DISTRICT OF COLUMBIA

OFFICIAL CODE

TITLE 31.

INSURANCE AND SECURITIES.

CHAPTER 35.

HOSPITAL AND MEDICAL SERVICES CORPORATIONS REGULATION.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 35. HOSPITAL AND MEDICAL SERVICES CORPORATIONS REGULATION.

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CHAPTER 35. HOSPITAL AND MEDICAL SERVICES CORPORATIONS REGULATION.

§ 31-3501. DEFINITIONS.

For the purposes of this chapter, the term:

(1) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.

(1A) "Community health reinvestment" means expenditures that promote and safeguard the public health or that benefit current or future subscribers, including premium rate reductions.

(1B) "Contractholder" means a person entering into a subscriber contract with a corporation.

(2) "Corporation" means a nonstock, nonprofit corporation which is subject to regulation and licensing under this chapter and which offers subscriber contracts as part of a hospital service plan, a medical service plan, or both.

(3) "Domestic corporation" means a corporation organized under the laws of the District, or formed or organized under an act of Congress.

(3A) "Healthy DC and Health Care Expansion Fund" means the Healthy DC and Health Care Expansion Fund established by § 31-3514.02.

(4) "Hospital service plan" means a plan for providing hospital and related services by hospitals and others which entitles a subscriber to certain hospital and related services, or to benefits and indemnification for such services.

(5) "Mayor" means the Mayor of the District of Columbia or the Mayor's designated agent.

(6) "Medical service plan" means a plan for providing medical services and related services by physicians and others which entitles a subscriber to certain medical and related services, or to benefits and indemnification for such services.

(7) "Plan" means a hospital service plan, a medical service plan, or a combination of the two.

(7A) Public-private partnership" means a mutually acceptable written agreement between the Mayor and a hospital and medical services corporation that is certified by the Commissioner upon the execution and delivery of the agreement by the parties and which agreement:

(A) Shall include the following provisions:

(i) A $5 million annual payment to the Healthy DC Fund (or appropriate successor fund) by the hospital and medical services corporation to be used for subsidies that expand health insurance coverage for low-income District residents;

(ii) A targeted city-wide health care initiative aimed at improving nutrition and increasing physical fitness among the District's senior citizens, or another comparable health promotion program;

(iii) A term not to exceed 5 years, subject to extension upon the mutual written agreement of the parties;

(iv)(I)(aa) The maintenance and support of the existing District open enrollment program as it operated prior to the enactment of the Medical Insurance Empowerment Amendment Act of 2008, effective March 25, 2009 (D.C. Law 17-369; 56 DCR 1346)("open enrollment program"), which program has an estimated average premium of $357 per member per month, and the enhancement of the open enrollment program by offering a new health maintenance organization product that includes comprehensive benefits with an average initial premium currently estimated at about $300 per member per month, which average may vary based upon age and family status, and subject to other reasonable adjustments, but with no adjustments for gender or pre-existing conditions.

(bb) The annual premium rate of the existing open enrollment program shall not exceed

125% of the comparable medically underwritten product and shall be determined once every 12 months. The benefit package shall include, at a minimum, primary care services, specialist services, temporomandibular joint problems chiropractic services, mental health and addiction treatment, organ transplantation, treatment for morbid obesity, open heart surgery, and pharmaccutical benefits.

(cc) The medical loss ratio to be utilized in rate filings and determinations shall not exceed 150%;

(II) Under the open enrollment program pursuant to sub-sub-subparagraph (I) of this sub-subparagraph:

(aa) Current members shall be permitted to maintain the option to continue their current open enrollment program coverage or opt for the new health maintenance organization product;

(bb) New open enrollment members shall only be offered the new health maintenance organization product; and

(cc) Total enrollment under subparagraph (A)(iv)(I) of this paragraph shall be capped at 2,500;

(v) Participation in the open enrollment program (including the health maintenance organization product) may be limited to District residents, which shall be subject to periodic confirmation; and

(vi)(I) A corporation shall prominently advertise the availability of the new open enrollment health maintenance organization product continuously on the Internet and at least quarterly in a newspaper of general circulation throughout the District.

(II) The content and format of the advertising shall be filed with the Commissioner no less than 30 days before its appearance in a newspaper or on the Internet;

(B) May include the following provisions:

(i) Authority for the Commissioner to grant a hospital and medical services corporation reasonable relief from the requirements of the agreement, such as if federal or state health care reforms make the requirements unnecessary or redundant or if the corporation does not meet a financial performance or similar test as specified in the agreement; provided, that any relief granted shall not affect the certification of the agreement by the Commissioner or the status of the agreement as a public-private partnership for all purposes under this chapter; and

(ii) Reasonable expiration and termination provisions; and

(C) Shall be effective upon the certification of the Commissioner.

(7B) "RS Fund" means the rate stabilization fund established by § 31- 3514(j).

(8) "Subscriber" means any person entitled to benefits under the terms and conditions of a subscriber contract.

(9) "Subscriber contract" means a written group or individual contract which is issued to a contractholder by a corporation which provides for subscriber participation in a hospital service plan, a medical service plan, or a combination of the two.

(10) "Subsidiary" means an affiliate controlled by a corporation directly or indirectly through 1 or more intermediaries.

(11) "Surplus" means the amount by which all admitted assets of the corporation exceed its liabilities, inclusive of the reserves required pursuant to § 31- 3509.

(Apr. 9, 1997, D.C. Law 11-245, § 2, 44 DCR 1158; Mar. 2, 2007, D.C. Law 16-192, § 5012(a), 53 DCR 6899; Mar. 25, 2009, D.C. Law 17-369, § 2(a), 56 DCR 1346; Feb. 4, 2010, D.C. Law 18-104, § 2(a), 56 DCR 9182; Sept. 24, 2010, D.C. Law 18-223, § 5023(a), 57 DCR 6242.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4701.

Effect of Amendments

D.C. Law 16-192 added pars. (3A) and (7A).

D.C. Law 17-369 redesignated former par. (1) as par. (1B); and added pars. (1) and (1A).

D.C. Law 18-104 redesignated former par. (7A) as par. (7B); and added par. (7A).

D.C. Law 18-223, in par. (3A), substituted "Healthy DC and Health Care Expansion Fund" for "Healthy DC Fund" both times it appears.

Temporary Amendments of Section

Section 2(a) of D.C. Law 18-134 designated par. (7A) as par. (7B); and added par. (7A) to read as follows:

"'(7A) Public-private partnership' means a mutually acceptable written agreement between the Mayor and a hospital and medical services corporation that is certified by the Commissioner upon the execution and delivery of the agreement by the parties and which agreement:

"(A) Shall include the following provisions:

"(i) A $5 million annual payment to the Healthy DC Fund (or appropriate successor fund) by the hospital and medical services corporation to be used for subsidies that expand health insurance coverage for low-income District residents;

"(ii) A targeted city-wide health care initiative aimed at improving nutrition and increasing physical fitness among the District's senior citizens, or another comparable health promotion program;

"(iii) A term not to exceed 5 years, subject to extension upon the mutual written agreement of the parties;

"(iv)(I)(aa) The maintenance and support of the existing District open enrollment program as it operated prior to the enactment of the Medical Insurance Empowerment Amendment Act of 2008, effective March 25, 2009 (D.C. Law 17-369; 56 DCR 1346)('open enrollment program'), which program has an estimated average premium of $357 per member per month, and the enhancement of the open enrollment program by offering a new health maintenance organization product that includes comprehensive benefits with an average initial premium currently estimated at about $300 per member per month, which average may vary based upon age and family status, and subject to other reasonable adjustments, but with no adjustments for gender or pre-existing conditions.

"(bb) The annual premium rate of the existing open enrollment program shall not exceed 125% of the comparable medically underwritten product and shall be determined once every 12 months. The benefit package of the health maintenance organization product shall include, at a minimum, primary care services, specialist services, temporomandibular joint problems chiropractic services, mental health and addiction treatment, organ transplantation, treatment for morbid obesity, open heart surgery, and pharmaceutical benefits.

"(cc) The medical loss ratio of the health maintenance organization product to be utilized in rate filings and determinations shall not exceed 150%;

"(II) Under the open enrollment program pursuant to sub-sub-subparagraph (I) of this sub-subparagraph:

"(aa) Current members shall be permitted to maintain the option to continue their current open enrollment program coverage or opt for the new health maintenance organization product;

"(bb) New open enrollment members shall only be offered the new health maintenance organization product; and

"(cc) Total enrollment under subparagraph A)(iv)(I) of this paragraph shall be capped at 2,500;

"(v) Participation in the open enrollment program (including the health maintenance organization product) may be limited to District residents, which shall be subject to periodic confirmation; and

"(vi)(I) A corporation shall prominently advertise the availability of the new open enrollment health maintenance organization product continuously on the Internet and at least quarterly in a newspaper of general circulation throughout the District.

"(II) The content and format of the advertising shall be filed with the Commissioner no less than 30 days before its appearance in a newspaper or on the Internet;

"(B) May include the following provisions:

"(i) Authority for the Commissioner to grant a hospital and medical services corporation reasonable relief from the requirements of the agreement, such as if federal or state health care reforms make the requirements unnecessary or redundant or if the corporation does not meet a financial performance or similar test as specified in the agreement; provided, that any relief granted shall not affect the certification of the agreement by the Commissioner or the status of the agreement as a public-private partnership for all purposes under this act; and

"(ii) Reasonable expiration and termination provisions; and

"(C) Shall be effective upon the certification of the Commissioner.".

Section 6(b) of D.C. Law 18-134 provides that the act shall expire after 225 days of its having taken effect.

Section 3(a) of D.C. Law 18-205, in par. (3A), substituted "Healthy DC and Health Care Expansion Fund" for "Healthy DC Fund" both times it appears.

Section 7(b) of D.C. Law 18-205 provides that the act shall expire after 225 days of its having taken effect.

Section 201(a) of D.C. Law 18-271 amended subsec. (7A)(A)(v) to read as follows:

"(v) Participation in the open enrollment program (including the health maintenance organization product) may be limited to District residents who are ineligible for the DC High Risk Pool Program, as defined in the DC

High Risk Pool Program Establishment Temporary Act of 2010, passed on 2nd reading on September 21, 2010 (Enrolled version of Bill 18-939). Participant eligibility shall be subject to periodic confirmation; and".

Section 302(b) of D.C. Law 18-271 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 5012(a) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 5012(a) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 5012(a) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2(a) of Hospital and Medical Services Corporation Regulatory Emergency Amendment Act of 2009 (D.C. Act 18- 277, January 11, 2010, 57 DCR 935).

For temporary (90 day) amendment of section, see § 3(a) of Medicaid Resource Maximization Emergency Amendment Act of 2010 (D.C. Act 18-390, May 7, 2010, 57 DCR 4339).

For temporary (90 day) amendment of section, see § 201(a) of DC High Risk Pool Program Establishment Emergency Act of 2010 (D.C. Act 18-522, August 3, 2010, 57 DCR 8001).

For temporary (90 day) amendment of section, see § 5023(a) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative History of Laws

Law 11-245, the "Hospital and Medical Services Corporation Regulatory Act of 1996," was introduced in Council and assigned Bill No. 11-780, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-505 and transmitted to both Houses of Congress for its review. D.C. Law 11-245 became law on April 9, 1997.

For Law 16-192, see notes following § 31-205.

Law 17-369, the "Medical Insurance Empowerment Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-934 which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Approved without signature of the Mayor on January 23, 2009, it was assigned Act No. 17-704 and transmitted to both Houses of Congress for its review. D.C. Law 17-369 became effective on March 25, 2009.

For Law 18-104, see notes following § 31-205.

For Law 18-223, see notes following § 31-101.

Miscellaneous Notes

Short title: Section 5011 of D.C. Law 16-192 provided that subtitle B of title V of the act may be cited as the "Hospital and Medical Services Corporation Regulatory Amendment Act of 2006".

§ 31-3502. EXCLUSIVITY OF PROVISIONS.

(a) Except as provided in subsection (b) of this section, a corporation organized under the laws of the District of Columbia, or any state, or chartered by act of the Congress of the United States and issuing subscriber contracts in the District of Columbia shall be governed by this chapter and shall be exempt from all other provisions of District of Columbia law governing insurance, except as specifically referred to herein. No insurance law hereafter enacted by the District of Columbia shall be deemed to apply to such a corporation unless it is specifically referred to therein or unless such law represents an amendment or replacement of an insurance law made applicable to such corporations pursuant to § 31-3503. Any regulations promulgated by the Mayor to implement the provisions of any law made applicable to such a corporation by this chapter shall also apply to such a corporation.

(b)(1) A conversion or management or service contract with a for-profit entity shall not be approved by the Corporation Counsel unless charitable assets, if any, have been adequately protected. In determining whether charitable assets have been adequately protected, the Corporation Counsel shall apply the standard enumerated in § 44-603(c).

