

By the Committee on Banking and Insurance; and 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 annual limit  
41 applicable to health maintenance organizations for the  
42 examination expenses incurred by the office; amending  
43 s. 641.35, F.S.; excluding receivables from a  
44 management services organization from being included  
45 in the assets of a health maintenance organization for  
46 purposes of determining the organization's financial  
47 condition; repealing s. 641.365, F.S., relating to the  
48 payment of dividends and distributions of other  
49 property by health maintenance organizations; amending  
50 ss. 817.234 and 817.50, F.S.; conforming cross-  
51 references; providing a directive to the Division of  
52 Law Revision and Information; providing an effective  
53 date.

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 the greater of:

141 1. Four percent of the insurer's total liabilities, plus 6  
 142 percent of the insurer's liabilities relative to health  
 143 insurance;

144 2. Two percent of the insurer's total annualized premium  
 145 relative to health insurance; or

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146 3. If the insurer:

147 a. Does not hold a certificate of authority before the  
148 effective date of this act, \$10 million; or

149 b. Holds a certificate of authority before the effective  
150 date of this act, \$1.5 million until June 30, 2017; \$3 million  
151 on or after July 1, 2017, and until June 30, 2021; \$6 million on  
152 or after July 1, 2021, and until June 30, 2025; and \$10 million  
153 on or after July 1, 2025.

154  
155 The office may reduce the surplus requirement imposed under sub-  
156 subparagraph 3.a. or sub-subparagraph 3.b. if the office finds  
157 the reduction to be in the public interest because the insurer  
158 is not writing new business in this state, the insurer is  
159 writing business only within a limited geographic service area,  
160 the insurer has premiums in force of less than \$1 million  
161 annually, or the insurer has a policy count of fewer than 6,000,  
162 or because of any other factor relevant to making such a  
163 finding.

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

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

167 2. Four 4 percent of the insurer's total liabilities, plus  
168 6 percent of the insurer's liabilities relative to health  
169 insurance.

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

173 ~~(e) For a property and casualty insurer insurers, \$4~~  
174 ~~million, except for a property and casualty insurer insurers~~

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175 authorized to underwrite any line of residential property  
176 insurance.

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

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

180 2. (g) For residential property insurers Holding a  
181 certificate of authority before July 1, 2011, \$5 million and  
182 until June 30, 2016, ~~\$5 million~~; \$10 million on or after July 1,  
183 2016, and until June 30, 2021, ~~\$10 million~~; and \$15 million on  
184 or after July 1, 2021, ~~\$15 million~~.

185  
186 The office may reduce the surplus requirement under this  
187 paragraph in paragraphs ~~(f) and (g)~~ if the insurer is not  
188 writing new business, has premiums in force of less than \$1  
189 million per year in residential property insurance, or is a  
190 mutual insurance company.

191 (f) For all other insurers, the greater of \$1.5 million or  
192 10 percent of the insurer's total liabilities.

193 (2) For purposes of this section, liabilities do not  
194 include liabilities required under s. 625.041(5). For purposes  
195 of computing minimum surplus as to policyholders pursuant to s.  
196 625.305(1), liabilities include liabilities required under s.  
197 625.041(5).

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

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

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

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204 Section 3. Effective July 1, 2015, paragraph (g) of  
205 subsection (1) of section 624.4085, Florida Statutes, is amended  
206 to read:

207 624.4085 Risk-based capital requirements for insurers.—

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

209 (g) "Life and health insurer" means an insurer authorized  
210 or eligible under the Florida Insurance Code to underwrite life  
211 or health insurance. The term also includes:

212 1. A property and casualty insurer that writes accident and  
213 health insurance only.

214 2. Effective January 1, 2015, ~~the term also includes~~ a  
215 health maintenance organization that is authorized in this state  
216 and one or more other states, jurisdictions, or countries and a  
217 prepaid limited health service organization that is authorized  
218 in this state and one or more other states, jurisdictions, or  
219 countries.

220 3. A health maintenance organization and a prepaid limited  
221 health service organization initially authorized in this state  
222 on or after July 1, 2015, and not authorized in any other state,  
223 jurisdiction, or country.

