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**SUBSTITUTE SENATE BILL 6290**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Fraser, Quigley and Pelz; by request of Insurance Commissioner)

Read first time 01/22/96.

1 AN ACT Relating to minimum net worth requirements and the  
2 impairment of health care service contractors and health maintenance  
3 organizations; amending RCW 48.44.035, 48.44.037, and 48.46.235; adding  
4 a new section to chapter 48.44 RCW; and adding a new section to chapter  
5 48.46 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 48.44.035 and 1990 c 120 s 3 are each amended to read  
8 as follows:

9 (1) For purposes of this section only, "limited health care  
10 service" means dental care services, vision care services, mental  
11 health services, chemical dependency services, pharmaceutical services,  
12 podiatric care services, and such other services as may be determined  
13 by the commissioner to be limited health services, but does not include  
14 hospital, medical, surgical, emergency, or out-of-area services except  
15 as those services are provided incidentally to the limited health  
16 services set forth in this subsection.

17 (2) For purposes of this section only, a "limited health care  
18 service contractor" means a health care service contractor that offers  
19 one and only one limited health care service.

1       (3) Except as provided in subsection (4) of this section, every  
2 limited health care service contractor must have and maintain a minimum  
3 net worth of five hundred thousand dollars.

4       (4) A limited health care service contractor registered before the  
5 effective date of this act, must have and maintain a minimum net worth  
6 of:

7       (a) Twenty-five percent of the amount required by subsection (3) of  
8 this section by December 31, 1996;

9       (b) Fifty percent of the amount required by subsection (3) of this  
10 section by December 31, 1997;

11       (c) Seventy-five percent of the amount required by subsection (3)  
12 of this section by December 31, 1998; and

13       (d) One hundred percent of the amount required by subsection (3) of  
14 this section by December 31, 1999.

15       (5) For all limited health care service contractors that have had  
16 a certificate of registration for less than three years, their  
17 uncovered expenditures shall be either insured or guaranteed by a  
18 foreign or domestic carrier admitted in the state of Washington or by  
19 another carrier acceptable to the commissioner. All such contractors  
20 shall also deposit with the commissioner one-half of one percent of  
21 their projected premium for the next year in cash, approved surety  
22 bond, securities, or other form acceptable to the commissioner.

23       ~~((+4))~~ (6) For all limited health care service contractors that  
24 have had a certificate of registration for three years or more, their  
25 uncovered expenditures shall be assured by depositing with the  
26 insurance commissioner twenty-five percent of their last year's  
27 uncovered expenditures as reported to the commissioner and adjusted to  
28 reflect any anticipated increases or decreases during the ensuing year  
29 plus an amount for unearned prepayments; in cash, approved surety bond,  
30 securities, or other form acceptable to the commissioner. Compliance  
31 with subsection ~~((+3))~~ (5) of this section shall also constitute  
32 compliance with this requirement.

33       ~~((+5))~~ (7) If the net worth of a limited health care service  
34 contractor falls below the minimum net worth required by this section,  
35 the commissioner shall at once ascertain the amount of the deficiency  
36 and serve notice upon the limited health care service contractor to  
37 cure the deficiency within ninety days after the service of notice.

38       (8) If the deficiency is not cured, and proof thereof filed with  
39 the commissioner within the ninety-day period, the limited health care

1 service contractor shall be declared insolvent and shall be proceeded  
2 against as authorized under this chapter, or the commissioner shall,  
3 consistent with chapters 48.04 and 34.05 RCW, suspend or revoke the  
4 registration of the limited health care service contractor as being  
5 hazardous to its subscribers and the people in this state.

6 (9) If the deficiency is not cured the limited health care service  
7 contractor shall not issue or deliver any individual or group contract  
8 after the expiration of the ninety-day period.

9 (10) Limited health service contractors need not comply with RCW  
10 48.44.030 or 48.44.037.

11 **Sec. 2.** RCW 48.44.037 and 1990 c 120 s 4 are each amended to read  
12 as follows:

13 ~~(1)((a)) Except as provided in subsection (2) of this section,~~  
14 ~~every health care service contractor must have and maintain a minimum~~  
15 ~~net worth ((of one million five hundred thousand dollars at the time of~~  
16 ~~initial registration under this chapter and a net worth of one million~~  
17 ~~dollars thereafter. The commissioner is authorized to establish~~  
18 ~~standards for reviewing a health care service contractor's financial~~  
19 ~~integrity when, for any reason, its net worth is reduced below one~~  
20 ~~million dollars. When satisfied that such a health care service~~  
21 ~~contractor is financially stable and not hazardous to its enrolled~~  
22 ~~participants, the commissioner may waive compliance with the one~~  
23 ~~million dollar net worth standard otherwise required by this~~  
24 ~~subsection. When such a health care service contractor's net worth~~  
25 ~~falls below five hundred thousand dollars, the commissioner shall~~  
26 ~~require that net worth be increased to one million dollars.~~