(2) The Commissioner of the Department of Insurance, Securities, and Banking, in consultation with the Corporation Counsel, shall assess the for-profit entity the necessary or appropriate costs related to, and shall expend such amounts for, the review of the conversion or management or service contract with a for-profit entity. Such costs may include the costs of expert review, educating the public, or obtaining public comments. For purposes of costs assessed and expended under this paragraph, the provisions of Unit A of Chapter 3 of Title 2 shall not apply.

(3) The provisions of §§ 44-605 and 44-607 shall apply to any conversions or management or service contracts with a for-profit entity.

(Apr. 9, 1997, D.C. Law 11-245, § 3, 44 DCR 1158; Oct. 23, 1997, D.C. Law 12-32, § 12(b), 44 DCR 4819; Mar. 25, 2003, D.C. Law 14-236, § 3, 49 DCR 10483; June 11, 2004, D.C. Law 15-166, § 4(u)(1), 51 DCR 2817.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4702.

Effect of Amendments

D.C. Law 14-236, in subsec. (b)(2), added the last sentence.

D.C. Law 15-166, in par. (2) of subsec. (b), substituted "Commissioner of the Department of Insurance, Securities, and Banking" for "Commissioner of Insurance and Securities".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 3 of Department of Insurance and Securities Regulation Procurement Temporary Act of 2002 (D.C. Law 14-159, June 25, 2002, law notification 49 DCR 6495).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3 of Department of Insurance and Securities Regulation Procurement Emergency Act of 2002 (D.C. Act 14-314, March 26, 2002, 49 DCR 3451).

For temporary (90 day) amendment of section, see § 3 of Department of Insurance and Securities Regulation Procurement Congressional Review Emergency Act of 2003 (D.C. Act 15-9, January 27, 2003, 50 DCR 1478).

For temporary (90 day) amendment of section, see § 4(u)(1) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

Law 12-32, the "Healthcare Entity Conversion Act of 1997," was introduced in Council and assigned Bill No. 12-112, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 3, 1997, and July 1, 1997, respectively. Signed by the Mayor on July 17, 1997, it was assigned Act No. 12-128 and transmitted to both Houses of Congress for its review. D.C. Law 12-32 became effective on October 23, 1997.

For Law 14-236, see notes following § 31-1406.

For Law 15-166, see notes following § 31-1004.

Delegation of Authority

Delegation of authority pursuant to D.C. Law 11-245, the Hospital and Medical Services Corporation Regulatory Act of 1996, see Mayor's Order 97-133, July 30, 1997 (44 DCR 4547).

§ 31-3503. APPLICABILITY OF OTHER PROVISIONS.

(a) A corporation governed by this chapter shall also be subject to the following other provisions of District of Columbia insurance law, including any amendments or replacements thereof hereafter enacted:

(1) Sections 31-201, 31-202, and 31-206, referring to general provisions of insurance regulation;

(2) Section 31-207, referring to general provisions of insurance regulation;

(3) Sections 31-5203 and 31-5204, referring to delivery (with each policy issued) of a copy of the insured's application, and to the principal office, books, and records of insurance companies;

(4) Chapter 16 of this title, referring to prohibition against discrimination in the provision of insurance on the basis of an AIDS test;

(5) Chapter 42 of this title, referring to the applicability of, and definitions in, the Life Insurance Act;

(6) Sections 31-4301, 31-4302, 31-4303, 31-4305, 31-4308, 31- 4309, 31-4310(b), 31-4311 through 31-4317, 31-4322 and 31-4324 through 31-4332, governing, in part, fees chargeable to, certificates of authority for, publication of false statements by, and licensing of agents acting for life insurance companies;

(7) Sections 31-4713 through 31-4715, 31-4718, and 31-4724 through 31-4730, referring, in part, to

the prohibitions against discrimination, securities, operations, and policy provisions restricting access to optometrists and psychologists by life insurance companies;

(8) Sections 31-4401 through 31-4404, 31-4406, 31-4407, 31- 4409, 31-4427, 31-4429, 31-4430, 31-4435, 31-4439, 31-4440, and 31-4443 through 31-4452, referring, in part, to articles of incorporation, election of officers, permissible investments, bookkeeping, and consolidation/merger of domestic life insurance companies;

(9) Chapter 46 of this title, governing penalties for violations and severability with respect to the provisions cited in paragraphs 5 through 8 of this subsection;

(10) Chapter 38 of this title, requiring that certain individual and group health insurance policies cover a newborn child from the moment of birth;

(11) Chapter 54 of this title, creating the District of Columbia Life and Health Insurance Guarantee Association and authorizing it to assume, guarantee, and reinsure any policy issued by a member insurer which becomes potentially unable to fulfill its contractual obligations;

(12) Chapter 31 of this title, requiring certain group and individual health insurance policies to provide coverage for the medical and psychological treatment of alcohol abuse, drug abuse, and mental illness;

(13) Chapter 29 of this title, requiring a group or individual health insurance policy issued more than 120 days after March 7, 1991, to cover certain preventive cancer screens for women;

(14) Chapter 37 of this title, authorizing the Mayor to issue regulations establishing specific standards for Medicare supplement insurance policies;

(15) Chapter 12 of this title, establishing the Insurance Regulatory Trust Fund and requiring each insurer doing business in the District to deposit in the Fund a percentage amount to be used to defray expenses of the Insurance Administration;

(16) Chapter 13 of this title, authorizing and regulating delinquency proceedings by the Commissioner of Insurance and Securities in the Superior Court of the District of Columbia against certain insurers;

(17) Chapter 15 of this title, establishing licensing and other requirements for managing general agents of certain insurers;

(18) Chapter 18 of this title, establishing licensing and other requirements for the assumed reinsurance business;

(19) Chapter 3 of this title, requiring insurers to file with the Mayor an accountant-prepared annual audit and other reports;

(20) Chapter 5 of this title, governing the circumstances under which a domestic insurer may obtain a credit for reinsurance ceded to another insurer;

(21) Chapter 19 of this title, governing an insurer's filing with the Mayor and the National Association of Insurance Commissioners ("NAIC") of an annual financial statement;

(22) Chapter 21 of this title, establishing standards for determining whether the continued operation of any insurer transacting business in the District might be hazardous to creditors, the general public, or policyholders, and authorizing the Mayor to order certain corrective actions after making such a determination;

(23) Chapter 14 of this title, governing examinations by the Mayor or any person subject to the District's insurance laws;

(24) Chapter 7 of this title, governing certain acquisition, investment, security issuance, and other activities in the insurance industry, requiring the registration of insurers that are part of an insurance holding company system, regulating transactions within such a system, regulating the management of domestic insurers in such a system, and authorizing the Mayor to conduct examinations of insurers that are part of such a system;

(25) Chapter 49 of this title, requiring the submission to the Mayor of an annual opinion by a qualified actuary;

(26) Chapter 26 of Title 47, requiring an annual license or certificate of authority from the Commissioner of Insurance and Securities for each insurer doing business in the District, requiring the filing of an annual statement by each such insurer, and imposing a tax on each such insurer's at-risk business in the District;

(27) Chapter 20 of this title, requiring insurers to file with the Mayor annual risk-based capital reports; and

(28) The Reasonable Health Insurance Ratemaking Reform Act of 2010 [Chapters 30A, 31C, and 33A of this title].

(b) Reference in the provisions cited in subsection (a) of this section to "insurers", "companies", or similar terms shall be deemed to include reference to a corporation governed by this chapter.

(Apr. 9, 1997, D.C. Law 11-245, § 4, 44 DCR 1158; Mar. 25, 2009, D.C. Law 17-369, § 2(b), 56 DCR 1346; Apr. 8, 2011, D.C. Law 18-360, § 503(a), 58 DCR 896.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4703.

Effect of Amendments

D.C. Law 17-369, in subsec. (a), deleted "; and" from the end of par. (25); substituted "; and" for a period at the end of par. (26), and added par. (27).

D.C. Law 18-360 deleted "and" from the end of par. (26); substituted "; and" for a period the end of par. (27); and added par. (28).

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

For Law 17-369, see notes following § 31-3501.

For history of Law 18-360, see notes under § 31-2231.11.

§ 31-3504. APPLICATION FOR CERTIFICATE OF AUTHORITY.

(a) No corporation subject to the provisions of this chapter, whether organized pursuant to the laws of the District of Columbia, or of any state, or by act of the Congress of the United States, shall issue subscriber contracts until the Mayor has authorized it to do so by issuance of a certificate of authority.

(b) Application for such certificate of authority shall be made on forms to be supplied by the Mayor containing such information as the Mayor shall deem necessary. Each application for such certificate of authority, including each application for renewal, shall contain payment of a fee of $200 to the District of Columbia, which shall be collected by the Commissioner of the Department of Insurance, Securities, and Banking and shall be accompanied by copies of the following documents, duly certified by an executive officer of such corporation:

(1) Articles of incorporation, with all amendments thereto;

(2) Bylaws, with all amendments thereto;

(3) Each contract form executed or proposed to be executed by and between the corporation and any hospital, physician, or other medical service provider embodying the terms under which hospital and medical service is to be furnished to subscribers;

(4) Each form of subscriber contract issued or proposed to be issued, together with a table of rates charged, or proposed to be charged, including actuarial justifications, to subscribers;

(5) A financial statement of the corporation, which shall include the amount of each contribution paid or agreed to be paid to the corporation for working capital, the name or names of each contributor, and the terms of each contribution;

(6) A risk-based capital report prepared in the manner prescribed by any risk-based capital ("RBC") regulations for hospital and medical services corporations promulgated by the Mayor;

(7) A list of the names and addresses and biographical information for the members of the board of directors, or board of trustees, and for the officers of the corporation;

(8) A statement of the geographical area in which the corporation proposes to operate; and

(9) Any other information or documents the Mayor deems necessary to assure compliance with this chapter.

(c) In addition, if the applicant is a foreign corporation:

(1) It shall provide the Mayor with an instrument authorizing service of process on the Mayor in accordance with § 31-4323;

(2) It shall satisfy the Mayor that the corporation is duly organized under the laws of the state under whose laws it professes to be organized, and is authorized to do the business it is transacting or proposes to transact; and

(3) It shall satisfy the Mayor that its funds are invested in accordance with the laws of its domicile and in securities or property which afford a degree of financial security substantially equal to that required for a corporation organized under the laws of the District of Columbia, and that it has a surplus at least equal to that required to be maintained by corporations authorized to do business pursuant to the provisions of this chapter.

(Apr. 9, 1997, D.C. Law 11-245, § 5, 44 DCR 1158; Mar. 24, 1998, D.C. Law 12-81, § 47, 45 DCR 745; June 11, 2004, D.C. Law 15-166, § 4(u)(2), 51 DCR 2817.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4704.

Effect of Amendments

D.C. Law 15-166, in subsec. (b), substituted "Commissioner of the Department of Insurance, Securities, and Banking" for "Commissioner of Insurance and Securities".

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 4(u)(2) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

For Law 15-166, see notes following § 31-1004.

References in Text

Section 31-4323, referred to in subsection (c), was repealed March 21, 1995, by § 12 of D.C. Law 10-233.

§ 31-3505. REQUIREMENTS FOR ISSUANCE OF CERTIFICATE OF AUTHORITY.

The Mayor shall issue a certificate of authority to each applicant upon the payment of the $200 fee provided for in § 31-3504(b), and upon being satisfied that:

(a) The applicant has been organized bona fide for the purpose of establishing, maintaining, and operating a hospital service plan, a medical service plan, or combination of the two;

(b) Each contract executed, or proposed to be executed, by the applicant and any hospital, physician, or other medical provider for the furnishing of hospital or medical services to subscribers obligates, or will when executed obligate, each hospital, physician, or other similar service provider which is a party thereto to render the service to which each subscriber may be entitled under the terms and conditions of the various subscriber contracts issued, or proposed to be issued, by the applicant;

(c) Each subscriber contract issued, or proposed to be issued, in the District of Columbia is in a form approved by the Mayor, and that the rate charged, or proposed to be charged, for each form of such contract is approved by the Mayor as not being excessive, inadequate, or unfairly discriminatory in relation to the services and benefits offered; provided, that rates for experience rated groups need not, in accordance with § 31-3508(c), be filed with the Mayor;

(d) The applicant has a surplus of an amount equal to or greater than that required under § 31-3506, or the amount determined to be necessary pursuant to application of any risk-based capital regulations for hospital and medical services corporations promulgated by the Mayor; and

(e) The applicant has:

(1) Made provision for compliance with the open enrollment requirements of § 31-3514, including the providing of other public services in the District; or

(2) Has entered into a public-private partnership.

(Apr. 9, 1997, D.C. Law 11-245, § 6, 44 DCR 1158; Feb. 4, 2010, D.C. Law 18-104, § 2(b), 56 DCR 9182.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4705.

Effect of Amendments

D.C. Law 18-104 rewrote subsec. (e), which had read as follows:

"(e) The applicant has made provision for compliance with the open enrollment requirements of § 31-3514, including the providing of other public services in the District of Columbia as required in § 31-3514."

Temporary Amendments of Section

Section 2(b) of D.C. Law 18-134 amended subsec. (e) to read as follows:

"(e) The applicant has:

"(1) Made provision for compliance with the open enrollment requirements of section 15, including the providing of other public services in the District; or

"(2) Has entered into a public-private partnership.".