224  
225 As used in this paragraph, the term "health maintenance  
226 organization" has the same meaning as in s. 641.19 and the term  
227 "prepaid limited health service organization" has the same  
228 meaning as in s. 636.003.

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

232 636.043 Annual, quarterly, and miscellaneous reports.—



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233 (1) Each prepaid limited health service organization must  
234 file an annual report with the office on or before March 1 of  
235 each year showing its condition on the last day of the  
236 immediately preceding calendar year. ~~The annually, within 3~~  
237 ~~months after the end of its fiscal year, a report must be~~  
238 verified by the notarized oath of at least two officers covering  
239 the preceding calendar year. ~~Any organization licensed prior to~~  
240 ~~October 1, 1993, shall not be required to file a financial~~  
241 ~~statement, as required by paragraph (2)(a), based on statutory~~  
242 ~~accounting principles until the first annual report for fiscal~~  
243 ~~years ending after December 31, 1994.~~

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

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

258 2. Any entity subject to this chapter may make written  
259 application to the office for approval to file audited financial  
260 statements prepared in accordance with generally accepted  
261 accounting principles in lieu of statutory financial statements.

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262 The office shall approve the application if it finds it to be in  
263 the best interest of the subscribers. An application for  
264 exemption is required each year and must be filed with the  
265 office at least 2 months prior to the end of the fiscal year for  
266 which the exemption is being requested.

267 (4) (a) Each authorized prepaid limited health service  
268 organization must file a quarterly report for each calendar  
269 quarter. The report for the quarter ending March 31 shall be  
270 filed with the office on or before May 15, the report for the  
271 quarter ending June 30 shall be filed on or before August 15,  
272 and the report for the quarter ending September 30 shall be  
273 filed on or before November 15. The quarterly report must be  
274 verified by the notarized oath of two officers of the  
275 organization within 45 days after the end of the quarter. The  
276 report must ~~shall~~ contain:

277 1. (a) A financial statement prepared in accordance with  
278 statutory accounting principles. Any entity licensed before  
279 October 1, 1993, is ~~shall~~ not be required to file a financial  
280 statement based on statutory accounting principles until the  
281 first quarterly filing after the entity files its annual  
282 financial statement based on statutory accounting principles as  
283 required by subsection (1).

284 2. (b) A listing of providers.

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

288 (b) On or before June 1, each authorized prepaid limited  
289 health service organization shall annually file with the office  
290 an audited financial statement of the organization for the

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291 preceding year ending December 31. The office may require the  
292 organization to file an audited financial report earlier than  
293 June 1 upon notifying the organization at least 90 days in  
294 advance. The audited financial statement must include:

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

298 2. A consolidated audited financial statement of the  
299 organization's parent company, prepared on the basis of  
300 statutory accounting principles, which must be certified by an  
301 independent certified public accountant and to which are  
302 attached the consolidated financial statements of the parent  
303 company, including those of the prepaid limited health service  
304 organization.

305  
306 Beginning with the financial statement filed for the year ending  
307 December 31, 2015, the audited financial statement or  
308 consolidated audited financial statement required by this  
309 paragraph is subject to commission rules applicable to insurer  
310 audits.

311 (6) Each authorized prepaid limited health service  
312 organization shall retain an independent certified public  
313 accountant, ~~hereinafter referred to as "CPA,"~~ who agrees by  
314 written contract with the prepaid limited health service  
315 organization to comply with ~~the provisions of~~ this act. The  
316 contract must state that:

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

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320 (b) Any determination by the independent certified public  
321 accountant ~~CPA~~ that the prepaid limited health service  
322 organization does not meet minimum surplus requirements as set  
323 forth in this act must ~~will~~ be stated by the independent  
324 certified public accountant ~~CPA~~, in writing, in the audited  
325 financial statement.

326 (c) The completed workpapers and any written communications  
327 between the independent certified public accountant ~~CPA~~ and the  
328 prepaid limited health service organization relating to the  
329 audit of the prepaid limited health service organization must  
330 ~~will~~ be made available for review on a visual-inspection-only  
331 basis by the office at the offices of the prepaid limited health  
332 service organization, at the office, or at any other reasonable  
333 place as mutually agreed between the office and the prepaid  
334 limited health service organization. The independent certified  
335 public accountant ~~CPA~~ must retain for review the workpapers and  
336 written communications for a period of not less than 6 years.

