

By Senator Lee

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1 A bill to be entitled
2 An act relating to insurer solvency; amending s.
3 624.407, F.S.; revising the amount of surplus which
4 must be possessed by insurers applying for an original
5 certificate of authority; defining the term "health
6 benefit plan"; amending s. 624.408, F.S.; revising the
7 amount of surplus which must be possessed by insurers
8 in order to retain a certificate of authority;
9 authorizing the Office of Insurance Regulation to
10 reduce certain surplus requirements under specified
11 circumstances; defining the term "health benefit
12 plan"; amending s. 624.4085, F.S.; revising the term
13 "life and health insurer" to include specified health
14 maintenance and prepaid limited health service
15 organizations; amending s. 636.043, F.S.; revising the
16 due date and required content for the mandatory annual
17 report of a prepaid limited health service
18 organization to the office; revising the time periods
19 to be covered by such organization's required
20 quarterly reports to the office; amending s. 641.19,
21 F.S.; defining the term "management services
22 organization"; amending s. 641.201, F.S.; providing
23 that a health maintenance organization is considered
24 an insurer for purposes of specified provisions of law
25 relating to insolvent insurers, requirements for the
26 directors of domestic insurers, the payment of
27 dividends and distributions of other property by
28 domestic stock insurers, penalties for domestic and
29 mutual stock insurers that illegally pay dividends,

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30 and certain restrictions on premiums written;
31 providing that health maintenance organizations are
32 considered life and health insurers for purposes of
33 specified provisions of law relating to insurer
34 surplus requirements; amending s. 641.225, F.S.;
35 conforming provisions to changes made by the act;
36 amending s. 641.26, F.S.; revising the due date and
37 required content for the mandatory annual report and
38 audited financial statement of a health maintenance
39 organization which must be submitted to the office;
40 amending s. 641.27, F.S.; revising the payment
41 requirements applicable to health maintenance
42 organizations for the examination expenses incurred by
43 the office; amending s. 641.35, F.S.; excluding
44 receivables from a management services organization
45 from being included in the assets of a health
46 maintenance organization for purposes of determining
47 the organization's financial condition; repealing s.
48 641.365, F.S., relating to the payment of dividends
49 and distributions of other property by health
50 maintenance organizations; amending ss. 817.234 and
51 817.50, F.S.; conforming cross-references; providing a
52 directive to the Division of Law Revision and
53 Information; providing effective dates.

54
55 Be It Enacted by the Legislature of the State of Florida:

56

57 Section 1. Section 624.407, Florida Statutes, is amended to
58 read:

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59 624.407 Surplus required ~~of, new~~ insurers applying for an
60 original certificate of authority.-

61 (1) To receive authority to transact any one kind or
62 combinations of kinds of insurance, as defined in part V of this
63 chapter, an insurer applying for its original certificate of
64 authority in this state must ~~shall~~ possess surplus as to
65 policyholders in at least the following amount ~~greater of:~~

66 (a) For a property and casualty insurer, \$5 million or 10
67 percent of the insurer's total liabilities, whichever is
68 greater, except for a domestic insurer that transacts
69 residential property insurance and is:

70 1. Not a wholly owned subsidiary of an insurer domiciled in
71 any other state, which must have a surplus of \$15 million.

72 2. A wholly owned subsidiary of an insurer domiciled in any
73 other state, which must have a surplus of \$50 million, ~~or \$2.5~~
74 ~~million for any other insurer;~~

75 (b) For a life insurer ~~insurers~~, \$2.5 million or 4 percent
76 of the insurer's total liabilities, whichever is greater.~~†~~

77 (c) For a life and health insurer that will issue a health
78 benefit plan or a long-term care insurance policy on or after
79 the effective date of this act, the greater of:

80 1. The sum of \$10 million plus the amount of startup
81 losses, excluding profits, projected to be incurred on the
82 insurer's startup projection until the projection reflects
83 statutory net profits for 12 consecutive months; ~~insurers,~~

84 2. Four ~~4~~ percent of the insurer's total liabilities, plus
85 6 percent of the insurer's liabilities relative to health
86 insurance, based on the insurer's startup projection; or

87 3. Two percent of the insurer's total projected premiums

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88 relative to health insurance, based on the insurer's startup
89 projection.