Section 6(b) of D.C. Law 18-134 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(b) of Hospital and Medical Services Corporation Regulatory Emergency Amendment Act of 2009 (D.C. Act 18- 277, January 11, 2010, 57 DCR 935).

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

For Law 18-104, see notes following § 31-205.

§ 31-3505.01. COMMUNITY HEALTH REINVESTMENT.

A corporation shall engage in community health reinvestment to the maximum feasible extent consistent with financial soundness and efficiency.

(Apr. 9, 1997, D.C. Law 11-245, § 6a, as added Mar. 25, 2009, D.C. Law 17-369, § 2(c), 56 DCR 1346.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-369, see notes following § 31-3501.

§ 31-3506. SURPLUS REQUIREMENTS.

(a) At the time of issuance of a certificate of authority under this chapter and at all times thereafter until risk-based capital regulations for hospital and medical services corporations are promulgated, a corporation must possess surplus in an amount which is the greater of $5,000,000 or 8.0% of the total amount of premiums for insured risk received by the corporation in the preceding calendar year. The total amount of premiums for insured risk shall not include premiums collected for federal health benefit programs that have a separate reserve fund held by the federal government.

(b) The surplus requirement of 8.0% shall be phased-in following April 9, 1997 as follows:

(1) Year one -- 40% of the surplus requirement in subsection (a) of this section;

(2) Year two -- 60% of the surplus requirement in subsection (a) of this section;

(3) Year three -- 80% of the surplus requirement in subsection (a) of this section; and

(4) Year four -- 100% of the surplus requirement in subsection (a) of this section.

(c) The Mayor shall have the authority to require the differentiation of the corporation's activities into risk and nonrisk business for the purpose of determining the corporation's income that is derived from premiums for insured risk and from other sources.

(d) Notwithstanding the provisions of subsection (a) of this section, at the time of issuance of a certificate of authority under this chapter and at all times thereafter, a corporation shall be subject to the provisions of any risk-based capital regulations for hospital and medical services corporations promulgated by the Mayor, and must maintain at all times such surplus as is determined to be necessary under those regulations.

(e) The Commissioner may, on an annual basis, and shall, on a basis no less frequently than every 3 years, review the portion of the surplus of the corporation that is attributable to the District and may issue a determination as to whether the surplus is excessive. Any such review shall be undertaken in coordination with the other jurisdictions in which the corporation conducts business. The surplus may be considered excessive only if:

(1) The surplus is greater than the appropriate risk-based capital requirements as determined by the Commissioner for the immediately preceding calendar year; and

(2) After a hearing, the Commissioner determines that the surplus is unreasonably large and inconsistent with the corporation's obligation under § 31-3505.01.

(f) In determining whether the surplus of the corporation that is attributable to the District is excessive, the Commissioner shall take into account all of the corporation's financial obligations arising in connection with the conduct of the corporation's insurance business, including premium tax paid and the corporation's contribution to the open enrollment program required by § 31- 3514 and payments and expenditures pursuant to a public-private partnership.

(g)(1) If the Commissioner determines that the surplus of the corporation is excessive, the Commissioner shall order the corporation to submit a plan for dedication of the excess to community health reinvestment in a fair and equitable manner.

(2) A plan submitted pursuant to paragraph (1) of this subsection may consist entirely of expenditures for the benefit of current subscribers of the corporation.

(h) When determining what surplus is attributable to the District and whether the surplus is excessive, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals, the cost of which shall be borne by the corporation.

(i) If the Commissioner determines that the corporation failed to submit a plan as ordered under subsection (g) of this section within a reasonable period or failed to execute within a reasonable period a plan already submitted under subsection (g) of this section, the Commissioner shall deny for 12 months all premium rate increases for subscriber policies written in the District sought by the corporation pursuant to § 31-3508 and may issue such orders as are necessary to enforce the purposes of this chapter.

(j) The existence of a public-private partnership shall not preclude the Commissioner's surplus evaluation of the corporation or diminish the Commissioner's authority to issue directives to the corporation pursuant to the evaluation.

(Apr. 9, 1997, D.C. Law 11-245, § 7, 44 DCR 1158; Mar. 25, 2009, D.C. Law 17-369, § 2(d), 56 DCR 1346; Feb. 4, 2010, D.C. Law 18-104, § 2(c), 56 DCR 9182; Sept. 26, 2012, D.C. Law 19-171, § 88(a), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4706.

Effect of Amendments

D.C. Law 17-369 added subsecs. (e), (f), (g), (h), and (i).

D.C. Law 18-104, in subsec. (e), substituted "The Commissioner may, on an annual basis, and shall, on a basis no less frequently than every 3 years, review the portion of the surplus of the corporation that is attributable to the District and may issue a determination as to whether the surplus is excessive. Any such review shall be undertaken in coordination with the other jurisdictions in which the corporation conducts business." for "Within 120 days after March 25, 2009, and annually thereafter, the Commissioner shall review the portion of the surplus of the corporation that is attributable to the District and shall issue a determination as to whether the surplus is excessive."; in subsec. (f), substituted "§ 31-3514 and payments and expenditures pursuant to a public-private partnership" for "§ 31-3514"; and added subsec. (j).

D.C. Law 19-171, in subsec. (e)(2), substituted "§ 31-305.01" for "§ 31- 305(a)".

Temporary Amendments of Section

Section 2 of D.C. Law 18-85, in subsec. (e), "180 days" for "120 days".

Section 5(b) of D.C. Law 18-85 provides that the act shall expire after 225 days of its having taken effect.

Section 2(c) of D.C. Law 18-134, in subsec. (e), struck the first sentence and inserted "The Commissioner may, on an annual basis, and shall, on a basis no less frequently than every 3 years, review the portion of the surplus of the corporation that is attributable to the District and may issue a determination as to whether the surplus is excessive. Any such review shall be undertaken in coordination with the other jurisdictions in which the corporation conducts business."; in subsec.(f), substituted "section 15 and payments and expenditures pursuant to a public-private partnership" for "section 15"; and added subsec. (j) to read as follows:

"(j) The existence of a public-private partnership shall not preclude the Commissioner's surplus evaluation of the corporation or diminish the Commissioner's authority to issue directives to the corporation pursuant to the evaluation.".

Section 6(b) of D.C. Law 18-134 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2 of Medical Insurance Empowerment Surplus Review Emergency Act of 2009 (D.C. Act 18-153, July 28, 2009, 56 DCR 6342).

For temporary (90 day) amendment of section, see § 2 of Medical Insurance Empowerment Surplus Review Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-210, October 21, 2009, 56 DCR 8487).

For temporary (90 day) amendment of section, see § 2(c) of Hospital and Medical Services Corporation Regulatory Emergency Amendment Act of 2009 (D.C. Act 18- 277, January 11, 2010, 57 DCR 935).

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

For Law 17-369, see notes following § 31-3501.

For Law 18-104, see notes following § 31-205.

For history of Law 19-171, see notes under § 31-305.

§ 31-3506.01. COMPLIANCE AND IMPLEMENTATION OF COMMUNITY HEALTH REINVESTMENT OBLIGATIONS.

(a) A corporation shall make available to the Commissioner such information as may be required to permit the Commissioner to verify the corporation's community health reinvestment and, if appropriate, its compliance with its plan to dedicate excess surplus or to verify that the corporation is participating in a public-private partnership. When verifying the community health reinvestment or the corporation's compliance with its plan, or when verifying the corporation's participation in a public-private partnership the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals, the cost of which shall be borne by the corporation.

(b) In implementing the provisions of the Medical Insurance Empowerment Amendment Act of 2008 [D.C. Law 17-369], the Commissioner shall consider the interests and needs of the jurisdictions in the corporation's service area.

(Apr. 9, 1997, D.C. Law 11-245, § 7a, as added Mar. 25, 2009, D.C. Law 17-369, § 2(e), 56 DCR 1346; Feb. 4, 2010, D.C. Law 18-104, § 2(d), 56 DCR 9182.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-104 rewrote subsec. (a), which had read as follows:

"(a) A corporation shall make available to the Commissioner such information as may be required to permit the Commissioner to verify the corporation's community health reinvestment and, if appropriate, its compliance with its plan to dedicate excess surplus. When verifying the community health reinvestment or the corporation's compliance with its plan, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals, the cost of which shall be borne by the corporation."

Temporary Amendments of Section

Section 2(d) of D.C. Law 18-134, in subsec. (a), substituted "dedicate excess surplus or to verify that the corporation is participating in a public-private partnership" for "dedicate excess surplus" and substituted "or the corporation's compliance with its plan, or when verifying the corporation's participation in a public-private partnership" for "or the corporation's compliance with its plan,".

Section 6(b) of D.C. Law 18-134 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2(d) of Hospital and Medical Services Corporation Regulatory Emergency Amendment Act of 2009 (D.C. Act 18- 277, January 11, 2010, 57 DCR 935).

Legislative History of Laws

For Law 17-369, see notes following § 31-3501.

For Law 18-104, see notes following § 31-205.

§ 31-3507. FILING OF PROVIDER CONTRACTS.

(a) A corporation holding a certificate of authority under this chapter may enter into contracts with licensed hospitals, licensed physicians, and other duly licensed medical services providers.

(b) A copy of each contract form that a corporation, referred to in subsection (a) of this section, has with licensed hospitals, licensed physicians, and other duly licensed medical services providers shall be filed with the Mayor.

(Apr. 9, 1997, D.C. Law 11-245, § 8, 44 DCR 1158.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4707.

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

§ 31-3508. FILING OF SUBSCRIBER CONTRACT FORMS AND RATES.

(a) *Contract form filings.* -- (1) The form and content of all subscriber contracts between corporation and its contractholders issued in the District of Columbia, including any group certificates and any riders, endorsements, amendments, or other forms made a part of the subscriber contract, shall, at all times, be subject to the prior approval of the Mayor.

(2) The Mayor shall disapprove a proposed form of subscriber contract if the form contains provisions which are unjust, unfair, inequitable, inadequate, misleading, or deceptive, which encourage misrepresentation of the coverage, or which are otherwise not in compliance with applicable provisions of this chapter.

(3) Each subscriber contract, group certificate, or other contract form shall plainly state the services, benefits, and indemnification to which the subscriber is entitled as well as the services, benefits, and indemnification to which the subscriber is not entitled.

(4) Each proposed form of a subscriber contract shall be on file for a waiting period of 60 days before it becomes effective. When, in the Mayor's opinion, a filing is not accompanied by the information needed to support it and the Mayor does not have sufficient information to determine whether the filing meets the requirements of this section, a corporation shall be required to furnish the needed information. In such event the waiting period shall be suspended and shall recommence as of the date the information is furnished. Upon written application by the corporation, the Mayor may authorize a filing which the Mayor has reviewed to become effective before the expiration of the waiting period or any extension thereof, or at any later date. A filing shall be deemed approved unless disapproved by the Mayor within the waiting period or any extension thereof requested by the corporation.

(b) *Rate filings for individual subscriber contracts.* -- All rates for individual subscriber contracts issued in the District of Columbia shall be subject to the prior approval of the Mayor. Each proposed rate filing shall be on file for a waiting period of 60 days before it becomes effective. When, in the Mayor's opinion, a rate filing is not accompanied by the information needed to support it and the Mayor does not have sufficient information to determine whether the rate filing meets the requirements of this section, a corporation shall be required to furnish the needed information. In such event, the waiting period shall be suspended and shall recommence as of the date the information is furnished. Upon written application by the corporation, the Mayor may authorize a rate filing which the Mayor has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed approved unless disapproved by the Mayor within the waiting period or any extension thereof requested by the corporation. All approved rate filings for individual subscriber contracts submitted in other jurisdictions shall be filed with the Mayor for information purposes only.

(c) *Rate filings for group subscriber contracts.* -- All rates for group subscriber contracts, other than experience rated groups, issued in the District of Columbia shall be filed with the Mayor no later than the date on which a corporation proposes to make such rates effective. The rate filing shall be subject to review and disapproval by the Mayor for a period of 60 days after the filing date. If not disapproved before the expiration of the review period or any extension thereof requested by the corporation, the filing shall be deemed approved. Any disapproval under this subsection shall be applied retrospectively to the date the corporation made such rates effective. Upon application by the corporation, the Mayor may affirmatively approve a filing prior to the end of the review period. All approved rate filings for group subscriber contracts, other than experience rated groups, submitted in other jurisdictions shall be filed with the Mayor for information purposes only.

(d) *Contract form and rate filings generally.* -- (1) Application for approval shall be made to the Mayor in the format, and with the information, that the Mayor requires.

(2) The Mayor may, at any time, require any corporation issued a certificate of authority under this chapter to demonstrate that its filings, including the terms and provisions of its subscriber contract forms, its rates, and its method for setting rates, are in compliance with this section, notwithstanding that the filings then in effect had previously been approved by the Mayor. Any subscriber contract forms and rates previously approved by the Mayor, but subsequently disapproved under this section, shall be considered disapproved on a prospective basis only from the date of such notice of disapproval, unless the corporation made a material misrepresentation in its contract form or rate filings.

