

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of such land;

(f) Transfer to a church and such land would qualify for property tax exemption pursuant to RCW 84.36.020; ((or))

(g) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections: PROVIDED, That at such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (3) of this section shall be imposed; or

(h) Transfer to a nonprofit, nonsectarian organization or association, organized and conducted for nonsectarian purposes, and such land would qualify for property tax exemption pursuant to RCW 84.36.030 and is used solely for the benefit of the poor and infirm. This subsection (h) applies only to taxes, penalties, and interest under this section that have been assessed for the removal of property from classification under this chapter after September 1, 1977, and before July 1, 1980. Any person or entity who has paid taxes to which this subsection (h) applies may apply within one hundred and eighty days after the effective date of this act for a refund of the tax paid.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 23, 1985.

Passed the House April 12, 1985.

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CHAPTER 320

[Substitute Senate Bill No. 3540]

HEALTH MAINTENANCE ORGANIZATIONS—REFERENCES CORRECTED— ENDORSEMENTS—CONTINUATION OF POLICIES

AN ACT Relating to health maintenance organizations; amending RCW 48.46.030, 48.46.060, 48.46.070, 48.46.240, 48.46.270, 48.46.320, and 48.46.360; adding new sections to chapter 48.46 RCW; and repealing RCW 48.46.330.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 290, Laws of 1975 1st ex. sess. as amended by section 2, chapter 106, Laws of 1983 and RCW 48.46.030 are each amended to read as follows:

Any corporation, cooperative group, partnership, individual, association, or groups of health professionals licensed by the state of Washington,

public hospital district, or public institutions of higher education shall be entitled to a certificate of registration as a health maintenance organization if it:

(1) Provides comprehensive health care services to enrolled participants on a group practice per capita prepayment basis or on a prepaid individual practice plan and provides such health services either directly or through arrangements with institutions, entities, and persons which its enrolled population might reasonably require as determined by the health maintenance organization in order to be maintained in good health; and

(2) Is governed by a board elected by enrolled participants, or otherwise provides its enrolled participants with a meaningful role in policy making procedures of such organization, as defined in RCW 48.46.020(7), and 48.46.070; and

(3) Affords enrolled participants with a meaningful grievance procedure aimed at settlement of disputes between such persons and such health maintenance organization, as defined in RCW 48.46.020(8) and 48.46.100; and

(4) Provides enrolled participants, or makes available for inspection at least annually, financial statements pertaining to health maintenance agreements, disclosing income and expenses, assets and liabilities, and the bases for proposed rate adjustments for health maintenance agreements relating to its activity as a health maintenance organization; and

(5) Demonstrates to the satisfaction of the commissioner that its facilities and personnel are reasonably adequate to provide comprehensive health care services to enrolled participants and that it is financially capable of providing such members with, or has made adequate contractual arrangements through insurance or otherwise to provide such members with, such health services; and

(6) Substantially complies with administrative rules and regulations of the commissioner for purposes of this chapter; and

(7) Submits an application for a certificate of registration which shall be verified by an officer or authorized representative of the applicant, being in form as the commissioner prescribes, and setting forth:

(a) A copy of the basic organizational document, if any, of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;

(b) A copy of the bylaws, rules and regulations, or similar documents, if any, which regulate the conduct of the internal affairs of the applicant, and all amendments thereto;

(c) A list of the names, addresses, members of the board of directors, board of trustees, executive committee, or other governing board or committee and the principal officers, partners, or members;

(d) A full and complete disclosure of any financial interests held by any officer, or director in any provider associated with the applicant or any provider of the applicant;

(e) A description of the health maintenance organization, its facilities and its personnel, and the applicant's most recent financial statement showing such organization's assets, liabilities, income, and other sources of financial support;

(f) A description of the geographic areas and the population groups to be served and the size and composition of the anticipated enrollee population;

(g) A copy of each type of health maintenance (~~(contract)~~) agreement to be issued to enrolled participants;

(h) A schedule of all proposed rates of reimbursement to contracting health care facilities or providers, if any, and a schedule of the proposed charges for enrollee coverage for health care services, accompanied by data relevant to the formulation of such schedules;

(i) A description of the proposed method and schedule for soliciting enrollment in the applicant health maintenance organization and the basis of compensation for such solicitation services;

(j) A copy of the solicitation document to be distributed to all prospective enrolled participants in connection with any solicitation;

(k) A financial projection which sets forth the anticipated results during the initial two years of operation of such organization, accompanied by a summary of the assumptions and relevant data upon which the projection is based. The projection should include the projected expenses, enrollment trends, income, enrollee utilization patterns, and sources of working capital;

(l) A detailed description of the enrollee complaint system as provided by RCW 48.46.100;

(m) A detailed description of the procedures and programs to be implemented to assure that the health care services delivered to enrolled participants will be of professional quality; and

(n) Such other information as the commissioner shall require by rule or regulation which is reasonably necessary to carry out the provisions of this section.

