

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 401
97TH GENERAL ASSEMBLY

1908H.06C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 354.410, 354.415, 354.430, 354.603, 376.405, 376.426, 376.777, 376.961, 376.962, 376.964, 376.966, 376.968, 376.970, 376.973, and 376.1363, RSMo, and to enact in lieu thereof twenty-five new sections relating to health insurance, with penalty provisions and an emergency clause for certain sections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 354.410, 354.415, 354.430, 354.603, 376.405, 376.426, 376.777, 376.961, 376.962, 376.964, 376.966, 376.968, 376.970, 376.973, and 376.1363, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 354.410, 354.415, 354.430, 354.603, 376.405, 376.426, 376.777, 376.961, 376.962, 376.964, 376.966, 376.968, 376.970, 376.973, 376.1363, 376.2000, 376.2002, 376.2004, 376.2006, 376.2008, 376.2010, 376.2011, 376.2012, 376.2014, and 1, to read as follows:

354.410. 1. The director shall issue or deny a certificate of authority to any person filing an application pursuant to section 354.405. Issuance of a certificate of authority may then be granted upon payment of the application fee prescribed in section 354.500 if the director is satisfied that the following conditions are met:

(1) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and possess good reputations;

(2) The health care organization constitutes an appropriate mechanism whereby the health maintenance organization will effectively provide or arrange for the provision of basic health care services on a prepaid basis through insurance or otherwise, except to the extent of [reasonable] requirements for co-payments, **coinsurance or deductibles**;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 (3) The health maintenance organization is financially responsible and may reasonably
12 be expected to meet its obligations to enrollees and prospective enrollees. In making this
13 determination, the director may consider:

14 (a) The financial soundness of the arrangements for health care services and the schedule
15 of charges used in connection therewith;

16 (b) The adequacy of working capital;

17 (c) Any agreement with an insurer, a government, or any other organization for insuring
18 the payment of the cost of health care services or the provision for automatic applicability of an
19 alternative coverage in the event of discontinuance of the health maintenance organization;

20 (d) Any agreement with providers for the provision of health care services; and

21 (e) Any deposit of cash or securities submitted in accordance with subsection 2;

22 (4) The health maintenance organization's arrangements for health care services and the
23 schedule of charges used in connection therewith are financially sound;

24 (5) The working capital be adequate;

25 (6) Any agreement with an insurer, a health service corporation, a government, or any
26 other organization for insuring the payment of the cost of health care services contain a provision
27 for the automatic applicability of alternative coverage in the event of discontinuance of the health
28 maintenance organization;

29 (7) There be an agreement with providers for the provision of health care services;

30 (8) The enrollees shall be afforded an opportunity to participate in matters of policy and
31 operation pursuant to section 354.420;

32 (9) Nothing in the proposed method of operation, as shown by the information submitted
33 pursuant to section 354.405 or by independent investigation, is contrary to the public interest;

34 **and**

35 (10) The health maintenance organization is able to provide its enrollees with adequate
36 access to health care providers.

37 2. Unless otherwise provided below, each health maintenance organization shall deposit
38 with the director, or with any organization or trustee acceptable to the director through which a
39 custodial or controlled account is utilized, cash, securities, or any combination of these or other
40 measures that is acceptable to the director in the amount set forth in this subsection:

41 (1) The amount for an organization that is beginning operation shall be the greater of:

42 (a) five percent of its estimated expenditures for health care services for its first year of
43 operation, (b) twice its estimated average monthly uncovered expenditures for its first year of

44 operation, or (c) one hundred fifty thousand dollars for a medical group/staff model, or three
45 hundred thousand dollars for an individual practice association. At the beginning of each

46 succeeding year, unless not applicable, the organization shall deposit with the director, or

47 organization or trustee, cash, securities, or any combination of these or other measures acceptable
48 to the director, in an amount equal to four percent of its estimated annual uncovered expenditures
49 for that year.

50 (2) Unless not applicable, an organization that is in operation on September 28, 1983,
51 shall make a deposit equal to the larger of: (a) one percent of the preceding twelve months'
52 uncovered expenditures, or (b) one hundred fifty thousand dollars for a medical group/staff
53 model, or three hundred thousand dollars for an individual practice association on the first day
54 of the first calendar year beginning six months or more after September 28, 1983. In the second
55 calendar year, if applicable, the amount of the additional deposit shall be equal to two percent
56 of its estimated annual uncovered expenditures. In the third calendar year, if applicable, the
57 additional deposit shall be equal to three percent of its estimated annual uncovered expenditures
58 for that year, and in the fourth calendar year and subsequent years, if applicable, the additional
59 deposit shall be equal to four percent of its estimated annual uncovered expenditures for each
60 year. Each year's estimate, after the first year of operation, shall reasonably reflect the prior
61 years' operating experience and delivery arrangements. The director may waive any of the
62 deposit requirements set forth in subdivisions (1) and (2) above, whenever satisfied that the
63 organization has sufficient net worth and an adequate history of generating net income to assure
64 its financial viability for the next year, or its performance and obligations are guaranteed by an
65 organization with sufficient net worth and an adequate history of generating net income, or the
66 assets of the organization or its contracts with insurers, hospital or medical service corporations,
67 governments, or other organizations are sufficient to reasonably assure the performance of its
68 obligations.

