

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 993

Rules and Operations of the Senate Committee Substitute Adopted 4/29/97

Third Edition Engrossed 4/30/97

House Committee Substitute Favorable 5/27/97

Short Title: Medical Service Corp. Charters.

(Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH PROCEDURES FOR CONVERSIONS BY HOSPITAL, MEDICAL, AND DENTAL SERVICE CORPORATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-65-130(3) reads as rewritten:

"(3) The charter of any corporation subject to the provisions of this Article and Article 66 of this Chapter may be amended to convert that corporation, so amending its charter, into either a mutual nonstock or stock accident and health insurance company or life insurance company subject to the provisions of Articles 1 through 64 of this Chapter provided the rights of the subscribers or certificate holders in the reserves and capital of such corporation are adequately protected. ~~under rules and regulations adopted by the Commissioner of Insurance.~~ A corporation converting to a mutual nonstock or stock accident and health insurance company or life insurance company shall follow the provisions of G.S. 58-65-131 and G.S. 58-65-132."

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1 Section 2. Article 65 of Chapter 58 of the General Statutes is amended by
2 adding the following new sections to read:

3 **"§ 58-65-131. Conversion; procedure.**

4 (a) It is the intent of the General Assembly by the enactment of this section and
5 G.S. 58-65-132 to create a procedure for a corporation subject to this Article to convert to
6 a mutual nonstock or stock accident and health insurance company or life insurance
7 company subject to Articles 1 through 64 of this Chapter. The General Assembly
8 recognizes the substantial and recent changes in market and health care conditions that
9 are affecting these corporations and further recognizes the need for equal regulatory
10 treatment and competitive equality for health care insurers. The General Assembly
11 further finds that a procedure for conversion is in the best interest of policyholders
12 because it will provide greater financial stability for the corporations' policyholders and a
13 greater opportunity for the corporations to remain financially independent.

14 (b) As used in this section and G.S. 58-65-132:

15 (1) 'Corporation' means a corporation subject to this Article that attempts to
16 convert from a hospital, medical, or dental service corporation to a
17 mutual nonstock or stock accident and health insurance company or life
18 insurance company and that files a plan of conversion with the
19 Commissioner under subsection (e) of this section.

20 (2) 'New corporation' means a corporation originally subject to this Article
21 that has had its plan of conversion approved by the Commissioner under
22 subsection (e) and that has actually converted to a mutual nonstock or
23 stock accident and health insurance company or life insurance company.

24 (c) A corporation may amend its charter pursuant to this Article to convert the
25 corporation to a mutual nonstock or stock health and accident insurance company or life
26 insurance company subject to Articles 1 through 64 of this Chapter. The amended
27 charter shall be filed with the Commissioner, together with a plan for conversion setting
28 forth provisions for fulfilling the conditions necessary to effect the conversion and a
29 designated date upon which the conversion shall become effective if these conditions are
30 fulfilled. Upon the designated date set forth in the plan, the corporation shall become
31 subject to the applicable laws as provided in subsection (h) of this section and shall no
32 longer be subject to this Article and Article 66 of this Chapter.

33 (d) A corporation subject to this Article shall file a plan for conversion with the
34 Commissioner at least 120 days before the proposed date of conversion. The corporation
35 shall reimburse the Department for the actual cost of reviewing, analyzing, and
36 processing the application. The Commissioner may contract with experts or consultants
37 to assist in reviewing the application. Contract costs for these personal professional
38 services shall not exceed an amount which is reasonable and necessary for the review of
39 the application. A personal professional services contract entered into under this
40 subsection is exempt from Article 3C of Chapter 143 of the General Statutes. The
41 corporation filing an application for conversion shall promptly pay, upon request, for all
42 costs of these personal professional services.

1 (e) A corporation that has amended its charter to convert the corporation to a
2 mutual nonstock or stock accident and health insurance company or life insurance
3 company shall fulfill the conditions necessary to effect the conversion if the plan of
4 conversion sets forth with specificity the following terms and conditions of the proposed
5 conversion:

- 6 (1) The purpose of the conversion.
7 (2) The articles of incorporation of the new corporation, including a
8 description of the classes of policyholders or shareholders.
9 (3) The bylaws of the new corporation.
10 (4) A description of any changes in the new corporation's mode of
11 operations after conversion.
12 (5) A statement describing the manner in which the plan provides for the
13 protection of all existing contractual rights of the corporation's
14 subscribers or certificate holders for medical, hospital, or dental service
15 or claims for reimbursement for those services.
16 (6) A statement that the new corporation assumes all assets and liabilities of
17 the previous corporation.
18 (7) Documentation showing that the corporation, its board of directors,
19 trustees or other governing authority and its subscribers or certificate
20 holders have approved the plan in accordance with the corporation's
21 articles of incorporation and bylaws.
22 (8) The business plan of the new corporation, including, but not limited to,
23 a comparative premium rate analysis of the new corporation's major
24 plans and product offerings, that, among other things, compares actual
25 premium rates for the three-year period before the filing of the
26 application for conversion and forecasted premium rates for a three-year
27 period following the proposed conversion. This rate analysis shall
28 address the forecasted effect, if any, of the proposed conversion on the
29 cost to subscribers or policyholders of the new corporation and on the
30 new corporation's underwriting profit, investment income, and loss and
31 claim reserves, including the effect, if any, of adverse market or risk
32 selection upon these reserves. Any information provided under this
33 subsection shall receive confidential treatment pursuant to G.S. 58-19-
34 40.
35 (9) The plan provides for definite conditions to be fulfilled by a designated
36 early date upon which the conversion will be deemed effective.

37 (f) The Commissioner of Insurance shall approve the plan of conversion and issue
38 a certificate of authority to the filing corporation to transact insurance in this State
39 pursuant thereto if the Commissioner finds all of the following:

- 40 (1) The plan of conversion meets the requirements of subsection (e) of this
41 section.

1 (2) Upon conversion, the new corporation will meet the applicable
2 standards and conditions under this Chapter, including applicable
3 minimum surplus requirements.

4 (3) The plan would not be contrary to law nor to the rights of the
5 subscribers or certificate holders in the reserves and capital of the
6 corporation.

7 (4) No director, officer, or employee of any hospital, medical and dental
8 service corporation will receive:

9 a. Any fee, commission, compensation or other valuable
10 consideration for aiding, promoting, or assisting in the
11 conversion of the hospital, medical and dental service
12 corporation to a domestic mutual insurer, other than
13 compensation paid to any director, officer, or employee of the
14 corporation in the ordinary course of business; or

15 b. Any distribution of the assets, surplus, or capital of the
16 corporation as part of a conversion.

17 (5) The corporation has complied with all applicable requirements of this
18 Chapter, and disciplinary action is not warranted against the
19 corporation.

20 (g) A plan of conversion that meets the requirements of subsection (e) of this
21 section and is approved by the Commissioner pursuant to subsection (f) is presumed to
22 protect adequately the rights of the subscribers or certificate holders in the reserves and
23 capital of the corporation and to be fair and equitable and not prejudicial to the
24 subscribers or certificate holders of the corporation and the subscribers or policyholders
25 of the new corporation.

26 (h) Nothing in this Chapter shall operate to limit the power of the Commissioner
27 or the Attorney General to seek a declaratory judgment regarding whether public rights
28 exist in the reserves and capital of the corporation, and if so, how those rights should be
29 preserved.

30 (i) Upon completion of the corporation's conversion as provided for in this section
31 and G.S. 58-65-132, the new corporation shall be subject to and comply with all
32 applicable laws and regulations applicable to domestic insurers.

33 **"§ 58-65-132. Rules and procedures.**

34 (a) Upon receiving an application to convert, the Commissioner shall publish a
35 notice in one or more newspapers of general circulation in the corporation's service area
36 describing the name of the corporation, the nature of the plan filed under G.S. 58-65-
37 131(d), and the date of receipt of the plan. The notice shall indicate that the
38 Commissioner will solicit public comments and hold a public hearing on the application.

39 (b) All applications, reports, plans, or other documents under this section are
40 public records unless otherwise provided in this Chapter. The Commissioner shall
41 provide the public with prompt and reasonable access to public records relating to
42 conversion of the corporation. Access to public records covered by this section shall be

1 made available at least one month before a solicitation for public comments or public
2 hearing scheduled under this section.

3 (c) Before approving a conversion, the Commissioner shall solicit public
4 comments in written form and shall hold at least one public hearing about the
5 corporation's proposal to comply with the requirements for conversion.

6 (d) The Commissioner shall approve a conversion if he finds that the corporation
7 has met all requirements contained in G.S. 58-65-130, G.S. 58-65-131, and this section."

8 Section 3. This act is effective when it becomes law.