A health maintenance organization shall, unless otherwise provided for in this chapter, file a notice describing any modification of any of the information required by subsection (~~((f8))~~) (7) of this section. Such notice shall be filed with the commissioner.

Sec. 2. Section 7, chapter 290, Laws of 1975 1st ex. sess. as amended by section 4, chapter 106, Laws of 1983 and RCW 48.46.060 are each amended to read as follows:

(1) Any health maintenance organization may enter into agreements with or for the benefit of persons or groups of persons, which require prepayment for health care services by or for such persons in consideration of

the health maintenance organization providing health care services to such persons. Such activity is not subject to the laws relating to insurance if the health care services are rendered directly by the health maintenance organization or by any provider which has a contract or other arrangement with the health maintenance organization to render health services to enrolled participants.

(2) All forms of health maintenance agreements issued by the organization to enrolled participants or other marketing documents purporting to describe the organization's comprehensive health care services shall comply with such minimum standards as the commissioner deems reasonable and necessary in order to carry out the purposes and provisions of this chapter, and which fully inform enrolled participants of the health care services to which they are entitled, including any limitations or exclusions thereof, and such other rights, responsibilities and duties required of the contracting health maintenance organization.

(3) Subject to the right of the health maintenance organization to demand and receive a hearing under chapters 48.04 and 34.04 RCW, the commissioner may disapprove (~~(a contract)~~) an agreement form for any of the following grounds:

(a) If it contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions or conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the (~~(contract)~~) agreement;

(b) If it has any title, heading, or other indication which is misleading;

(c) If purchase of health care services thereunder is being solicited by deceptive advertising;

(d) If the benefits provided therein are unreasonable in relation to the amount charged for the (~~(contract)~~) agreement;

(e) If it contains unreasonable restrictions on the treatment of patients;

or

(f) If it is in any respect in violation of this chapter or if it fails to conform to minimum provisions or standards required by the commissioner by rule under chapter 34.04 RCW.

(4) No health maintenance organization authorized under this chapter shall cancel or fail to renew the enrollment on any basis of an enrolled participant or refuse to transfer an enrolled participant from a group to an individual basis for reasons relating solely to age, sex, race, or health status: PROVIDED HOWEVER, That nothing contained herein shall prevent cancellation of (~~(a contract)~~) an agreement with enrolled participants (a) who violate any published policies of the organization which have been approved by the commissioner, or (b) who are entitled to become eligible for medicare benefits and fail to enroll for a medicare supplement plan offered by the health maintenance organization and approved by the commissioner, or (c) for failure of such enrolled participant to pay the approved charge,

including cost-sharing, required under such contract, or (d) for a material breach of the health maintenance agreement.

(5) No ~~((contract))~~ agreement form or amendment to an approved ~~((contract))~~ agreement form shall be used unless it is first filed with the commissioner.

Sec. 3. Section 8, chapter 290, Laws of 1975 1st ex. sess. as amended by section 5, chapter 106, Laws of 1983 and RCW 48.46.070 are each amended to read as follows:

(1) The members of the governing body of a health maintenance organization shall be nominated by the voting members or by the enrolled participants and providers, and shall be elected by the enrolled participants or voting members pursuant to the provisions of their bylaws, which shall not be restricted to providers. At least one-third of such body shall consist of consumers who are substantially representative of the enrolled population of such organization: ~~PROVIDED, HOWEVER, That ((any panel medicine plan, qualified pursuant to chapter 41.05 RCW, and licensed as a health care contractor as of January 1, 1975, may have a governing body which shall be advised by an advisory board consisting of at least two-thirds consumers who are elected by the voting members or the enrolled participants and are substantially representative of the enrolled population: PROVIDED FURTHER, That))~~ any organization that is a qualified health maintenance organization under P.L. 93-222 (Title XIII, section 1310(d) of the public health services act) is deemed to have satisfied these governing body requirements and the requirements of RCW 48.46.030(2).

(2) For health maintenance organizations formed by public institutions of higher education or public hospital districts, the governing body shall be advised by an advisory board consisting of at least two-thirds consumers who are elected by the voting members or the enrolled participants and are substantially representative of the enrolled population.