90 (d) For a life and health insurer that is not subject to
91 paragraph (c), the greater of:

92 1. The sum of \$2.5 million; or

93 2. Four percent of the insurer's total liabilities, plus 6
94 percent of the insurer's liabilities relative to health
95 insurance.

96 (e) For all other insurers, the greater of \$2.5 million or
97 ~~other than life insurers and life and health insurers,~~ 10
98 percent of the insurer's total liabilities.~~;~~ ~~or~~

99 ~~(e) Notwithstanding paragraph (a) or paragraph (d), for a~~
100 ~~domestic insurer that transacts residential property insurance~~
101 ~~and is:~~

102 ~~1. Not a wholly owned subsidiary of an insurer domiciled in~~
103 ~~any other state, \$15 million.~~

104 ~~2. A wholly owned subsidiary of an insurer domiciled in any~~
105 ~~other state, \$50 million.~~

106 (2) Notwithstanding subsection (1), a new insurer may not
107 be required to have surplus as to policyholders greater than
108 \$100 million.

109 (3) The requirements of this section shall be based upon
110 all the kinds of insurance actually transacted or to be
111 transacted by the insurer in any and all areas in which it
112 operates, regardless of whether ~~or not~~ only a portion of such
113 kinds of insurance are transacted in this state.

114 (4) As to surplus as to policyholders required for
115 qualification to transact one or more kinds of insurance,
116 domestic mutual insurers are governed by chapter 628, and

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117 domestic reciprocal insurers are governed by chapter 629.

118 (5) For the purposes of this section, liabilities do not
119 include liabilities required under s. 625.041(5). For purposes
120 of computing minimum surplus as to policyholders pursuant to s.
121 625.305(1), liabilities include liabilities required under s.
122 625.041(5).

123 (6) As used in this section, the term "health benefit plan"
124 has the same meaning as in s. 627.6699.

125 Section 2. Section 624.408, Florida Statutes, is amended to
126 read:

127 624.408 Surplus required for; current insurers to maintain
128 a certificate of authority.-

129 (1) To maintain a certificate of authority to transact any
130 one kind or combinations of kinds of insurance, as defined in
131 part V of this chapter, an insurer in this state must at all
132 times maintain surplus as to policyholders in at least the
133 following amount greater of:

134 (a) ~~Except as provided in paragraphs (c), (f), and (g),~~
135 ~~\$1.5 million.~~

136 ~~(b) For a life insurer insurers, \$1.5 million or 4 percent~~
137 ~~of the insurer's total liabilities, whichever is greater.~~

138 (b) For a life and health insurer that is authorized to
139 issue a health benefit plan or long-term care insurance policy
140 and that:

141 1. Did not hold a certificate of authority before the
142 effective date of this act, \$10 million.

143 2. Held a certificate of authority before the effective
144 date of this act, \$1.5 million until June 30, 2017; \$3 million
145 on or after July 1, 2017, and until June 30, 2021; \$6 million on

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146 or after July 1, 2021, and until June 30, 2025; and \$10 million
147 on or after July 1, 2025.

148
149 The office may reduce the surplus requirement imposed under this
150 paragraph if the office finds the reduction to be in the public
151 interest because the insurer is not writing new business in this
152 state, the insurer is writing business only within a limited
153 geographic service area, the insurer has premiums in force of
154 less than \$1 million annually, or the insurer has a policy count
155 of fewer than 6,000, or because of any other factor relevant to
156 making such a finding.

157 (c) For a life and health insurer that is not subject to
158 paragraph (b) insurers, the greater of:

159 1. The sum of \$1.5 million; or

160 2. Four 4 percent of the insurer's total liabilities, plus
161 6 percent of the insurer's liabilities relative to health
162 insurance.

163 ~~(d) For all insurers other than mortgage guaranty insurers,~~
164 ~~life insurers, and life and health insurers, 10 percent of the~~
165 ~~insurer's total liabilities.~~

166 ~~(e) For a property and casualty insurer insurers, \$4~~
167 ~~million, except for a property and casualty insurer insurers~~
168 ~~authorized to underwrite any line of residential property~~
169 ~~insurance.~~

170 ~~(e)(f) For a residential property insurer:~~

171 1. insurers Not holding a certificate of authority before
172 July 1, 2011, \$15 million.