(3) If at any time subsequent to the applicable waiting or review period provided for in this section, the Mayor finds that a filing does not meet the requirements of this section, the Mayor shall issue an order to the filer specifying in what respects the Mayor finds that the filing fails to meet the requirements of this section, and stating when, within a reasonable period thereafter, the filing shall be no longer effective. The order shall not affect any subscriber contract, group certificate, or other contract made or issued prior to the expiration of the period set forth in the order. However, the Mayor may, prior to issuing the order and if requested by the filer, hold a hearing upon not less than 10 days written notice to the filer specifying the matters to be considered at the hearing.

(e) *Rate filings generally.* -- (1) Rate filings shall be inclusive of all rates, rating plans, and other documents utilized by a corporation to determine rates.

(2) Rates shall not be excessive, inadequate, or unfairly discriminatory in relation to the services and benefits offered.

(3) In determining whether to disapprove a rate filing, the Mayor shall give due consideration to past and prospective loss experience within and outside the District of Columbia, to underwriting practice and judgment to the extent appropriate, to a reasonable margin for surplus needs, to past and prospective expenses both nationwide and within the District of Columbia, and to all other relevant factors within and outside the District of Columbia. In establishing the rates to be charged individuals with open enrollment subscriber contracts, including individual conversion subscriber contracts, the revenue which would have been otherwise collected by the District of Columbia government through the imposition of the 1% premium tax pursuant to § 31-3514(j), but which a corporation has contributed to a Rate Stabilization Fund in accordance with § 31-3514(j)(1), shall be credited by the corporation to the benefit of this class of subscribers in an amount which assures competitive rates.

(4) A corporation filing a rate pursuant to this section shall also comply with the Reasonable Health Insurance Ratemaking Reform Act of 2010 [D.C. Law 18- 360].

(f) *Transition provision for contract forms and rates.* -- (1) As to any corporation heretofore existing and operating on April 9, 1997, and subject to § 31-3523, all subscriber contracts, group certificates, and other contracts issued in the District of Columbia after April 9, 1997, shall be on forms that have been filed and approved under this chapter. The requirement of this section shall not affect the validity of subscriber contracts, group certificates, and other contracts issued in the District of Columbia by such a corporation which are outstanding on April 9, 1997, and have not previously been filed with and approved by the Mayor, but these contracts shall be replaced, at the next contract anniversary date following April 9, 1997, by forms filed and approved under this chapter.

(2) As to any corporation heretofore existing and operating on April 9, 1997, and subject to § 31-3523, all rates applied to subscriber contracts after April 9, 1997 shall be such rates as have been filed and approved under this chapter. The requirements of this section shall not affect the validity of rates applied to subscriber contracts issued by such a corporation which are outstanding on April 9, 1997, and have not previously been filed with and approved by the Mayor, but these rates shall be replaced, at the next contract anniversary date following April 9, 1997, by rates filed and approved under this chapter.

(g) A corporation whose proposed form of subscriber contract or proposed contract rate has been disapproved by the Mayor may contest the Mayor's action in accordance with the procedures of § 31-3522.

(Apr. 9, 1997, D.C. Law 11-245, § 9, 44 DCR 1158; Apr. 8, 2011, D.C. Law 18-360, § 503(b), 58 DCR 896.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4708.

Effect of Amendments

D.C. Law 18-360 added subsec. (e)(4).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3 of Reasonable Health Insurance Premium Increase Emergency Amendment Act of 2010 (D.C. Act 18-328, March 18, 2010, 57 DCR 2546).

§ 31-3509. RESERVES.

(a) Taking into consideration the nature of the policies issued by the corporation, a corporation shall establish and maintain pro rata gross unearned premium reserves, reserves for incurred but unpaid claims (both reported and unreported), reserves for expenses related to settlement of such claims, and other reserves as required for proper reporting of its financial condition or as required under the form of financial statements required of the corporation.

(b) The reserves required under subsection (a) of this section constitute a liability of the corporation in a determination of its financial condition.

(Apr. 9, 1997, D.C. Law 11-245, § 10, 44 DCR 1158.)

§ 31-3510. INVESTMENTS.

Notwithstanding any provision of § 31-4435, as made applicable by § 31- 3503(8), and notwithstanding any other provision of this chapter:

(1) Without the Mayor's prior written consent, a corporation's aggregate investments in real estate pursuant to § 31-4435(d)(1)(A) through (F), shall not at any time exceed 20% of the amount of the corporation's admitted assets as reported on the corporation's annual financial statement most recently filed with the Mayor.

(2) A corporation's investments in real estate pursuant to § 31- 4435(d)(1)(A) through (F), shall in no event exceed the actual cost plus the capitalized value (less normal depreciation) of the permanent improvements.

(3) For real estate owned by a corporation pursuant to § 31-4435(d)(1)(A) on April 9, 1997, the corporation may, as its option, determine admitted asset value in accordance with an appraisal most recently conducted prior to April 9, 1997; provided, that the appraisal is acceptable to the Mayor. The difference between the admitted asset value as so identified and the book value (equal to the historical cost, less the value of encumbrances and accumulated depreciation) shall be accounted for as an unrealized gain and credited to reserves and unassigned funds and shall be amortized and charged to reserves and unassigned funds. Thereafter, such real estate shall be valued, for purposes of the financial statements required by § 31-1901, at such appraised value, less accumulated amortization, plus the capitalized value of permanent improvements, less normal depreciation. Normal depreciation on the capitalized value of permanent improvements shall be charged as an expense in the underwriting and investment exhibit to the corporation's annual financial statement.

(4) A corporation shall not invest in or otherwise acquire any affiliate or subsidiary, as those terms are defined in § 31-701, except in accordance with the following:

(A) The business of the affiliate or subsidiary must be directly related to the operation of the corporation or the administration of a health benefits program.

(B)(i) The corporation must submit a statement of proposed action to the Mayor before the corporation:

(I) Creates, invests in, or otherwise acquires any affiliate or subsidiary; or

(II) Alters the legal structure, purpose, or ownership of the corporation or any affiliate or subsidiary of the corporation.

(ii) The statement of proposed action required under this subparagraph shall be filed by the corporation not less than 30 days prior to the effective date of the proposed action.

(iii) The statement of proposed action shall be deemed approved unless disapproved by the Mayor within the 30-day waiting period or any extension thereof requested by the corporation.

(iv) The corporation shall not be required to submit a statement of proposed action to the Mayor under this subparagraph when the proposed action is required to be reported to the Mayor pursuant to Chapter 7 of this title.

(Apr. 9, 1997, D.C. Law 11-245, § 11, 44 DCR 1158.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4710.

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

§ 31-3511. SURPLUS NOTES.

(a) A domestic corporation may borrow or assume a liability for the repayment of a sum of money under a written agreement which provides that the loan or advance shall be repaid only out of surplus of the corporation in excess of such minimum surplus as is stipulated in and by the agreement and if the surplus of the corporation after such payment would meet or exceed the level of surplus the corporation is required to maintain by the Mayor under the laws or regulations of the District of Columbia. The rate of interest specified in such an agreement may be adjusted no more frequently than annually to provide for a rate not

exceeding the one-year treasury bill rate plus 3% at the time of adjustment. At the time the loan or advance is made, the interest rate shall not exceed the one-year treasury bill rate plus 3% annum.

(b) Subject to approval by the Mayor, the interest rate on all loans or advances existing on April 9, 1997 can be amended to the rate as permitted in this section with the mutual agreement of the corporation and the lender.

(c) A domestic corporation shall, before entering into an agreement for a loan or advance permitted under this section, file with the Mayor a statement of the purpose of the loan or advance and a copy of the proposed agreement. The Mayor shall disapprove any proposed agreement for a loan or advance if the Mayor finds that the loan or advance is unnecessary or excessive for the purpose intended; that the terms of the agreement are not fair and equitable to the parties and to other lenders, if any, to the corporation; that the information so filed by the corporation is inadequate; or that the terms of the agreement are not otherwise in compliance with this section.

(d) Any loan or advance to a domestic corporation shall be repaid by the corporation when, and to the extent, no longer reasonably necessary for the purpose originally intended; provided, that no repayment of such a loan or advance shall be made unless approved in advance by the Mayor.

(e) Nothing in this section shall be construed to mean that a corporation may not borrow money otherwise than by a loan or advance, but the amount so borrowed with accrued interest thereon shall be carried by the corporation as a liability.

(Apr. 9, 1997, D.C. Law 11-245, § 12, 44 DCR 1158.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4711.

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

§ 31-3512. GROUP SUBSCRIBER CONTRACT STANDARD PROVISIONS.

No group subscriber contract shall be issued in the District of Columbia by a corporation unless it contains in substance the following provisions, or provisions which in the opinion of the Mayor are more favorable to the subscribers, or at least as favorable to the subscribers and more favorable to the group contractholder; except, that if any provision of this section is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of contract, the corporation, with the approval of the Mayor, shall omit from such contract any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the contract consistent with the coverage provided by the contract:

(1) A provision that the group contractholder is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the contract shall continue in force, unless the group contractholder has given the corporation written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the contract; except, that the contract may provide that the contractholder shall be liable to the corporation for the payment of a pro rata premium for the time the contract was in force during such grace period;

(2) A provision that the validity of the contract shall not be contested except for nonpayment of premiums, fraudulent misstatements, noncompliance with contractual provisions and noncompliance with eligibility requirements after it has been in force for 2 years from its date of issue;

(3) A provision that no statement made by any subscriber under the contract relating to insurability may be used in contesting the validity of the coverage with respect to which such statement was made after the subscriber's coverage has been in force for a period of 2 years nor unless it is contained in a written instrument signed by the subscriber, except that this provision need not preclude the assertion at any time of defenses based upon the subscriber's lack of eligibility for coverage under the contract or upon other provisions in the contract unrelated to insurability;

(4) A provision that a copy of the application, if any, of the contractholder shall be attached to the contract when issued, that all statements made by the contractholder or by the subscriber shall be deemed representations and not warranties, and that no statement made by any subscriber may be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or, in the event of the death or incapacity of the subscriber, to the individual's beneficiary or personal representative;

(5) A provision setting forth the conditions, if any, under which the corporation reserves the right to require a person eligible for coverage to furnish evidence of individual insurability satisfactory to the corporation as a condition to part or all of the individual's coverage;

(6) A provision that the corporation shall issue to the contractholder for delivery to each subscriber a certificate setting forth a statement as to the coverage to which that person is entitled, to whom benefits are payable, and a statement as to any family member's or dependent's coverage;

(7) A provision that written notice of a claim must be given to the corporation within 15 months after the occurrence or commencement of the date of a service covered by the contract and that failure to give notice within such time shall not invalidate or reduce any claim if it is shown that the contractholder was legally incapacitated prior to the expiration of the 15-month claim filing period;

(8) A provision that the corporation shall furnish to the subscriber under the contract, or to the contractholder for delivery to the subscriber, such forms as are usually furnished by it for filing a claim; and that if such forms are not furnished before the expiration of 20 days after the corporation received notice of any claim under the contract, the person making the claim shall be deemed to have complied with the claims filing requirements of the contract;

(9) A provision that all benefits and indemnification payable under the contract must be paid not more than 60 days after receipt of all necessary information and documentation or proof;

(10) A provision that the corporation has the right to examine the person for whom a claim is so filed under the contract as often as it may reasonably require during the pendency of the claim and also has the right to conduct an autopsy in case of death if doing so is not prohibited by law;

(11) A provision that no action at law or in equity may be brought to recover on the contract before the expiration of 60 days from the date a claim has been filed in accordance with the claim filing requirements of the contract or after a period of 3 years from the last date on which a claim is required to be filed under the claim filing requirements of the contract; and

(12) A provision that allows subscribers who leave such groups to convert, without evidence of insurability, to an individual subscriber contract providing an adequate level of coverage and in accordance with any standards the Mayor prescribes pursuant to § 31-3514(g).

(Apr. 9, 1997, D.C. Law 11-245, § 13, 44 DCR 1158.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4712.

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

§ 31-3513. REPORTS.

(a) In addition to the annual statement required by § 31-1901, the Mayor:

(1) May require each corporation to file on a quarterly or other basis any additional reports, exhibits, or statements the Mayor considers necessary to furnish all information concerning the condition, solvency, experience, transactions, or affairs of the corporation. The Mayor may establish deadlines for submitting any additional reports, exhibits, or statements and may require their verification by any officer or officers of the corporation the Mayor designates; and

(2) Shall require each corporation to file annually, on or before June 1, a report, signed by 2 of its principal officers, showing:

(A) The number of the District of Columbia contractholders and subscribers by the following type of contract or its equivalent:

(i) Individual, open enrollment;

(ii) Individual conversion subscribers;

(iii) Group subscribers, as defined by regulation;

(iv) Medigap and Medicare supplements; and

(v) Associations;

(B) Total subscriber income, benefit, and indemnification payments for the types of contracts listed in paragraph (1) of this subsection, with a specific breakdown by type of contract if requested by the Mayor; and

(C) Expenditures for providing public services, in addition to open enrollment, in the District of Columbia.