337 Section 5. Present subsections (14) through (22) of section  
338 641.19, Florida Statutes, are redesignated as subsections (15)  
339 through (23), respectively, and a new subsection (14) is added  
340 to that section, to read:

341 641.19 Definitions.—As used in this part, the term:

342 (14) "Management services organization" means an entity  
343 that provides one or more medical practice management services  
344 to health care providers, including, but not limited to,  
345 administrative, financial, operational, personnel, records  
346 management, educational, compliance, and managed care services.

347 Section 6. Section 641.201, Florida Statutes, is amended to  
348 read:

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349 641.201 Applicability of other laws.—

350 (1) Except as provided in this part, health maintenance  
351 organizations are ~~shall be~~ governed by ~~the provisions of~~ this  
352 part and part III of this chapter and are ~~shall be~~ exempt from  
353 all other provisions of the Florida Insurance Code except those  
354 ~~provisions of the Florida Insurance Code~~ that are explicitly  
355 made applicable to health maintenance organizations.

356 (2) Health maintenance organizations are considered  
357 insurers for purposes of:

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

359 (b) Section 624.4095, except that:

360 1. The ratio of actual or projected annual gross written  
361 premiums to current or projected surplus as to policyholders for  
362 a health maintenance organization holding a certificate of  
363 authority before the effective date of this act, may not exceed  
364 30 to 1 on or after July 1, 2017, until June 30, 2021; 20 to 1  
365 on or after July 1, 2021, until June 30, 2025; and 10 to 1 on or  
366 after July 1, 2025.

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

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

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

375 641.225 Surplus requirements.—

376 (1) Each health maintenance organization shall at all times  
377 maintain a minimum surplus as provided in s. 624.408 ~~in an~~

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378 ~~amount that is the greater of \$1,500,000, or 10 percent of total~~  
379 ~~liabilities, or 2 percent of total annualized premium.~~

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

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

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

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

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

396 641.26 Annual and quarterly reports.-

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

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407 organization, on a form prescribed by the commission. For good  
408 cause, the office may grant the organization an extension of  
409 time to file the report. The report must ~~properly notarized,~~  
410 ~~showing its condition on the last day of the immediately~~  
411 ~~preceding reporting period. Such report shall include:~~

412 (a) A financial statement of the health maintenance  
413 organization filed by electronic means in a computer-readable  
414 form using a format acceptable to the office.

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

417 ~~(c) An audited financial statement of the health~~  
418 ~~maintenance organization, including its balance sheet and a~~  
419 ~~statement of operations for the preceding year certified by an~~  
420 ~~independent certified public accountant, prepared in accordance~~  
421 ~~with statutory accounting principles.~~

422 (c)~~(d)~~ The number of health maintenance contracts issued  
423 and outstanding and the number of health maintenance contracts  
424 terminated.

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

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

431 1. The health maintenance organization is actuarially  
432 sound, which certification must ~~shall~~ consider the rates,  
433 benefits, and expenses of, and any other funds available for the  
434 payment of obligations of, the organization.

435 2. The rates being charged or to be charged are actuarially

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436 adequate to the end of the period for which rates have been  
437 guaranteed.

438 3. Incurred but not reported claims and claims reported but  
439 not fully paid have been adequately provided for.