27 ~~(b) A health care service contractor who fails to maintain the~~  
28 ~~required net worth must cure that defect in compliance with an order of~~  
29 ~~the commissioner rendered in conformity with rules adopted under~~  
30 ~~chapter 34.05 RCW. The commissioner may take appropriate action to~~  
31 ~~assure that the continued operation of the health care service~~  
32 ~~contractor will not be hazardous to its enrolled participants)) equal~~  
33 ~~to the greater of:~~

34 (a) Three million dollars; or

35 (b) Two percent of annual premium revenues as reported on the most  
36 recent annual financial statement filed with the commissioner on the  
37 first one hundred fifty million dollars of premium and one percent of

1 annual premium on the premium in excess of one hundred fifty million  
2 dollars.

3 (2) A health care service contractor registered before (~~June 7,~~  
4 ~~1990,~~) the effective date of this act that, on the effective date of  
5 this act, has a net worth equal to or greater than that required by  
6 subsection (1) of this section must continue to have and maintain the  
7 minimum net worth required by subsection (1) of this section. A health  
8 care service contractor registered before the effective date of this  
9 act that, on the effective date of this act, does not have the minimum  
10 net worth required by subsection (1) of this section must have and  
11 maintain a net worth of:

12 (a) (~~Twenty-five~~) The amount required immediately prior to the  
13 effective date of this act until December 31, 1996;

14 (b) Fifty percent of the amount required by subsection (1) of this  
15 section by December 31, (~~1990~~) 1996;

16 (~~(b) Fifty~~) (c) Sixty-six and one-third percent of the amount  
17 required by subsection (1) of this section by December 31, (~~1991~~)  
18 1997;

19 (~~(c) Seventy-five~~) (d) Eighty-three and one-third percent of the  
20 amount required by subsection (1) of this section by December 31,  
21 (~~1992~~) 1998; and

22 (~~(d)~~) (e) One hundred percent of the amount required by  
23 subsection (1) of this section by December 31, (~~1993~~) 1999.

24 (3)(a) In determining net worth, no debt shall be considered fully  
25 subordinated unless the subordination is in a form acceptable to the  
26 commissioner. An interest obligation relating to the repayment of a  
27 subordinated debt must be similarly subordinated.

28 (b) The interest expenses relating to the repayment of a fully  
29 subordinated debt shall not be considered uncovered expenditures.

30 (c) A subordinated debt incurred by a note meeting the requirement  
31 of this section, and otherwise acceptable to the commissioner, shall  
32 not be considered a liability and shall be recorded as equity.

33 (4) Every health care service contractor shall, when determining  
34 liabilities, include an amount estimated in the aggregate to provide  
35 for any unearned premium and for the payment of all claims for health  
36 care expenditures which have been incurred, whether reported or  
37 unreported, which are unpaid and for which the organization is or may  
38 be liable, and to provide for the expense of adjustment or settlement  
39 of the claims.

1 Liabilities shall be computed in accordance with regulations  
2 adopted by the commissioner upon reasonable consideration of the  
3 ascertained experience and character of the health care service  
4 contractor.

5 (5) All income from reserves on deposit with the commissioner shall  
6 belong to the depositing health care service contractor and shall be  
7 paid to it as it becomes available.

8 (6) Any funded reserve required by this chapter shall be considered  
9 an asset of the health care service contractor in determining the  
10 organization's net worth.

11 (7) A health care service contractor that has made a securities  
12 deposit with the commissioner may, at its option, withdraw the  
13 securities deposit or any part thereof after first having deposited or  
14 provided in lieu thereof an approved surety bond, a deposit of cash or  
15 securities, or any combination of these or other deposits of equal  
16 amount and value to that withdrawn. Any securities and surety bond  
17 shall be subject to approval by the commissioner before being  
18 substituted.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.44 RCW  
20 to read as follows:

21 (1) If the net worth of a health care service contractor falls  
22 below the minimum net worth required by this chapter, the commissioner  
23 shall at once ascertain the amount of the deficiency and serve notice  
24 upon the health care service contractor to cure the deficiency within  
25 ninety days after the service of notice.