173 ~~2.(g) For residential property insurers~~ Holding a
174 certificate of authority before July 1, 2011, \$5 million and

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175 until June 30, 2016, ~~\$5 million~~; \$10 million on or after July 1,
176 2016, and until June 30, 2021, ~~\$10 million~~; and \$15 million on
177 or after July 1, 2021, ~~\$15 million~~.

178

179 The office may reduce the surplus requirement under this
180 paragraph ~~in paragraphs (f) and (g)~~ if the insurer is not
181 writing new business, has premiums in force of less than \$1
182 million per year in residential property insurance, or is a
183 mutual insurance company.

184 (f) For all other insurers, the greater of \$1.5 million or
185 10 percent of the insurer's total liabilities.

186 (2) For purposes of this section, liabilities do not
187 include liabilities required under s. 625.041(5). For purposes
188 of computing minimum surplus as to policyholders pursuant to s.
189 625.305(1), liabilities include liabilities required under s.
190 625.041(5).

191 (3) This section does not require an insurer to have
192 surplus as to policyholders greater than \$100 million.

193 (4) A mortgage guaranty insurer shall maintain a minimum
194 surplus as required by s. 635.042.

195 (5) As used in this section, the term "health benefit plan"
196 has the same meaning as in s. 627.6699.

197 Section 3. Effective July 1, 2015, paragraph (g) of
198 subsection (1) of section 624.4085, Florida Statutes, is amended
199 to read:

200 624.4085 Risk-based capital requirements for insurers.—

201 (1) As used in this section, the term:

202 (g) "Life and health insurer" means an insurer authorized
203 or eligible under the Florida Insurance Code to underwrite life

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204 or health insurance. The term also includes:

205 1. A property and casualty insurer that writes accident and
206 health insurance only.

207 2. Effective January 1, 2015, ~~the term also includes~~ a
208 health maintenance organization that is authorized in this state
209 and one or more other states, jurisdictions, or countries and a
210 prepaid limited health service organization that is authorized
211 in this state and one or more other states, jurisdictions, or
212 countries.

213 3. A health maintenance organization and a prepaid limited
214 health service organization initially authorized in this state
215 on or after July 1, 2015, and not authorized in any other state,
216 jurisdiction, or country.

217
218 As used in this paragraph, the term "health maintenance
219 organization" has the same meaning as in s. 641.19 and the term
220 "prepaid limited health service organization" has the same
221 meaning as in s. 636.003.

222 Section 4. Effective July 1, 2015, subsection (1),
223 paragraph (a) of subsection (2), and subsections (4) and (6) of
224 section 636.043, Florida Statutes, are amended to read:

225 636.043 Annual, quarterly, and miscellaneous reports.—

226 (1) Each prepaid limited health service organization must
227 file an annual report with the office on or before March 1 of
228 each year showing its condition on the last day of the
229 immediately preceding calendar year. The ~~annually, within 3~~
230 months after the end of its fiscal year, a report must be
231 verified by the notarized oath of at least two officers covering
232 the preceding calendar year. ~~Any organization licensed prior to~~

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233 ~~October 1, 1993, shall not be required to file a financial~~
234 ~~statement, as required by paragraph (2) (a), based on statutory~~
235 ~~accounting principles until the first annual report for fiscal~~
236 ~~years ending after December 31, 1994.~~

237 (2) The ~~Such~~ report must be on forms prescribed by the
238 commission and must include:

239 (a)1. A ~~statutory~~ financial statement of the organization
240 prepared in accordance with statutory accounting principles and
241 filed by electronic means in a computer-readable format
242 acceptable to the office, ~~including its balance sheet, income~~
243 ~~statement, and statement of changes in cash flow for the~~
244 ~~preceding year, certified by an independent certified public~~
245 ~~accountant, or a consolidated audited financial statement of its~~
246 ~~parent company prepared on the basis of statutory accounting~~
247 ~~principles, certified by an independent certified public~~
248 ~~accountant, attached to which must be consolidating financial~~
249 ~~statements of the parent company, including the prepaid limited~~
250 ~~health service organization.~~

251 2. Any entity subject to this chapter may make written
252 application to the office for approval to file audited financial
253 statements prepared in accordance with generally accepted
254 accounting principles in lieu of statutory financial statements.
255 The office shall approve the application if it finds it to be in
256 the best interest of the subscribers. An application for
257 exemption is required each year and must be filed with the
258 office at least 2 months prior to the end of the fiscal year for
259 which the exemption is being requested.