(Apr. 9, 1997, D.C. Law 11-245, § 14, 44 DCR 1158.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4713.

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

§ 31-3514. OPEN ENROLLMENT.

(a) A corporation issued a certificate of authority under this chapter shall make available to citizens of the District of Columbia an open enrollment program under the terms set forth in this section.

(b) As used in this section, the term:

(1) "Comprehensive individual subscriber contracts" means subscriber contracts, conforming to the requirements of subsection (g) of this section, which are issued to provide basic hospital and medical services, or to provide benefits and indemnification for such services.

(2) "Open enrollment subscriber contracts" means comprehensive individual subscriber contracts issued pursuant to an open enrollment program by a corporation which has a certificate of authority under this chapter and provides coverage to individuals.

(c) A corporation's open enrollment program shall provide for the issuance of open enrollment subscriber contracts without imposition by the corporation of underwriting criteria whereby coverage is denied or subject to cancellation or nonrenewal, in whole or in part, because of an individual's age, health history, medical history, employment status, or, if employed, industry or job classification.

(d) A corporation's open enrollment program shall make open enrollment subscriber contracts available to any individual residing in the District of Columbia, except, that this requirement shall not apply to any individual who is eligible for coverage as an employee of an employer which provides, in whole or in part, basic hospital and medical services, benefits, and indemnification coverage to its employees.

(e) A corporation's open enrollment program shall be available on a year-round basis.

(f) Repealed.

(g) The Mayor may prescribe minimum standards to govern the contents of comprehensive individual subscriber contracts issued pursuant to this section. Such minimum standards shall ensure that these contracts provide hospital and medical services, or benefits and indemnification for a comprehensive range of health care needs without qualifying exclusions that fail to protect the subscriber under normal circumstances. Such minimum standards shall also ensure that the option of obtaining comprehensive individual subscriber contract coverage is made available to all individuals included within the definition of "open enrollment subscriber contracts" in subsection (b)(2) of this section.

(h) The Mayor may prescribe minimum standards specifically to govern the content of comprehensive individual subscriber contracts issued to individuals who have converted from group subscriber contracts to individual coverage because of termination of the individual's eligibility for group coverage.

(i) A corporation issued a certificate of authority under this chapter shall provide other public services in the District of Columbia consisting of health-related educational support for residents of the corporation's service area who, based upon such educational support, may experience a lesser need for hospital and medical services, or benefits and indemnification for such services.

(j)(1) A corporation shall maintain a separately established rate stabilization fund ("RS Fund") to be used solely to subsidize open enrollment subscribers pursuant to subsections (c) and (d) of this section. A corporation shall deposit an amount necessary and appropriate to maintain the open enrollment program of the corporation pursuant to subsection (k)(1) of this section; provided, that the corporation shall not deduct an aggregate amount exceeding $550,000 of its payment to the RS Fund from the amount otherwise due by the corporation under § 31-205 or § 47-2608(a). The RS Fund shall not be used to pay marketing or promotional expenses associated with the program. Unless the corporation elects to terminate the RS Fund pursuant to subsection (k)(3) of this section, the corporation shall carry over from year to year all unexpended funds in the RS Fund, including interest earned on investment of the funds in the RS Fund.

(2) In the rate filings for the open enrollment program required by § 31- 3508, a corporation shall provide documentation to the Mayor confirming the existence of the RS Fund, identifying the amounts paid from the RS Fund to subsidize open enrollment rates, and specifying the RS Fund balance at year end and as of the date of the corporation's filing. The Mayor shall order annually an independent audit of the RS Fund, the expenses of which shall be paid by the corporation. If the Mayor determines, with or without an audit, that all or any portion of the money in the RS Fund is not being used to subsidize open enrollment rates or is not being reasonably set aside in anticipation of projected subsidies of open enrollment rates in future years, the Mayor may order the corporation to pay the revenue not being so used or set aside to the Healthy DC and Health Care Expansion Fund established by § 31-3514.02.

(k) A corporation shall continue to offer the program to each subscriber as long as the subscriber renews his or her coverage under the program.

(l) Any proposed rates filed by a corporation with the Mayor pursuant to § 31-3508 which are to be applied to open enrollment subscriber contracts, including individual conversion subscriber contracts, shall include a factor crediting for the benefit of this class of subscribers in an amount which assures competitive rates, the revenue which would have been otherwise collected by the District of Columbia government as a premium tax pursuant to § 31-3514(j).

(m) The open enrollment program shall maintain the following affordability and adequacy criteria for individual participants:

(1) Annual premium costs shall not exceed 125% of standard individual market rates and shall be determined once every 12 months.

(2) Cost sharing, deductibles, and co-insurance shall not exceed those in the corporation's most popular policy available to small employers in the District.

(3) Subscriber contracts shall not contain service limitations or lifetime or annual benefit maximums.

(4) Subscriber contracts and contract forms shall be subject to § 31-3508.

(5) Subscriber contracts and contract forms shall not contain exclusions or riders for pre-existing conditions.

(n) A corporation shall prominently advertise the availability of its open enrollment subscriber contracts continuously on the Internet and at least quarterly in a newspaper of general circulation throughout the District. The content and format of the advertising shall be filed with the Commissioner no less than 30 days before its appearance in a newspaper or on the Internet.

(o) The corporation shall make the open enrollment program available for a minimum of 2500 subscribers. The corporation shall submit a report annually on October 1 to the Commissioner on the number of subscribers enrolled.

(p) In lieu of the requirements of subsection (m) through (o) of this section, the corporation may enter into a public-private partnership.

(q) The corporation shall submit an annual report to the Mayor regarding the open enrollment program. The Mayor shall determine the format and content of the report; provided, that the report shall include:

(1) Membership distribution by:

(A) Age

(B) Gender;

(C) Ward;

(D) Zip code;

(E) Race/ethnicity;

(F) Income; and

(G) The amount of time in the program;

(2) The number of members by contract type;

(3) Program expenditures for:

(A) Inpatient services;

(B) Outpatient services;

(C) Behavioral health services; and

(D) Prescription drugs;

(4) Average premium;

(5) Premium levels by age; and

(6) The number of members that have reached the:

(A) Out-of-pocket maximum expenditure; and

(B) Annual prescription drug benefit maximum.

(r) The public-private partnership shall be certified by January 31, 2010.

(Apr. 9, 1997, D.C. Law 11-245, § 15, 44 DCR 1158; June 11, 2004, D.C. Law 15-166, § 4(u)(3), 51 DCR 2817; Mar. 2, 2007, D.C. Law 16-192, § 5012(b), 53 DCR 6899; Mar. 25, 2009, D.C. Law 17-369, § 2(f), 56 DCR 1346; Feb. 4, 2010, D.C. Law 18-104, § 2(e), 56 DCR 9182; Sept. 24, 2010, D.C. Law 18-223, § 5023(b), 57 DCR 6242; Sept. 26, 2012, D.C. Law 19-171, § 88(b), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4714.

Effect of Amendments

D.C. Law 15-166, in par. (3) of subsec. (j), substituted "Department of Insurance, Securities, and Banking" for "Department of Insurance and Securities Regulation" both times it appears.

D.C. Law 16-192 repealed subsec. (f) and rewrote subsecs. (j) and (k) which had read as follows:

"(f) A corporation must prominently advertise the availability of its open enrollment subscriber contracts quarterly in a newspaper or newspapers of general circulation throughout the District of Columbia. The content and format of such advertising shall be filed with the Mayor at least 60 days prior to use."

"(j) As long as a corporation maintains an open enrollment program as required by this section, the rate of tax applied to the corporation's net subscriber premium receipts from District of Columbia risks ('premium tax rate') shall be 1%, rather than the percentage otherwise applicable pursuant to § § 47-2608.

"(1) A corporation may elect to pay the 1% premium tax rate or contribute the amount otherwise so paid to a separately established Rate Stabilization Fund. The Rate Stabilization Fund shall be used solely to subsidize open enrollment contracts to assure competitive rates. The corporation shall provide documentation to the Mayor of the existence of a Rate Stabilization Fund and identify the amount of the subsidy from the Fund for open enrollment rates in the rate filings required by § 31-3508.

"(2) A corporation's annual statement pursuant to § 31-1901, shall include documentation of its efforts to substantiate the need for a 1% premium tax rate as an incentive to maintain an open enrollment program. Such documentation shall include the number of subscribers participating in its open enrollment program, the premiums it charges for comprehensive individual subscriber contracts, a description of its efforts to provide the public services required by subsection (i) of this section, and such other documentation as the Mayor may require. If the Mayor finds that the documentation provided by a corporation does not substantiate the 1% premium tax rate, the Mayor shall provide written notice to the corporation of this finding no later than April 1 of the same year, and the corporation shall pay the premium tax rate established in § 47-2608, except as provided in paragraph 3 of this subsection.

"(3) Within 30 days after the date of the written notice required by paragraph (2) of this subsection, a corporation may make a written request for a hearing on the Mayor's findings that the corporation failed to substantiate the imposition of a 1% premium tax rate by delivering the request to the Department of Insurance, Securities, and Banking. The hearing shall commence in not fewer than 10 days nor more than 30 days from the date on which the request for hearing is received by the Department of Insurance, Securities, and Banking. The hearing and its disposition shall be governed by the rules for contested cases set forth in chapter 1 of title 26 (Insurance) of the District of Columbia Municipal Regulations (26 DCMR chapter 1). Any premium tax payments that become due during the time that the Mayor's finding is being contested shall be paid at the 1% premium tax rate. If the corporation loses or withdraws the case, it shall reimburse the District the difference between the payments made at the 1% premium tax rate and the payment that it would have made at the rate established in § 47-2608.

"(k) Upon the date of discontinuance of its open enrollment program as defined in this section, the 1% premium tax rate shall no longer apply to the corporation and the corporation's net subscriber premium receipts from District of Columbia risks shall be taxed at the rate established in § 47-2608."

D.C. Law 17-369, in subsec. (j)(2), substituted "shall order annually an independent" for "may order an independent"; rewrote subsec. (k); and added subsecs. (m), (n), and (o). Prior to amendment, subsec. (k) read as follows:

"(k)(1) A corporation shall maintain its open enrollment program for subscribers who are enrolled in the program as of March 2, 2007, and shall, subject to paragraph (3) of this subsection, continue to offer the program to each such subscriber for as long as the subscriber renews his or her coverage under the program.

"(2) The corporation shall not be required to offer or maintain an open enrollment program for persons who are not subscribers enrolled in the program as of March 2, 2007. The corporation shall not use any money in the RS Fund to subsidize the open enrollment rate of any person who was not a subscriber to the open enrollment program as of March 2, 2007.

"(3) The obligation of the corporation to maintain an open enrollment program under paragraph (1) of this subsection may terminate on December 31, 2010. If the corporation thereafter elects to terminate the open enrollment program, the corporation shall submit a plan for termination to the Commissioner for approval, and immediately upon receipt of the Commissioner's written approval, the corporation shall promptly pay to the District of Columbia Treasurer, as a payment otherwise due under § 31-3514.01, all amounts remaining in the RS Fund, and such amounts shall be credited to the Healthy DC Fund. Upon termination of the open enrollment program, the Mayor shall ensure that subscribers who are enrolled in the program at the time of its termination are provided with an opportunity to enroll in a comparable individual line of health coverage at no additional cost to the subscriber."

D.C. Law 18-104 added subsecs. (p), (q) and (r).

D.C. Law 18-223, in subsec. (j)(2), substituted "Healthy DC and Health Care Expansion Fund" for "Healthy DC Fund".

D.C. Law 19-171, in subsecs. (q)(1) and (3), validated previously made technical corrections.

Temporary Amendments of Section

Section 2(e) of D.C. Law 18-134 added subsecs. (p), (q),and (r) to read as follows:

"(p) In lieu of the requirements of subsection (m) through (o) of this section, the corporation may enter into a public-private partnership.

"(q) The corporation shall submit an annual report to the Mayor regarding the open enrollment program. The Mayor shall determine the format and content of the report; provided, that the report shall include:

"(1) Membership distribution by:

"(A) Age

"(B) Gender;

"(C) Ward;

"(D) Zip code;

"(E) Race/ethnicity;

"(F) Income; and

"(F) The amount of time in the program;

"(2) The number of members by contract type;

"(3) Program expenditures for:

"(A) Inpatient services;

"(B) Outpatient services;

"(C) Behavioral health services; and

"(D) Prescription drugs;

"(4) Average premium;

"(5) Premium levels by age; and

"(6) The number of members that have reached the:

"(A) Out-of-pocket maximum expenditure; and

"(B) Annual prescription drug benefit maximum.

"(r) The public-private partnership shall be certified by January 31, 2010.".

Section 6(b) of D.C. Law 18-134 provides that the act shall expire after 225 days of its having taken effect.

Section 3(b) of D.C. Law 18-205, in subsec. (j)(2), substituted "Healthy DC and Health Care Expansion Fund" for "Healthy DC Fund".

Section 7(b) of D.C. Law 18-205 provides that the act shall expire after 225 days of its having taken effect.