26 (2) If the deficiency is not cured, and proof thereof filed with  
27 the commissioner within the ninety-day period, the health care service  
28 contractor shall be declared insolvent and shall be proceeded against  
29 as authorized by this chapter, or the commissioner shall, consistent  
30 with chapters 48.04 and 34.05 RCW, suspend or revoke the registration  
31 of the health care service contractor as being hazardous to its  
32 subscribers and the people in this state.

33 (3) If the deficiency is not cured the health care service  
34 contractor shall not issue or deliver any individual or group contract  
35 after the expiration of the ninety-day period.

36 **Sec. 4.** RCW 48.46.235 and 1990 c 119 s 5 are each amended to read  
37 as follows:

1 (1) Except as provided in subsection (2) of this section, every  
2 health maintenance organization must have and maintain a minimum net  
3 worth equal to the greater of:

4 (a) (~~One~~) Three million dollars; or

5 (b) Two percent of annual premium revenues as reported on the most  
6 recent annual financial statement filed with the commissioner on the  
7 first one hundred fifty million dollars of premium and one percent of  
8 annual premium on the premium in excess of one hundred fifty million  
9 dollars; or

10 (c) An amount equal to the sum of three months' uncovered  
11 expenditures as reported on the most recent financial statement filed  
12 with the commissioner.

13 (2) A health maintenance organization registered before (~~June 7,~~  
14 ~~1990,~~) the effective date of this act that, on the effective date of  
15 this act, has a net worth equal to or greater than that required by  
16 subsection (1) of this section must continue to have and maintain the  
17 minimum net worth required by subsection (1) of this section. A health  
18 maintenance organization registered before the effective date of this  
19 act that, on the effective date of this act, does not have the minimum  
20 net worth required by subsection (1) of this section must have and  
21 maintain a minimum net worth of:

22 (a) (~~Twenty-five~~) The amount required immediately prior to the  
23 effective date of this act until December 31, 1996;

24 (b) Fifty percent of the amount required by subsection (1) of this  
25 section by December 31, (~~1990~~) 1996;

26 (~~(b) Fifty~~) (c) Sixty-six and one-sixth percent of the amount  
27 required by subsection (1) of this section by December 31, (~~1991~~)  
28 1997;

29 (~~(c) Seventy-five~~) (d) Eighty-three and one-third percent of the  
30 amount required by subsection (1) of this section by December 31,  
31 (~~1992~~) 1998; and

32 (~~(d)~~) (e) One hundred percent of the amount required by  
33 subsection (1) of this section by December 31, (~~1993~~) 1999.

34 (3)(a) In determining net worth, no debt shall be considered fully  
35 subordinated unless the subordination clause is in a form acceptable to  
36 the commissioner. An interest obligation relating to the repayment of  
37 a subordinated debt must be similarly subordinated.

38 (b) The interest expenses relating to the repayment of a fully  
39 subordinated debt shall not be considered uncovered expenditures.

1 (c) A subordinated debt incurred by a note meeting the requirement  
2 of this section, and otherwise acceptable to the commissioner, shall  
3 not be considered a liability and shall be recorded as equity.

4 (4) Every health maintenance organization shall, when determining  
5 liabilities, include an amount estimated in the aggregate to provide  
6 for any unearned premium and for the payment of all claims for health  
7 care expenditures that have been incurred, whether reported or  
8 unreported, which are unpaid and for which such organization is or may  
9 be liable, and to provide for the expense of adjustment or settlement  
10 of such claims.

11 Such liabilities shall be computed in accordance with rules  
12 promulgated by the commissioner upon reasonable consideration of the  
13 ascertained experience and character of the health maintenance  
14 organization.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.46 RCW  
16 to read as follows:

17 (1) If the net worth of a health maintenance organization falls  
18 below the minimum net worth required by this chapter, the commissioner  
19 shall at once ascertain the amount of the deficiency and serve notice  
20 upon the health maintenance organization to cure the deficiency within  
21 ninety days after the service of notice.

22 (2) If the deficiency is not cured, and proof thereof filed with  
23 the commissioner within the ninety-day period, the health maintenance  
24 organization shall be declared insolvent and shall be proceeded against  
25 as authorized by this chapter, or the commissioner shall, consistent  
26 with chapters 48.04 and 34.05 RCW, suspend or revoke the registration  
27 of the health maintenance organization as being hazardous to its  
28 subscribers and the people in this state.

29 (3) If the deficiency is not cured the health maintenance  
30 organization shall not issue or deliver any health maintenance  
31 agreement after the expiration of the ninety-day period.

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