260 (4) (a) Each authorized prepaid limited health service
261 organization must file a quarterly report for each calendar

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262 quarter. The report for the quarter ending March 31 shall be
263 filed with the office on or before May 15, the report for the
264 quarter ending June 30 shall be filed on or before August 15,
265 and the report for the quarter ending September 30 shall be
266 filed on or before November 15. The quarterly report must be
267 verified by the notarized oath of two officers of the
268 organization within 45 days after the end of the quarter. The
269 report must shall contain:

270 1.(a) A financial statement prepared in accordance with
271 statutory accounting principles. Any entity licensed before
272 October 1, 1993, is shall not be required to file a financial
273 statement based on statutory accounting principles until the
274 first quarterly filing after the entity files its annual
275 financial statement based on statutory accounting principles as
276 required by subsection (1).

277 2.(b) A listing of providers.

278 3.(e) Such other information relating to the performance of
279 the prepaid limited health service organization as is reasonably
280 required by the commission or office.

281 (b) On or before June 1, each authorized prepaid limited
282 health service organization shall annually file with the office
283 an audited financial statement of the organization for the
284 preceding year ending December 31. The office may require the
285 organization to file an audited financial report earlier than
286 June 1 upon notifying the organization at least 90 days in
287 advance. The audited financial statement must include:

288 1. A balance sheet, income statement, and statement of
289 changes in cash flow for the preceding year, all of which must
290 be certified by an independent certified public accountant; or

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291 2. A consolidated audited financial statement of the
292 organization's parent company, prepared on the basis of
293 statutory accounting principles, which must be certified by an
294 independent certified public accountant and to which are
295 attached the consolidated financial statements of the parent
296 company, including those of the prepaid limited health service
297 organization.

298
299 Beginning with the financial statement filed for the year ending
300 December 31, 2015, the audited financial statement or
301 consolidated audited financial statement required by this
302 paragraph is subject to commission rules applicable to insurer
303 audits.

304 (6) Each authorized prepaid limited health service
305 organization shall retain an independent certified public
306 accountant, ~~hereinafter referred to as "CPA,"~~ who agrees by
307 written contract with the prepaid limited health service
308 organization to comply with ~~the provisions of~~ this act. The
309 contract must state that:

310 (a) The independent certified public accountant must ~~CPA~~
311 ~~will~~ provide to the prepaid limited health service organization
312 audited statutory financial statements consistent with this act.

313 (b) Any determination by the independent certified public
314 accountant ~~CPA~~ that the prepaid limited health service
315 organization does not meet minimum surplus requirements as set
316 forth in this act must ~~will~~ be stated by the independent
317 certified public accountant ~~CPA~~, in writing, in the audited
318 financial statement.

319 (c) The completed workpapers and any written communications

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320 between the independent certified public accountant CPA and the
321 prepaid limited health service organization relating to the
322 audit of the prepaid limited health service organization must
323 ~~will~~ be made available for review on a visual-inspection-only
324 basis by the office at the offices of the prepaid limited health
325 service organization, at the office, or at any other reasonable
326 place as mutually agreed between the office and the prepaid
327 limited health service organization. The independent certified
328 public accountant CPA must retain for review the workpapers and
329 written communications for a period of not less than 6 years.

330 Section 5. Present subsections (14) through (22) of section
331 641.19, Florida Statutes, are redesignated as subsections (15)
332 through (23), respectively, and a new subsection (14) is added
333 to that section, to read:

334 641.19 Definitions.—As used in this part, the term:

335 (14) "Management services organization" means an entity
336 that provides one or more medical practice management services
337 to health care providers, including, but not limited to,
338 administrative, financial, operational, personnel, records
339 management, educational, compliance, and managed care services.