Section 201(b) of D.C. Law 18-271, in subsec. (d), substituted "District of Columbia who is ineligible for the DC High Risk Pool Program," for "District of Columbia,".

Section 301(b) of D.C. Law 18-271 provides that the act shall expire after 225 days of its having taken effect.

Temporary Addition of Section

Section 3 of D.C. Law 18-85 added a section to read as follows:

"Sec 2a. Applicability.

"Section 2(f) shall not apply until 90 days after the Commissioner completes his surplus review as required by section 2(e) and transmits a copy of the determination to the Council. This section shall apply as of March 25, 2009."

Section 5(b) of D.C. Law 18-85 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 4(u)(3) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

For temporary (90 day) amendment of section, see § 5012(b) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) enactments, see § 5012(c) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 5012(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) enactments, see § 5012(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 5012(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) applicability provision, see § 2 of Medical Insurance Empowerment Emergency Amendment Act of 2009 (D.C. Act 18-51, April 29, 2009, 56 DCR 3586).

For temporary (90 day) addition, see § 3 of Medical Insurance Empowerment Surplus Review Emergency Act of 2009 (D.C. Act 18-153, July 28, 2009, 56 DCR 6342).

For temporary (90 day) addition, see § 3 of Medical Insurance Empowerment Surplus Review Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-210, October 21, 2009, 56 DCR 8487).

For temporary (90 day) amendment of section, see § 2(e) of Hospital and Medical Services Corporation Regulatory Emergency Amendment Act of 2009 (D.C. Act 18- 277, January 11, 2010, 57 DCR 935).

For temporary (90 day) amendment of section, see § 3(b) of Medicaid Resource Maximization Emergency Amendment Act of 2010 (D.C. Act 18-390, May 7, 2010, 57 DCR 4339).

For temporary (90 day) amendment of section, see § 201(b) of DC High Risk Pool Program Establishment Emergency Act of 2010 (D.C. Act 18-522, August 3, 2010, 57 DCR 8001).

For temporary (90 day) amendment of section, see § 5023(b) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

For Law 15-166, see notes following § 31-1004.

For Law 16-192, see notes following § 31-205.

For Law 17-369, see notes following § 31-3501.

For Law 18-104, see notes following § 31-205.

For Law 18-223, see notes following § 31-101.

For history of Law 19-171, see notes under § 31-305.

§ 31-3514.01. TAX AND RELATED PAYMENTS.

A corporation shall be subject to § 47-2608.

(Apr. 9, 1997, D.C. Law 11-245, § 15a, as added Mar. 2, 2007, D.C. Law 16-192, § 5012(c), 53 DCR 6899.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 16-192, see notes following § 31-205.

§ 31-3514.02. ESTABLISHMENT OF HEALTHY DC AND HEALTH CARE EXPANSION FUND.

(a) There is established as a nonlapsing fund the Healthy DC and Health Care Expansion Fund ("Fund"). All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available to support the Healthy DC Program, established by Chapter 6A of Title 4, and other medical assistance programs administered by the Department of Health Care Finance, without regard to fiscal year limitation, subject to authorization by Congress.

(b) There shall be deposited into the Fund:

(1) All tax revenue generated pursuant to § 31-3514.01;

(2) Any other local funds, including any fees, penalties, or other tax revenues required by District law, including the premium tax imposed on health maintenance organizations, as required by § 31-3403.01.

(3) Annual appropriations, if any;

(4) Federal grant funds;

(5) All fines and penalties collected pursuant to Chapter 6A of Title 4; and

(6) Grants, gifts, or subsidies from public or private sources.

(c) Notwithstanding subsection (a) of this section, for fiscal year 2010, up to $3.25 million from the Fund shall be utilized to support the following one-time allocations:

(1) An amount of $2.5 million shall support a grant to an acute care pediatric hospital in the District for the purpose of supporting operational expenses associated with the new pediatric emergency facility located at the United Medical Center; and

(2) Up to $750,000 to support operational expenses associated with the delivery of health care services at the D.C. Jail.

(Apr. 9, 1997, D.C. Law 11-245, § 15b, as added Mar. 2, 2007, D.C. Law 16-192, § 5012(c), 53 DCR 6899; Aug. 16, 2008, D.C. Law 17-219, § 5050, 55 DCR 7598; Mar. 25, 2009, D.C. Law 17-353, § 138, 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 5131, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 5023(c), 57 DCR 6242; Sept. 26, 2012, D.C. Law 19-171, § 88(c), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-219 rewrote the section, which had read as follows:

"(a) There is established among the funds of the District a segregated nonlapsing enterprise fund designated as the Healthy DC Fund, the funds of which shall not revert to the General Fund of the District of Columbia at the end of any fiscal year, or at any other time, but shall be continually available without fiscal limitation for the purposes described in this section, subject to authorization by Congress. All tax revenue derived from hospital and medical services corporations pursuant to § 47-2608, except for taxes upon real estate and fees and charges provided for by the insurance laws of the District shall be deposited into the fund.

"(b) On or before January 1, 2007, the Mayor shall establish the Healthy DC Program ('Program') to finance health care and medical services for qualifying individuals in the District of Columbia. The program shall be part of the Medicaid Managed Care Program established under § 1-307.02(1).

"(c)(1) For the purposes of this section, the term 'qualifying individual' means a person:

"(A) Who resides in a household having a net household income no greater than $35,000 or a net household income between 200% and 300% of the federal poverty guidelines;

"(B) Who does not have and has not had health insurance with benefits on an expense reimbursed or prepaid basis during the 12-month period prior to the individual's application for health care service coverage under the program;

"(C) Whose employer has not provided or contributed an amount that exceeds 5% of the individual's gross household income toward the cost of group health insurance with benefits on an expense reimbursed or prepaid basis in effect during the 12-month period prior to the individual's application for health care service coverage insurance under the program;

"(D) Who is ineligible for Medicare, Medicaid, or the District of Columbia Health Care Alliance; and

"(E) Who is a resident of the District of Columbia.

"(2) A qualifying individual whose household income increases beyond the limitation prescribed in paragraph (1) of this subsection shall be eligible to continue participating in the program for a period of up to 2 years.

"(3) The requirements set forth in paragraph (1)(B) and (C) of this subsection shall not be applicable if an individual had health insurance coverage during the previous 12 months and the coverage was terminated due to:

"(A) Loss of employment due to factors other than voluntary separation;

"(B) Death of a family member resulting in termination of coverage under a health insurance contract under which the individual was covered;

"(C) Change to a new employer who does not provide group health insurance with benefits on an expense reimbursed or prepaid basis or does not contribute an amount that exceeds 5% of the individual's gross household income toward the cost of group health insurance with benefits on an expense reimbursed or prepaid basis;

"(D) Discontinuation of a group health insurance contract with benefits on an expense reimbursed or prepaid basis covering the qualifying individual as an employee or dependent;

"(E) Expiration of the coverage periods established by the Continuation Coverage Under Group Health Plans provisions in part 6 of the Employment Security Act of 1975, approved April 7, 1986 (100 Stat. 227; 29 U.S.C. § 1161 *et seq.*);

"(F) Legal separation, divorce, or annulment resulting in termination of coverage under a health insurance contract under which the individual was covered;

"(G) Loss of eligibility under a group health plan; or

"(H) Loss of coverage under Medicaid or the District of Columbia Health Care Alliance as a result of income exceeding eligibility requirements.

"(4) The Mayor may adjust the time period set forth in paragraph (1) of this subsection from 12 months to 18 months if the Mayor determines that an adjustment is necessary to prevent inappropriate substitution of the program for other public or private health insurance coverage.

"(d) The program shall provide only in-plan benefits, except for emergency care if these services are not available through a plan provider. Covered services are the following:

"(1) Inpatient hospital services consisting of daily room and board, general nursing care, special diets, and miscellaneous hospital services and supplies;

"(2) Outpatient hospital services consisting of diagnostic and treatment services;

"(3) Physician services consisting of diagnostic and treatment services, consultant and referral services, surgical services (including breast reconstruction surgery after a mastectomy), anesthesia services, a second surgical opinion, and a second opinion for cancer treatment;

"(4) Outpatient surgical facility charges related to a covered surgical procedure;

"(5) Pre-admission testing;

"(6) Maternity care;

"(7) Adult preventive health services consisting of mammography screening, cervical cytology screening, periodic physical examinations no more than once every 3 years, and adult immunizations;

"(8) Equipment, supplies, and self-management education for the treatment of diabetes;

"(9) Diagnostic X-ray and laboratory services;

"(10) Emergency services;

"(11) Therapeutic services consisting of radiologic services, chemotherapy, or hemodialysis;

"(12) Blood and blood products furnished in connection with surgery or inpatient hospital services;

"(13) Mental health services; and

"(14) Prescription drugs obtained at a participating pharmacy or a health maintenance organization, which may utilize a mail order prescription drug program and may provide prescription drugs pursuant to a drug formulary; provided, that the health maintenance organization implements an appeals process so that the use of non-formulary prescription drugs may be requested by a physician.

"(e)(1) The benefits described in subsection (d) of this section shall be subject to the following co-payments, deductible, and maximums:

"(A) A $500 co-payment for each continuous hospital confinement for inpatient hospital services;

"(B) A $200 co-payment per occurrence or the lesser of 20% of the total cost for surgical services;

"(C) A $75 co-payment per occurrence for outpatient surgical facility charges;

"(D) A $50 co-payment for emergency services, which shall be waived if hospital admission results from the emergency room visit;

"(E) A $10 co-payment for prenatal care services;

"(F) A $10 co-payment for each 34-day supply of a generic prescription drug; provided, that the co-payment shall not exceed the cost of the prescribed drug;

"(G) A $20 co-payment for each 34-day supply of a brand name prescription drug plus the difference in cost between the brand name drug and the equivalent generic drug; provided, that the co-payment shall not exceed the cost of the prescribed drug;

"(H) A $20 co-payment for each 90-day supply of a generic prescription drug; provided, that the co-payment shall not exceed the cost of the prescribed drug;

"(I) A $40 co-payment for each 90-day supply of a brand name prescription drug, plus the difference in cost between the brand name drug and the equivalent generic drug; provided, that the co-payment shall not exceed the cost of the prescribed drug;

"(J) A $20 co-payment for all other services;

"(K) For prescription drug coverage provided by the program, a $100 deductible per individual per calendar year; and

"(L) A maximum of $500 per qualifying individual in a calendar year for prescription drugs, and a maximum of $500 per qualifying individual in a calendar year for mental health services.

"(2) The Mayor may, by regulation, modify the copayment and deductible amounts or the maximum coverage amount set forth in this section if the Mayor determines a modification is necessary to implement this chapter.

"(f) Applications for the program shall be accepted at all times throughout the year.

"(g) Eligibility for the program may be subject to a pre-existing condition limitation.

"(h) Nothing in this chapter shall be construed to create an entitlement to health care and medical services during any fiscal year if no funds are available to the District government under a District or federal appropriation that has been enacted for the specific purpose of the program."

D.C. Law 17-353 validated a previously made technical correction.

D.C. Law 18-111 added subsec. (c).

D.C. Law 18-223, in the section heading, substituted "Healthy DC and Health Care Expansion Fund" for "Healthy DC Fund"; in subsec. (a), substituted "Healthy DC and Health Care Expansion Fund ('Fund')" for "Healthy DC Fund ('Fund')" and inserted ", and other medical assistance programs administered by the Department of Health Care Finance,"; and rewrote subsec. (b)(2), which had read as follows:

"(2) Any other local funds, including any fees, penalties, or other tax revenue required by District law, including a portion of the premium tax imposed on health maintenance organizations, as required by Chapter 34 of this title;"

D.C. Law 19-171, in subsec. (c), validated a previously made technical correction.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 202 of (D.C. Law 17-326, March 21, 2009, law notification 56 DCR 3037).

Section 2 of D.C. Law 18-154, in subsec. (a), substituted ", and any other purpose as set forth in this section, without regard" for "without regard"; and added subsec. (c) to read as follows:

"(c)(1) Notwithstanding subsection (a) of this section, the Mayor is authorized to utilize, in fiscal year 2010, up to $5.9 million from the Fund to support the delivery of acute care services for uninsured or under-insured individuals at United Medical Center; provided, that:

"(A) An amount of $3 million be distributed by March 2, 2010; and

"(B) Up to $2.9 million be distributed, in equal monthly installments, beginning by March 15, 2010, and continuing through to September 30, 2010.

"(2) United Medical Center shall submit a quarterly report to the Mayor providing an accounting of any funds received pursuant to this subsection, including a detailed account of the acute care services that were provided.

"(3)(A) The Mayor shall seek to recoup any funds from United Medical Center that the Mayor determines were expended contrary to the authority granted by this subsection.

"(B) The Mayor may conduct an audit of the uncompensated acute care expenditures, if necessary, to verify that the funds were expended in accordance with this subsection.

"(4) The Department of Health Care Finance shall have grant-making authority for purposes of effectuating this subsection.".

Section 8(b) of D.C. Law 18-154 provides that the act shall expire after 225 days of its having taken effect.