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

442 ~~(g) A report prepared by the certified public accountant~~  
443 ~~and filed with the office describing material weaknesses in the~~  
444 ~~health maintenance organization's internal control structure as~~  
445 ~~noted by the certified public accountant during the audit. The~~  
446 ~~report must be filed with the annual audited financial report as~~  
447 ~~required in paragraph (c). The health maintenance organization~~  
448 ~~shall provide a description of remedial actions taken or~~  
449 ~~proposed to correct material weaknesses, if the actions are not~~  
450 ~~described in the independent certified public accountant's~~  
451 ~~report.~~

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

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



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465       (b) Each health maintenance organization shall file  
466 annually, for the preceding year ending December 31, an audited  
467 financial statement of the organization. The statement for the  
468 year ending December 31 must be filed with the office on or  
469 before the following June 1. The office may require a health  
470 maintenance organization to file an audited financial report  
471 earlier than June 1 upon notifying the organization at least 90  
472 days in advance. The audited financial statement must include a  
473 balance sheet and statement of operations for the preceding year  
474 certified by an independent certified public accountant and must  
475 be prepared in accordance with statutory accounting principles.  
476 The audited financial statement filed for the year ending  
477 December 31, 2015, is subject to commission rules applicable to  
478 insurer audits.

479       (5) Each authorized health maintenance organization shall  
480 retain an independent certified public accountant, ~~referred to~~  
481 ~~in this section as "CPA,"~~ who agrees by written contract with  
482 the health maintenance organization to comply with ~~the~~  
483 ~~provisions of~~ this part.

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

487       (b) Any determination by the independent certified public  
488 accountant ~~CPA~~ that the health maintenance organization does not  
489 meet minimum surplus requirements as set forth in this part must  
490 ~~shall~~ be stated by the independent certified public accountant  
491 ~~CPA~~, in writing, in the audited financial statement.

492       (c) The completed work papers and any written  
493 communications between the independent certified public

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494 accountant ~~CPA~~ firm and the health maintenance organization  
495 relating to the audit of the health maintenance organization  
496 shall be made available for review on a visual-inspection-only  
497 basis by the office at the offices of the health maintenance  
498 organization, at the office, or at any other reasonable place as  
499 mutually agreed between the office and the health maintenance  
500 organization. The independent certified public accountant ~~CPA~~  
501 must retain for review the work papers and written  
502 communications for a period of not less than 6 years.

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

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

515 641.27 Examination by the office ~~department~~.—

516 (1) The office shall examine the affairs, transactions,  
517 accounts, business records, and assets of any health maintenance  
518 organization as often as it deems it expedient for the  
519 protection of the people of this state, but not less frequently  
520 than once every 5 years. However, except when the medical  
521 records are requested and copies furnished pursuant to s.  
522 456.057, medical records of individuals and records of

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523 physicians providing service under contract to the health  
524 maintenance organization are ~~shall~~ not ~~be~~ subject to audit,  
525 although they may be subject to subpoena by court order upon a  
526 showing of good cause. For the purpose of examinations, the  
527 office may administer oaths to and examine the officers and  
528 agents of a health maintenance organization concerning its  
529 business and affairs. The examination of each health maintenance  
530 organization by the office shall be subject to the same terms  
531 and conditions as apply to insurers under chapter 624. In no  
532 event shall expenses of all examinations exceed a maximum of  
533 \$100,000 ~~\$50,000~~ for any 1-year period. Any rehabilitation,  
534 liquidation, conservation, or dissolution of a health  
535 maintenance organization shall be conducted under the  
536 supervision of the department, which shall have all power with  
537 respect thereto granted to it under the laws governing the  
538 rehabilitation, liquidation, reorganization, conservation, or  
539 dissolution of life insurance companies.

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

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552 modification by, the office.

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

555 641.35 Assets, liabilities, and investments.—

556 (2) ASSETS NOT ALLOWED.—In addition to assets impliedly  
557 excluded by the provisions of subsection (1), the following  
558 assets are ~~expressly shall~~ not be allowed as assets in any  
559 determination of the financial condition of a health maintenance  
560 organization:

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

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

565 Section 12. Paragraph (b) of subsection (2) of section  
566 817.234, Florida Statutes, is amended to read:

567 817.234 False and fraudulent insurance claims.—

568 (2)

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

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

575 817.50 Fraudulently obtaining goods, services, etc., from a  
576 health care provider.—

577 (1) Whoever shall, willfully and with intent to defraud,  
578 obtain or attempt to obtain goods, products, merchandise, or  
579 services from any health care provider in this state, as defined  
580 in s. 641.19~~(14)~~, commits a misdemeanor of the second degree,

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581 punishable as provided in s. 775.082 or s. 775.083.

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

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