340 Section 6. Section 641.201, Florida Statutes, is amended to
341 read:

342 641.201 Applicability of other laws.—

343 (1) Except as provided in this part, health maintenance
344 organizations are ~~shall be~~ governed by ~~the provisions of this~~
345 part and part III of this chapter and are ~~shall be~~ exempt from
346 all other provisions of the Florida Insurance Code except those
347 ~~provisions of the Florida Insurance Code~~ that are explicitly
348 made applicable to health maintenance organizations.

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349 (2) Health maintenance organizations are considered
350 insurers for purposes of:

351 (a) Sections 624.4073, 628.231, 628.371, and 628.391.

352 (b) Section 624.4095, except that:

353 1. The ratio of actual or projected annual gross written
354 premiums to current or projected surplus as to policyholders for
355 a health maintenance organization holding a certificate of
356 authority before the effective date of this act, may not exceed
357 30 to 1 on or after July 1, 2017, until June 30, 2021; 20 to 1
358 on or after July 1, 2021, until June 30, 2025; and 10 to 1 on or
359 after July 1, 2025.

360 2. In calculating the premium-to-surplus ratio of a health
361 maintenance organization pursuant to s. 624.4095(1), actual or
362 projected risk revenue must be added to actual or projected
363 written premiums.

364 (3) Health maintenance organizations are considered life
365 and health insurers for purposes of ss. 624.407 and 624.408.

366 Section 7. Subsections (1) and (2) of section 641.225,
367 Florida Statutes, are amended to read:

368 641.225 Surplus requirements.—

369 (1) Each health maintenance organization shall at all times
370 maintain a minimum surplus as provided in s. 624.408 ~~in an~~
371 ~~amount that is the greater of \$1,500,000, or 10 percent of total~~
372 ~~liabilities, or 2 percent of total annualized premium.~~

373 (2) The office may ~~shall~~ not issue a certificate of
374 authority, except as provided in subsection (3), unless the
375 health maintenance organization has at least the ~~a~~ minimum
376 surplus required in s. 624.407 ~~in an amount which is the greater~~
377 ~~of:~~

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378 ~~(a) Ten percent of their total liabilities based on their~~
379 ~~startup projection as set forth in this part;~~

380 ~~(b) Two percent of their total projected premiums based on~~
381 ~~their startup projection as set forth in this part; or~~

382 ~~(c) \$1,500,000, plus all startup losses, excluding profits,~~
383 ~~projected to be incurred on their startup projection until the~~
384 ~~projection reflects statutory net profits for 12 consecutive~~
385 ~~months.~~

386 Section 8. Effective July 1, 2015, subsections (1), (3),
387 and (5) of section 641.26, Florida Statutes, are amended to
388 read:

389 641.26 Annual and quarterly reports.—

390 (1) Each ~~Every~~ health maintenance organization must file an
391 annual report with the office on or before March 1 of each year
392 showing its condition on the last day of the immediately
393 preceding calendar year. The report must be ~~shall, annually~~
394 ~~within 3 months after the end of its fiscal year, or within an~~
395 ~~extension of time therefor as the office, for good cause, may~~
396 ~~grant, in a form prescribed by the commission, file a report~~
397 ~~with the office, verified by the~~ notarized ~~oath of two officers~~
398 ~~of the organization or, if not a corporation, of two persons who~~
399 ~~are principal managing directors of the affairs of the~~
400 ~~organization, on a form prescribed by the commission. For good~~
401 ~~cause, the office may grant the organization an extension of~~
402 ~~time to file the report. The report must~~ properly notarized,
403 ~~showing its condition on the last day of the immediately~~
404 ~~preceding reporting period. Such report shall include:~~

405 (a) A financial statement of the health maintenance
406 organization filed by electronic means in a computer-readable

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407 form using a format acceptable to the office.

408 (b) A financial statement of the health maintenance
409 organization filed on forms acceptable to the office.

410 ~~(c) An audited financial statement of the health~~
411 ~~maintenance organization, including its balance sheet and a~~
412 ~~statement of operations for the preceding year certified by an~~
413 ~~independent certified public accountant, prepared in accordance~~
414 ~~with statutory accounting principles.~~

415 (c)~~(d)~~ The number of health maintenance contracts issued
416 and outstanding and the number of health maintenance contracts
417 terminated.

