health and social services may give notice to the health maintenance
6 organization and to the representatives, or other persons who appear
7 to be involved in the suspected violation, to arrange a conference with
8 the alleged violators or their authorized representatives for the
9 purpose of attempting to ascertain the facts relating to the suspected
10 violation, and if it appears that a violation has occurred or is
11 threatened, to arrive at an adequate and effective means of correcting
12 or preventing the violation. Proceedings under this subsection are not
13 governed by any formal procedural requirements and may be conducted in
14 the manner the commissioner or the commissioner of health and social
15 services considers appropriate under the circumstances.

16 (d) The commissioner may issue an order directing a health mainte-
17 nance organization or a representative of a health maintenance organiza-
18 tion to cease and desist from engaging in any act or practice in
19 violation of the provisions of this chapter.

20 (e) Within 10 days after service of the cease and desist order,
21 the respondent may request a hearing on the question of whether acts
22 or practices in violation of this chapter have occurred. The hearings
23 shall be conducted in accordance with the Administrative Procedure Act
24 (AS 44.62).

25 (f) In the case of any violation of the provisions of this chapter,
26 if the commissioner elects not to issue a cease and desist order, or in
27 the event of noncompliance with a cease and desist order issued under
28 this section, the commissioner may request the attorney general to
29 institute a proceeding to obtain injunctive relief or seek other

1 appropriate relief in the superior court of the judicial district
2 where the alleged violation occurred.

3 Sec. 21.86.230. STATUTORY CONSTRUCTION AND RELATIONSHIP TO OTHER
4 LAWS. (a) Except as otherwise provided in this chapter, provisions
5 of the insurance law and provisions of hospital or medical service
6 corporation laws are not applicable to any health maintenance organiza-
7 tion granted a certificate of authority under this chapter. This
8 provision does not apply to an insurer or hospital or medical service
9 corporation licensed and regulated under the insurance laws or the
10 hospital or medical service corporation laws of this state except with
11 respect to its health maintenance organization activities authorized
12 and regulated under this chapter.

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

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

20 Sec. 21.86.240. FILINGS AND REPORTS AS PUBLIC DOCUMENTS. All
21 applications, filings and reports required under this chapter shall be
22 treated as public documents, under AS 40.21.

23 Sec. 21.86.250. CONFIDENTIALITY OF MEDICAL INFORMATION. Any data
24 or information pertaining to the diagnosis, treatment, or health of any
25 enrollee or applicant obtained from that person or from any provider
26 by any health maintenance organization shall be held in confidence and
27 may not be disclosed to any person. However, to the extent that it
28 may be necessary to carry out the purposes of this chapter, or upon the
29 express consent of the enrollee or applicant, or pursuant to law or

1 court order for the production of evidence or the discovery of it, or
2 in the event of claim or litigation between a person and the health
3 maintenance organization wherein that data or information is pertinent,
4 disclosure may occur. A health maintenance organization may claim any
5 statutory privileges against disclosure which the provider who furnished
6 the information to the health maintenance organization may claim.

7 Sec. 21.86.260. COMMISSIONER OF HEALTH AND SOCIAL SERVICES'
8 AUTHORITY TO CONTRACT. The commissioner of health and social services,
9 in carrying out his obligations under secs.20(b), 160(b) and 170(a) of
10 this chapter, may contract with qualified persons to make recommendations
11 concerning the determinations required to be made by him. These recom-
12 mendations may be accepted in full or in part by the commissioner of
13 health and social services.

14 Sec. 21.86.270. DEFINITIONS. In this chapter

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

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

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

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

25 (5) "health care plan" means an arrangement whereby a person
26 undertakes to provide, arrange for, pay for, or reimburse any part of
27 the cost of any health care services and at least part of that arrange-
28 ment consists of arranging for or the provision of health care services,
29 as distinguished from mere indemnification against the cost of the

1 services, on a prepaid basis through insurance or otherwise;

2 (6) "health care services" means any services included in
3 the furnishing to any individual of medical or dental care, or hospitali-
4 zation or incident to the furnishing of the care or hospitalization,
5 as well as the furnishing to any person of any and all other services
6 for the purpose of preventing, alleviating, curing, or healing human
7 illness or injury;

8 (7) "health maintenance organization" means a person who
9 undertakes to provide or arrange for one or more health care plans;

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

13 Sec. 21.86.280. SHORT TITLE. This chapter may be cited as the
14 Alaska Health Maintenance Organization Act.
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