Sec. 4. Section 3, chapter 151, Laws of 1982 and RCW 48.46.240 are each amended to read as follows:

(1) Each health maintenance organization obtaining a certificate of authority from the commissioner shall provide and maintain a funded reserve of one hundred fifty thousand dollars, which shall be in addition to any deposit or contingent reserve requirements set forth in RCW 48.46.230. The funded reserve shall be deposited with the commissioner or with any organization/trustee acceptable to him in the form of cash, securities eligible for investment by the health maintenance organization pursuant to chapter 48.13 RCW, or any combination of these or other measures that are acceptable to the commissioner, and must equal or exceed one hundred fifty thousand dollars. The funded reserve shall be established as a guarantee that the uncovered expenditure obligations of the health maintenance organization to the enrolled participants will be performed.

(2) Any health maintenance organization that is in operation on January 1, 1983, shall establish a funded reserve of one hundred thousand dollars within one year and accrue twenty-five thousand dollars on the first day of the second and third fiscal years following twelve months after January 1, 1983.

~~((3) Any health maintenance organization meeting the requirements of this section shall be exempt from the requirements of RCW 48.44.030.))~~

Sec. 5. Section 14, chapter 202, Laws of 1983 and RCW 48.46.270 are each amended to read as follows:

(1) No person having any authority in the investment or disposition of the funds of a ~~((domestic))~~ health maintenance organization and no officer or director of a health maintenance organization shall accept, except ~~((as agent))~~ for the health maintenance organization, or be the beneficiary of any fee, brokerage, gift, commission, or other emolument because of any sale ~~((or))~~ of health care service agreements or any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the health maintenance organization, or be pecuniarily interested therein in any capacity; except, that such a person may procure a loan from the health maintenance organization directly upon approval by two-thirds of its directors and upon the pledge of securities eligible for the investment of the health maintenance organization's funds under this title.

(2) The commissioner may, by regulations, from time to time, define and permit additional exceptions to the prohibition contained in subsection (1) of this section solely to enable payment of reasonable compensation to a director who is not otherwise an officer or employee of the health maintenance organization, or to a corporation or firm in which the director is interested, for necessary services performed or sales or purchases made to or for the health maintenance organization in the ordinary course of the health maintenance organization's business and in the usual private professional or business capacity of the director or the corporation or firm.

Sec. 6. Section 10, chapter 106, Laws of 1983 and RCW 48.46.320 are each amended to read as follows:

Any health maintenance agreement which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the ~~((contract))~~ agreement shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both: (1) Incapable of self-sustaining employment by reason of developmental disability or physical handicap; and (2) chiefly dependent upon the subscriber for support and maintenance, if proof of such incapacity and dependency is furnished to the health maintenance organization by the enrolled participant within thirty-one days of the child's attainment of the

limiting age and subsequently as required by the health maintenance organization but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

NEW SECTION. Sec. 7. A new section is added to chapter 48.46 RCW to read as follows:

If an individual health care service agreement is issued on any basis other than as applied for, an endorsement setting forth such modification must accompany and be attached to the agreement. No agreement shall be effective unless the endorsement is signed by the applicant, and a signed copy thereof returned to the health maintenance organization.

NEW SECTION. Sec. 8. A new section is added to chapter 48.46 RCW to read as follows:

Every health care service agreement issued, amended, or renewed after January 1, 1986, for an individual and his or her dependents shall contain provisions to assure that the covered spouse and/or dependents, in the event that any cease to be a qualified family member by reason of termination of marriage or death of the principal enrollee, shall have the right to continue the health maintenance agreement without a physical examination, statement of health, or other proof of insurability.

NEW SECTION. Sec. 9. Section 11, chapter 106, Laws of 1983 and RCW 48.46.330 are each repealed.

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CHAPTER 321

[Engrossed Senate Bill No. 3804]

ACQUIRED IMMUNE DEFICIENCY—BLOOD DONATION TRANSACTIONS—
LIABILITY

AN ACT Relating to blood; amending RCW 70.54.120; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 56, Laws of 1971 and RCW 70.54.120 are each amended to read as follows:

The procurement, processing, storage, distribution, administration, or use of whole blood, plasma, blood products and blood derivatives for the purpose of injecting or transfusing the same, or any of them, into the human body is declared to be, for all purposes whatsoever, the rendition of a service by each and every person, firm, or corporation participating therein, and is declared not to be covered by any implied warranty under the Uniform Commercial Code, Title 62A RCW, or otherwise, and no civil liability shall be incurred as a result of any of such acts, except in the case of wilful