418 (d)~~(e)~~ The number and amount of damage claims for medical
419 injury initiated against the health maintenance organization and
420 any of the providers engaged by it during the reporting year,
421 broken down into claims with and without formal legal process,
422 and the disposition, if any, of each such claim.

423 (e)~~(f)~~ An actuarial certification that:

424 1. The health maintenance organization is actuarially
425 sound, which certification must ~~shall~~ consider the rates,
426 benefits, and expenses of, and any other funds available for the
427 payment of obligations of, the organization.

428 2. The rates being charged or to be charged are actuarially
429 adequate to the end of the period for which rates have been
430 guaranteed.

431 3. Incurred but not reported claims and claims reported but
432 not fully paid have been adequately provided for.

433 4. The health maintenance organization has adequately
434 provided for all obligations required by s. 641.35(3) (a).

435 ~~(g) A report prepared by the certified public accountant~~

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436 and filed with the office describing material weaknesses in the
437 health maintenance organization's internal control structure as
438 noted by the certified public accountant during the audit. The
439 report must be filed with the annual audited financial report as
440 required in paragraph (c). The health maintenance organization
441 shall provide a description of remedial actions taken or
442 proposed to correct material weaknesses, if the actions are not
443 described in the independent certified public accountant's
444 report.

445 (f)~~(h)~~ Such other information relating to the performance
446 of health maintenance organizations as is required by the
447 commission or office.

448 (3) (a) ~~Every~~ health maintenance organization shall
449 file quarterly, for the first three calendar quarters of each
450 year, an unaudited financial statement of the organization as
451 described in paragraphs (1) (a) and (b). The statement for the
452 quarter ending March 31 shall be filed with the office on or
453 before May 15, the statement for the quarter ending June 30
454 shall be filed on or before August 15, and the statement for the
455 quarter ending September 30 shall be filed on or before November
456 15. The quarterly report must ~~shall~~ be verified by the notarized
457 oath of two officers of the organization, ~~properly notarized~~.

458 (b) Each health maintenance organization shall file
459 annually, for the preceding year ending December 31, an audited
460 financial statement of the organization. The statement for the
461 year ending December 31 must be filed with the office on or
462 before the following June 1. The office may require a health
463 maintenance organization to file an audited financial report
464 earlier than June 1 upon notifying the organization at least 90

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465 days in advance. The audited financial statement must include a
466 balance sheet and statement of operations for the preceding year
467 certified by an independent certified public accountant and must
468 be prepared in accordance with statutory accounting principles.
469 The audited financial statement filed for the year ending
470 December 31, 2015, is subject to commission rules applicable to
471 insurer audits.

472 (5) Each authorized health maintenance organization shall
473 retain an independent certified public accountant, ~~referred to~~
474 ~~in this section as "CPA,"~~ who agrees by written contract with
475 the health maintenance organization to comply with ~~the~~
476 ~~provisions of~~ this part.

477 (a) The independent certified public accountant ~~CPA~~ shall
478 provide to the health maintenance organization ~~HMO~~ audited
479 financial statements consistent with this part.

480 (b) Any determination by the independent certified public
481 accountant ~~CPA~~ that the health maintenance organization does not
482 meet minimum surplus requirements as set forth in this part must
483 ~~shall~~ be stated by the independent certified public accountant
484 ~~CPA~~, in writing, in the audited financial statement.

485 (c) The completed work papers and any written
486 communications between the independent certified public
487 accountant ~~CPA~~ firm and the health maintenance organization
488 relating to the audit of the health maintenance organization
489 shall be made available for review on a visual-inspection-only
490 basis by the office at the offices of the health maintenance
491 organization, at the office, or at any other reasonable place as
492 mutually agreed between the office and the health maintenance
493 organization. The independent certified public accountant ~~CPA~~

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494 must retain for review the work papers and written
495 communications for a period of not less than 6 years.