Section 3(c) of D.C. Law 18-205, in the section heading, substituted "Healthy DC and Health Care Expansion Fund" for "Healthy DC Fund"; in subsec. (a), substituted "Healthy DC and Health Care Expansion Fund ('Fund')" for "Healthy DC Fund ('Fund')" and substituted " Title 4, and other medical assistance programs administered by the Department of Health Care Finance, without" for "Title 4 without"; and rewrote subsec. (b)(2) to read as follows:

"(2) Any other local funds, including any fees, penalties, or other tax revenues required by District law, including the premium tax imposed on health maintenance organizations, as required by section 4a of the Health Maintenance Organization Act of 1996, effective August 16, 2008 (D.C. Law 17-219; D.C. Official Code § 31-3403.01).".

Section 7(b) of D.C. Law 18-205 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) enactment, see § 5012(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 202 of Fiscal Year 2009 Balanced Budget Support Emergency Amendment Act of 2008 (D.C. Act 17-572, December 2, 2008, 55 DCR 12452).

For temporary (90 day) amendment of section, see § 202 of Fiscal Year 2009 Balanced Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-13, February 23, 2009, 56 DCR

1920).

For temporary (90 day) amendment of section, see § 5131 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 5131 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 2 of Healthy DC Equal Access Fund and Hospital Stabilization Emergency Amendment Act of 2009 (D.C. Act 18- 310, February 18, 2010, 57 DCR 1635).

For temporary (90 day) amendment of section, see § 3(c) of Medicaid Resource Maximization Emergency Amendment Act of 2010 (D.C. Act 18-390, May 7, 2010, 57 DCR 4339).

For temporary (90 day) amendment of section, see § 5023(c) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative History of Laws

For Law 16-192, see notes following § 31-205.

For Law 17-219, see notes following § 31-3403.01.

For Law 17-353, see notes following § 31-1131.06.

Law 18-111, the "Fiscal Year 2010 Budget Support Act of 2009", was introduced in Council and assigned Bill No. 18-203, which was referred to the Committee on the Whole. The bill was adopted on first and second readings on May 12, 2009, and September 22, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-255 and transmitted to both Houses of Congress for its review. D.C. Law 18-111 became effective on March 3, 2010.

For Law 18-223, see notes following § 31-101.

For history of Law 19-171, see notes under § 31-305.

Miscellaneous Notes

Short title: Section 5049 of D.C. Law 17-219 provided that subtitle S of title V of the act may be cited as the "Hospital and Medical Services Corporation Regulatory Act Amendment Act of 2008".

Short title: Section 5130 of D.C. Law 18-111 provided that subtitle N of title V of the act may be cited as the "Hospital and Medical Services Corporation Regulatory Amendment Act of 2009".

§ 31-3515. CONVERSION TO A FOR-PROFIT ENTITY.

A corporation issued a certificate of authority under this chapter shall not be converted into a stock corporation, partnership, limited liability company, or other business entity organized for profit.

(Apr. 9, 1997, D.C. Law 11-245, § 16, 44 DCR 1158; Apr. 11, 2003, D.C. Law 14-297, § 401(c), 50 DCR 330; Dec. 9, 2003, D.C. Law 15-56, § 3(a), 50 DCR 9188; Mar. 25, 2009, D.C. Law 17-369, § 2(g), 56 DCR 1346.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4715.

Effect of Amendments

D.C. Law 14-297 rewrote subsec. (b)(2) which had read as follows:

"(2) Fails to comply with §§ 31-4405, 31-4410 through 31-4415, 31-4421, 31- 4424, 31-4428, 31-4431, and 31-4441;"

D.C. Law 15-56, in subsec. (b), substituted "company not involving a nonprofit hospital service plan or medical service plan unless" for "company unless", and added subsec. (b-1).

D.C. Law 17-369 rewrote the section, which had read as follows:

"(a) A corporation issued a certificate of authority under this chapter, whether incorporated under the laws of the District of Columbia or act of the Congress of the United States, may convert to a for-profit stock insurance company subject to provisions of this chapter, under a plan and procedure approved by the Mayor. Upon consummation of the plan, the resulting stock insurance company shall fully comply with the requirements of Subdivision A of Subtitle VI of this title as set forth in subsection (b)(2) of this section. For the purpose of such conversion, the owners of the corporation shall be contractholders and surplus note holders, if there are any surplus notes.

"(b) The Mayor shall approve any proposed plan or procedure for conversion to a for-profit insurance company not involving a nonprofit hospital service plan or medical service plan unless the Mayor finds that the plan or

procedure:

"(1) Is inequitable to contractholders of the converting corporation or to the public;

"(2) Fails to comply with §§ 31-4405, 31-4410 through 31-4415, 31-4421, 31- 4424, 31-4428, and 31-4431, and Chapter 13A of this title.

"(3) Provides that any part of the assets or surplus of the corporation will inure directly or indirectly to any officer, director, or trustee of the corporation; or

"(4) Does not ensure that the resulting stock insurance company will possess capital and surplus in an amount sufficient to:

"(A) Comply with the capital and stock surplus requirements for a stock life insurance company under § 31-4409; and

"(B) Provide for the security of the resulting stock insurance company's contractholders.

"(b-1) In a conversion of a nonprofit hospital service plan or medical service plan to a for-profit insurance company under this section, the acquiring company shall have the burden of establishing that the proposed conversion does not result in the existence of any of the conditions set forth in section (b)(1) through (4) of this subsection.

"(c) Any corporation that becomes a for-profit insurance company under this section shall not be deemed to have abandoned its corporate status by virtue of the conversion, unless the conversion plan expressly provides to the contrary.

"(d) The certificate of authority, agent appointments, contract forms, and other filings which are in existence at the time of the conversion shall continue in full force and effect upon conversion if the resulting corporation at all times remains qualified to issue subscriber contracts in the District of Columbia.

"(e) All outstanding subscriber contracts of the converting corporation shall remain in full force and effect and need not otherwise be endorsed unless ordered by the Mayor.

"(f) A corporation issued a certificate of authority under this chapter that offers an open enrollment program under § 31-3514 may, directly or through a subsidiary, continue to offer such program notwithstanding its conversion to a stock company. However, the premium tax rate imposed on the company shall be in accordance with § 47-2608.

"(g) The Mayor may conduct a hearing concerning the proposed conversion of a corporation into a for-profit stock insurance company before deciding whether to approve it.

"(h) This section shall not apply to the conversion of a corporation to a stock insurance company that results from a judicial order issued pursuant to a rehabilitation or reorganization of the corporation."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 3(a) of Department of Insurance and Securities Regulation Merger Review Temporary Amendment Act of 2002 (D.C. Law 14-217, March 25, 2003, law notification 50 DCR 2730).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3(a) of Department of Insurance and Securities Regulation Merger Review Emergency Amendment Act of 2002 (D.C. Act 14-457, July 23, 2002, 48 DCR 8132).

For temporary (90 day) amendment of section, see § 3(a) of Department of Insurance and Securities Regulation Merger Review Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-513, October 23, 2002, 49 DCR 10475).

For temporary (90 day) amendment of section, see § 3(a) of Department of Insurance and Securities Regulation Merger Review Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-8, January 27, 2003, 50 DCR 1473).

For temporary (90 day) amendment of section, see § 3(a) of Department of Insurance and Securities Regulation Merger Review Emergency Amendment Act of 2003 (D.C. Act 15-205, October 24, 2003, 50 DCR 9845).

For temporary (90 day) amendment of section, see § 3(a) of Department of Insurance and Securities Regulation Merger Review Second Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-257, November 25, 2003, 50 DCR 11006).

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

For Law 14-297, see notes following § 31-1371.01.

Law 15-56, the "Department of Insurance and Securities Merger Review Amendment Act of 2003", was introduced in Council and assigned Bill No. 15-18, which was referred to the Committee on Consumer and

Regulatory Affairs. The Bill was adopted on first and second readings on July 8, 2003, and September 16, 2003, respectively. Signed by the Mayor on October 6, 2003, it was assigned Act No. 15-175 and transmitted to both Houses of Congress for its review. D.C. Law 15- 56 became effective on December 9, 2003.

For Law 17-369, see notes following § 31-3501.

§ 31-3516. CONVERSION TO A MUTUAL COMPANY.

A corporation issued a certificate of authority under this chapter shall not be converted into a mutual insurance company.

(Apr. 9, 1997, D.C. Law 11-245, § 17, 44 DCR 1158; Dec. 9, 2003, D.C. Law 15-56, § 3(b), 50 DCR 9188; Mar. 25, 2009, D.C. Law 17-369, § 2(h), 56 DCR 1346.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4716.

Effect of Amendments

D.C. Law 15-56, in subsec. (b), substituted "company not involving a nonprofit hospital service plan or medical service plan unless" for "company unless", and added subsec. (b-1).

D.C. Law 17-369 rewrote the section, which had read as follows:

"(a) A corporation issued a certificate of authority under this chapter, whether incorporated under the laws of the District of Columbia or act of the Congress of the United States, may convert to a mutual insurance company subject to the provisions of this chapter under a plan and procedure approved by the Mayor. Upon consummation of the plan, the resulting mutual insurance company shall fully comply with the requirements of the Life Insurance Act as set forth in subsection (b)(2) of this section. For the purpose of such conversion, the owners of the corporation shall be the contractholders and surplus note holders, if there are any surplus notes.

"(b) The Mayor shall approve any proposed plan or procedure for conversion to a mutual insurance company not involving a nonprofit hospital service plan or medical service plan unless the Mayor finds that the plan or procedure:

"(1) Is inequitable to contractholders of the converting corporation or to the public;

"(2) Fails to comply with §§ 31-4416, 31-4417, 31-4433, 31-4434, and 31-4449;

"(3) Provides that any part of the assets or surplus of the converting corporation will inure directly or indirectly to any officer, director, or trustee of the converting corporation; or

"(4) Does not ensure that the resulting mutual insurance company will possess a surplus in an amount sufficient to:

"(A) Comply with the surplus required under § 31-2502.13; and

"(B) Provide for the security of the resulting insurance company's contractholders.

"(b-1) In a conversion of a nonprofit hospital service plan or medical service plan to a mutual insurance company under this section, the acquiring company shall have the burden of establishing that the proposed conversion does not result in the existence of any of the conditions set forth in section (b)(1) through (4) of this subsection.

"(c) The conversion plan must provide for the resulting mutual insurance company to assume, without reincorporation, all assets and liabilities of the converting corporation.

"(d) Any corporation that becomes a mutual insurance company under this section shall not be deemed to have abandoned its corporate status by virtue of the conversion, unless the conversion plan expressly provides to the contrary.

"(e) The conversion plan must provide for definite conditions to be fulfilled upon which fulfillment of the mutualization will be deemed effective.

"(f) The certificate of authority, agent appointments, contract forms, and other filings which are in existence at the time of the conversion shall continue in full force and effect upon conversion if the resulting mutual insurance company at all times remains qualified to issue subscriber contracts in the District of Columbia.

"(g) All outstanding subscriber contracts of the converting corporation shall remain in full force and effect and need not otherwise be endorsed unless ordered by the Mayor.

"(h) A corporation issued a certificate of authority under this chapter that offers an open enrollment program under § 31-3514 may, directly or through a subsidiary, continue to offer such program notwithstanding its conversion to a mutual company. However, the premium tax rate imposed on the company shall be in accordance with § 47-2608.

"(i) The Mayor may conduct a hearing concerning the proposed conversion of a corporation into a mutual insurance company before deciding whether to approve it.

"(j) Notwithstanding subsection (e) of this section, the converting corporation shall have such period of time to complete its conversion to a mutual insurance company as specified in any order of the Mayor approving the proposed conversion.

"(k) This section shall not apply to the conversion of a corporation to a mutual insurance company that results from a judicial order issued pursuant to a rehabilitation or reorganization of the corporation."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 3(b) of Department of Insurance and Securities Regulation Merger Review Temporary Amendment Act of 2002 (D.C. Law 14-217, March 25, 2003, law notification 50 DCR 2730).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3(b) of Department of Insurance and Securities Regulation Merger Review Emergency Amendment Act of 2002 (D.C. Act 14-457, July 23, 2002, 48 DCR 8132).

For temporary (90 day) amendment of section, see § 3(b) of Department of Insurance and Securities Regulation Merger Review Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-513, October 23, 2002, 49 DCR 10475).

For temporary (90 day) amendment of section, see § 3(b) of Department of Insurance and Securities Regulation Merger Review Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-8, January 27, 2003, 50 DCR 1473).

For temporary (90 day) amendment of section, see § 3(b) of Department of Insurance and Securities Regulation Merger Review Emergency Amendment Act of 2003 (D.C. Act 15-205, October 24, 2003, 50 DCR 9845).

For temporary (90 day) amendment of section, see § 3(b) of Department of Insurance and Securities Regulation Merger Review Second Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-257, November 25, 2003, 50 DCR 11006).

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

For Law 15-56, see notes following § 31-3515.

For Law 17-369, see notes following § 31-3501.

§ 31-3517. MANAGEMENT CONTRACTS AND SERVICE AGREEMENTS.