496 (d) The independent certified public accountant ~~CPA~~ shall
497 provide to the office a written report describing material
498 weaknesses in the health maintenance organization's internal
499 control structure as noted during the audit. The report must be
500 filed with the annual audited financial statement required under
501 paragraph (3)(b). The health maintenance organization must
502 provide a description of remedial actions taken or proposed to
503 be taken to correct material weaknesses, if the actions are not
504 described in the written report provided to the office by the
505 independent certified public accountant.

506 Section 9. Effective July 1, 2015, section 641.27, Florida
507 Statutes, is amended to read:

508 641.27 Examination by the office ~~department~~.—

509 (1) The office shall examine the affairs, transactions,
510 accounts, business records, and assets of any health maintenance
511 organization as often as it deems it expedient for the
512 protection of the people of this state, but not less frequently
513 than once every 5 years. However, except when the medical
514 records are requested and copies furnished pursuant to s.
515 456.057, medical records of individuals and records of
516 physicians providing service under contract to the health
517 maintenance organization are ~~shall~~ not ~~be~~ subject to audit,
518 although they may be subject to subpoena by court order upon a
519 showing of good cause. For the purpose of examinations, the
520 office may administer oaths to and examine the officers and
521 agents of a health maintenance organization concerning its
522 business and affairs. The examination of each health maintenance

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523 organization by the office, including payment of examination
524 expenses, is ~~shall be~~ subject to the same terms and conditions
525 as apply to insurers under chapter 624. ~~In no event shall~~
526 ~~expenses of all examinations exceed a maximum of \$50,000 for any~~
527 ~~1-year period.~~ Any rehabilitation, liquidation, conservation, or
528 dissolution of a health maintenance organization shall be
529 conducted under the supervision of the department, which shall
530 have all power with respect thereto granted to it under the laws
531 governing the rehabilitation, liquidation, reorganization,
532 conservation, or dissolution of life insurance companies.

533 (2) The office may contract, at reasonable fees for work
534 performed, with qualified, impartial outside sources to perform
535 audits or examinations or portions thereof pertaining to the
536 qualification of an entity for issuance of a certificate of
537 authority or to determine continued compliance with the
538 requirements of this part, in which case the payment must be
539 made directly to the contracted examiner by the health
540 maintenance organization examined, in accordance with the rates
541 and terms agreed to by the office and the examiner. Any
542 contracted assistance shall be under the direct supervision of
543 the office. The results of any contracted assistance are ~~shall~~
544 ~~be~~ subject to the review of, and approval, disapproval, or
545 modification by, the office.

546 Section 10. Paragraph (j) is added to subsection (2) of
547 section 641.35, Florida Statutes, to read:

548 641.35 Assets, liabilities, and investments.—

549 (2) ASSETS NOT ALLOWED.—In addition to assets impliedly
550 excluded by the provisions of subsection (1), the following
551 assets are ~~expressly shall~~ not be allowed as assets in any

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552 determination of the financial condition of a health maintenance
553 organization:

554 (j) Beginning on or after January 1, 2016, any receivables
555 from a management services organization pursuant to contract
556 with the health maintenance organization.

557 Section 11. Section 641.365, Florida Statutes, is repealed.

558 Section 12. Paragraph (b) of subsection (2) of section
559 817.234, Florida Statutes, is amended to read:

560 817.234 False and fraudulent insurance claims.—

561 (2)

562 (b) In addition to any other provision of law, systematic
563 upcoding by a provider, as defined in s. 641.19~~(14)~~, with the
564 intent to obtain reimbursement otherwise not due from an insurer
565 is punishable as provided in s. 641.52(5).

566 Section 13. Subsection (1) of section 817.50, Florida
567 Statutes, is amended to read:

568 817.50 Fraudulently obtaining goods, services, etc., from a
569 health care provider.—

570 (1) Whoever shall, willfully and with intent to defraud,
571 obtain or attempt to obtain goods, products, merchandise, or
572 services from any health care provider in this state, as defined
573 in s. 641.19~~(14)~~, commits a misdemeanor of the second degree,
574 punishable as provided in s. 775.082 or s. 775.083.

575 Section 14. The Division of Law Revision and Information is
576 directed to replace the phrase "the effective date of this act"
577 where it occurs in this act with the date the act becomes a law.

578 Section 15. Except as otherwise provided, this act shall
579 take effect upon becoming a law.