(a) Any management contract or service agreement which delegates to any person or organization all or part of a substantial management duty, function, or other form of control of a corporation, such as adjustment of claims, production of business, investment of assets, or general servicing of the corporation's business, must be filed with the Mayor at least 30 days before the effective date of the contract or agreement.

(b) This requirement in subsection (a) of this section shall not apply to personal services contracts of executives of a corporation. Nor shall that requirement apply to contracts by groups of affiliated companies for shared services, such as maintenance, security, purchasing, and the like, where costs to the individual member companies are charged on an actually incurred or pro rata basis, except that these contracts shall be in writing.

(c) The Mayor shall disapprove any management contract or service agreement filed pursuant to subsection (a) of this section if, at any time, the Mayor finds one or more of the following:

(1) That the service or management charges are based upon criteria unrelated either to the managed corporation's profits or the reasonable, customary, and usual charges for such services, or are based on factors unrelated to the value of such services to the corporation;

(2) That management personnel or other employees of the corporation are to perform functions and receive any remuneration therefor under the management contract or service agreement in addition to the compensation received by way of salary for their services directly from the corporation;

(3) That the management contract or service agreement would transfer:

(A) Substantial control of the corporation or the basic functions of the corporation's management; or

(B) Any of the powers vested in the board of directors or trustees by statute, the corporation's articles of incorporation, or its bylaws;

(4) That the management contract or service agreement contains provisions which would be clearly detrimental to the best interests of contractholders or subscribers of the corporation; or

(5) That the officers, directors, or trustees of the contractor under the management contract or service agreement are of bad character or have been affiliated, directly or indirectly, through ownership, control, management, reinsurance transactions, or other insurance or business relations with any person or persons who have been involved in the improper manipulation of assets, accounts, or reinsurance.

(d) If the Mayor disapproves any management contract or service agreement filed pursuant to subsection (a) of this section, written notice of the reason for such action shall be given to the corporation, which may contest the Mayor's action in accordance with the procedures in § 31-3522.

(e) Any amendments to a management contract or service agreement shall be filed with the Mayor at least 30 days before they become effective. Any change in the officers, directors, or trustees of the contractor under a management contract or service agreement shall be reported to the Mayor within 10 days after such change occurs. Upon review of such amendments and changes, the Mayor may disapprove the management contract or service agreement in accordance with the provisions of subsections (c) and (d) of this section.

(f) Any management contract or service agreement filed pursuant to subsection (a) of this section, and any amendment thereto, shall be deemed approved unless disapproved by the Mayor within 30 days after it is filed with the Mayor.

(Apr. 9, 1997, D.C. Law 11-245, § 18, 44 DCR 1158.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4717.

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

§ 31-3518. DIRECTORS AND TRUSTEES.

Notwithstanding § 31-706(c)(3), or any other provision of District of Columbia insurance law referenced in § 31-3503, the following provisions shall apply to a domestic corporation issued a certificate of authority under this chapter:

(1) The board of directors or trustees shall consist of not less than 5 nor more than 21 members, who shall be elected by a majority of the members of the board. The term of a director or trustee shall be not less than 1 year nor more than 3 years, and shall be specified in the corporation's bylaws.

(2) The directors or trustees of a domestic corporation shall at all times include subscriber representatives.

(3) A majority of the board of directors or trustees shall at all times consist of members other than employees and officers of the corporation, or of any affiliate or subsidiary of the corporation.

(4) Not less than one-third of the members of the board of directors or trustees shall be residents of the District of Columbia.

(5) The articles of incorporation or bylaws of a domestic corporation shall state the number of directors or trustees necessary to constitute a quorum for conducting business at its meetings and the number of directors' or trustees' votes necessary to effect action on any matter presented for a vote of the board of directors or trustees. In regard to any matter involving conversion to a mutual or stock insurance company, or merger, consolidation, or other form of reorganization of the corporation, the affirmative vote of at least 80% of all directors or trustees shall be required to effect action by the board.

(Apr. 9, 1997, D.C. Law 11-245, § 19, 44 DCR 1158.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4718.

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

§ 31-3519. REPORTS TO DIRECTORS AND TRUSTEES.

The officers or other management of a corporation issued a certificate of authority under this chapter shall report to its board of directors or trustees, no less often than quarterly, regarding any and all transactions or events that have, or are likely to have, a material impact on the operations or financial condition of the corporation.

(Apr. 9, 1997, D.C. Law 11-245, § 20, 44 DCR 1158.)

HISTORICAL AND STATUTORY NOTES

§ 31-3520. OVERSIGHT ROLE AND FIDUCIARY OBLIGATION OF DIRECTORS, OFFICERS, AND EMPLOYEES.

(a) The Mayor shall promulgate regulations establishing the oversight role and fiduciary obligation of each member of the board of directors or trustees of a corporation issued a certificate of authority under this chapter. Such regulations shall require the corporation to adopt a code of conduct and compliance program for all board members, officers and employees of the corporation.

(b) A corporation issued a certificate of authority under this chapter shall file with the Mayor annually, on or before June 1, a copy of its bylaws which shall require the corporation's board of directors or trustees to adopt policies consistent with the provisions of the code of conduct and compliance program regulations promulgated by the Mayor. Any amendments to the bylaws shall be filed with the Mayor by the corporation within 30 days of adoption by the board.

(Apr. 9, 1997, D.C. Law 11-245, § 21, 44 DCR 1158.)

§ 31-3521. SANCTIONS FOR VIOLATIONS.

(a) If the directors or trustees of a corporation issued a certificate of authority under this chapter knowingly violate, or knowingly permit any of the officers, employees, or agents of the corporation to violate, any provision of this chapter, any other provision of law made applicable to the corporation by this chapter, or any regulation promulgated under this chapter or such other provisions of law, the certificate of authority granted to the corporation may be suspended or revoked upon a determination of such violation by the Mayor.

(b) Forfeiture of monetary gain; civil money penalties.

(1) The Mayor may require a corporation issued a certificate of authority under this chapter, and any director, trustee, officer, employee, or agent of such a corporation, that the Mayor finds has willfully violated any provision of this chapter, any other provision of law made applicable to the corporation by this chapter, or any regulations promulgated under this chapter or such other provision of law to forfeit any monetary gain derived thereby to the Treasurer of the District of Columbia or to any person who has suffered financial injury or damage as a result of the violation. Upon a determination of such violation by the Mayor, the Mayor also may impose a civil penalty against a corporation in an amount not to exceed $25,000 for each violation, and as to an individual an amount not to exceed $5,000 for each type of violation, not to exceed $25,000 in total for each type of violation.

(2) For the purposes of this section, the terms "violate" and "violation" denote any action, alone or with another or others, that involves causation, participation in, counseling, aiding, or abetting.

(3) A person or organization against whom a forfeiture or penalty has been imposed under this section may, within 30 days after service of written notice thereof by hand delivery or mail, make a written request for a hearing on such action by delivering the request to the Department of Insurance, Securities, and Banking. The hearing shall commence in not fewer than 10 days nor more than 30 days from the date on which the request for a hearing is received by the Department of Insurance, Securities, and Banking. The hearing and its disposition shall be governed by the rules for contested cases set forth in Title 26 (Insurance) of the District of Columbia Municipal Regulations (26 DCMR).

(4) The resignation, separation, or termination of a director, trustee, officer, employee, or agent (including a separation caused by the liquidation of a corporation issued a certificate of authority under this chapter) shall not affect the jurisdiction and authority of the Mayor to issue any notice and proceed under this subsection against any such individual, if the notice is served before the end of the 3-year period beginning on the date on which the individual ceased to be a director, trustee, officer, employee, or agent.

(c) Whenever the Mayor determines that a corporation issued a certificate of authority under this chapter, or that a director, trustee, officer, employee, or agent of such a corporation has committed or is about to commit a violation of this chapter or of any rule, regulation, or order issued hereunder, the Mayor may issue an order directing such corporation or individual to cease and desist from violating or continuing to violate this chapter or any such rule, regulation, or order, subject to the notice, hearing, and other procedural requirements in subsection (b) of this section.

(d) The foregoing penalties and remedies shall be in addition to, and not in lieu of, any other penalty which may be imposed pursuant to any other provision of law which this chapter makes applicable to a corporation and its officers, directors, employees, and agents. This section shall not be construed to prevent any person financially damaged by a director, trustee, officer, employee, or agent of a corporation from bringing a separate cause of action in a court of competent jurisdiction.

(e) Whenever the Mayor determines that a corporation issued a certificate of authority under this chapter, or that a director, trustee, officer, employee, or agent of such a corporation, has willfully violated this chapter, the Mayor shall report such violation to the Corporation Counsel of the District of Columbia. Willful violations of this chapter shall be deemed misdemeanors, except where other provisions of this chapter or other provisions of law made applicable by this chapter provide for greater criminal liability. Prosecutions authorized by this section shall be upon information filed in the Superior Court of the District of Columbia by the Corporation Counsel or any of his or her assistants. Any corporation convicted of a willful violation of this chapter shall be fined in an amount not to exceed $50,000 for each violation. In addition to any fines or punishments imposed for violations of any other laws, any individual convicted of a willful violation of this chapter shall be fined in an amount not to exceed $5,000 for each violation; or, if such violation involves the deliberate perpetration of a fraud upon the corporation, its subscribers, or the Mayor, imprisoned for not more than 1 year, or both.

(Apr. 9, 1997, D.C. Law 11-245, § 22, 44 DCR 1158; June 11, 2004, D.C. Law 15-166, § 4(u)(4), 51 DCR 2817.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4721.

Effect of Amendments

D.C. Law 15-166, in par. (3) of subsec. (b), substituted "Department of Insurance, Securities, and Banking" for "Department of Insurance and Securities Regulation" both times it appears.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 4(u)(4) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

For Law 15-166, see notes following § 31-1004.

§ 31-3522. APPEALS.

If, within the time for approval, the Mayor sends notice of disapproval of the proposed form of any subscriber contract, of proposed contract rates, or of any management contract or service agreement required by this chapter to be approved by the Mayor, the affected corporation may contest the Mayor's decision. Any action to contest the Mayor's decision shall be initiated within 30 days from the date on which the notice of decision is served on the corporation by delivering a written request for a hearing to the Department of Insurance, Securities, and Banking. The hearing shall commence in not fewer than 10 days nor more than 30 days from the date on which the action to contest the Mayor's decision is received by the Department of Insurance, Securities, and Banking. The hearing and its disposition shall be governed by the procedures for contested cases in Chapter 1 of Title 26 (Insurance) of the District of Columbia Municipal Regulations (26 DCMR chapter 1).

(Apr. 9, 1997, D.C. Law 11-245, § 23, 44 DCR 1158; June 11, 2004, D.C. Law 15-166, § 4(u)(5), 51 DCR 2817.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4722.

Effect of Amendments

D.C. Law 15-166 substituted "Department of Insurance, Securities, and Banking" for "Department of Insurance and Securities Regulation" both times it appears.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 4(u)(5) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

For Law 15-166, see notes following § 31-1004.

§ 31-3523. GENERAL TRANSITION PROVISIONS.

(a) In his or her sole discretion, the Mayor may provide, upon application and for good cause shown by a corporation in existence and operating in the District of Columbia on April 9, 1997, for a reasonable period of time for such corporation to comply with any requirement of this chapter.

(b) Notwithstanding any provisions to the contrary in Chapter 7 of this title, or this chapter, a transaction ongoing as of April 9, 1997, which would otherwise be subject to the notice requirements of § 31-706(a), shall be filed with the Mayor for approval no later than 90 days after April 9, 1997, only if the transaction involves more than 3% of the amount of admitted assets or more than 20% of the amount of surplus of the corporation as of the 31st day of the previous December, whichever amount is less. Failure of the Mayor to act within 60 days after such a filing shall constitute approval of the transaction. The Mayor shall not disapprove a transaction ongoing as of April 9, 1997, if the transaction was lawful when begun. Extension or renewal of a transaction ongoing as of April 9, 1997, shall be subject to the notice and other requirements of the Holding Company Systems Act of 1993, and shall not be renewed or extended except upon terms approved by the Mayor.

(Apr. 9, 1997, D.C. Law 11-245, § 24 44 DCR 1158.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-4723.

Legislative History of Laws

For legislative history of D.C. Law 11-245, see Historical and Statutory Notes following § 31-3501.

References in Text

The "Holding Company Systems Act of 1993", referred to in (b), is D.C. Law 10- 44, which is codified primarily as § 31-701 et seq.

§ 31-3523.01. REGULATORY AUTHORITY.

Nothing in this chapter shall be construed to diminish the authority of the Council to regulate the affairs of Group Hospitalization and Medical Services, Inc.

(Apr. 9, 1997, D.C. Law 11-245, § 24a, as added Mar. 25, 2009, D.C. Law 17-369, § 2(i), 56 DCR 1346.)

§ 31-3524. RULES AND REGULATIONS.

The Mayor, in accordance with subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this chapter.

(Apr. 9, 1997, D.C. Law 11-245, § 25, 44 DCR 1158; Mar. 25, 2009, D.C. Law 17-369, § 2(j), 56 DCR 1346.)