69 3. When an organization has achieved a net worth not including land, buildings, and
70 equipment, of at least one million dollars or has achieved a net worth including
71 organization-related land, buildings, and equipment of at least five million dollars, the annual
72 deposit requirements shall not apply. The annual deposit requirement shall not apply to an
73 organization if the total amount of the deposit is equal to twenty-five percent of its estimated
74 annual uncovered expenditures for the next calendar year, or the capital and surplus requirements
75 for the formation or admittance of an accident and health insurer in this state, whichever is less.
76 If the organization has a guaranteeing organization which has been in operation for at least five
77 years and has a net worth not including land, buildings, and equipment of at least one million
78 dollars or which has been in operation for at least ten years and has a net worth including
79 organization-related land, buildings, and equipment of at least five million dollars, the annual
80 deposit requirement shall not apply; provided, however, that if the guaranteeing organization is
81 sponsoring more than one organization, the net worth requirement shall be increased by a
82 multiple equal to the number of such organizations. This requirement to maintain a deposit in

83 excess of the deposit required of an accident and health insurer shall not apply during any time
84 that the guaranteeing organization maintains a net worth at least equal to the capital and surplus
85 requirements for an accident and health insurer for each organization it sponsors.

86 4. All income from deposits shall belong to the depositing organization and shall be paid
87 to it as it becomes available. A health maintenance organization that has made a securities
88 deposit may withdraw the securities deposit or any part thereof, first having deposited, in lieu
89 thereof, a deposit of cash, securities, or any combination of these or other measures of equal
90 amount and value to that withdrawn. Any securities shall be approved by the director before
91 being substituted.

92 5. In any year in which an annual deposit is not required of an organization, at its request
93 the director shall reduce the required deposit by one hundred thousand dollars for each two
94 hundred fifty thousand dollars of net worth in excess of the amount that allows it not to make an
95 annual deposit. If the amount of net worth no longer supports a reduction of its required deposit,
96 the organization shall immediately redeposit one hundred thousand dollars for each two hundred
97 fifty thousand dollars of reduction in net worth, provided that its total deposit shall not exceed
98 the maximum required under this section. Notwithstanding any provisions of sections 354.400
99 to 354.636, the deposit held by the director shall in no case be less than one hundred fifty
100 thousand dollars for a group staff/model or three hundred thousand dollars for an individual
101 practice association model.

102 6. Each health maintenance organization that obtains a certificate of authority after
103 September 28, 1983, shall have and maintain a capital account of at least one hundred fifty
104 thousand dollars for a medical group/staff model, or three hundred thousand dollars for an
105 individual practice association in addition to any deposit requirements under this section. The
106 capital account shall be net of any accrued liabilities and be in the form of cash, securities or any
107 combination of these or other measures acceptable to the director.

108 7. A certificate of authority shall be denied only after compliance with the requirements
109 of section 354.490.

354.415. 1. The powers of a health maintenance organization include, but are not
2 limited to, the power to:

3 (1) Purchase, lease, construct, renovate, operate, and maintain hospitals, medical
4 facilities, or both, and their ancillary equipment, and such property as may reasonably be required
5 for the organization's principal office or for such other purposes as may be necessary in the
6 transaction of the business of the organization;

7 (2) Make loans to a medical group under contract with it in furtherance of its program,
8 or to make loans to any corporation under its control for the purpose of acquiring or constructing

9 medical facilities and hospitals or in the furtherance of a program providing health care services
10 to enrollees;

11 (3) Furnish health care services through providers which are under contract with, or
12 employed by, the health maintenance organization;

13 (4) Contract with any person for the performance, on the organization's behalf, of certain
14 functions such as marketing, enrollment, and administration;

15 (5) Contract with an insurance company licensed in this state, or with a health services
16 corporation authorized to do business in this state, for the provision of insurance, indemnity, or
17 reimbursement against the cost of health care services provided by the health maintenance
18 organization;

19 (6) Offer, in addition to basic health care services:

20 (a) Additional health care services;

21 (b) Indemnity benefits covering out-of-area or emergency services; and

22 (c) Indemnity benefits, in addition to those relating to out-of-area and emergency
23 services, provided through insurers or health services corporations;

24 **(7) Offer as an option one or more health benefit plans which contain deductibles,**
25 **coinsurance, coinsurance differentials, or variable co-payments. Health benefit plans**
26 **offered under this section that contain deductibles shall be permitted only when combined**
27 **with any health savings account or health reimbursement account as described in the**
28 **Medicare Prescription Drug, Improvement, and Modernization Act, P.L. No. 108-173, Title**
29 **XII, Section 1201, provided that:**

30 **(a) The total out-of-pocket expenses paid for the receipt of basic health services**
31 **under the plan shall not exceed the annual contribution limits for health savings accounts**
32 **as determined by the Internal Revenue Service;**

33 **(b) The health savings account or health reimbursement account must be funded**
34 **at a level equal to or greater than the out-of-pocket maximum limits defined for the high**
35 **deductible health plan; and**

36 **(c) A distribution from the health savings account or health reimbursement account**
37 **to pay a health care provider for a qualified medical expense is made within thirty days of**
38 **the submission of a claim.**

39 2. Prior to the exercise of any power granted in subdivision (1) or (2) of subsection 1 of
40 this section, involving an amount in excess of five hundred thousand dollars, a health
41 maintenance organization shall file notice, with adequate supporting information, with the
42 director. The director shall disapprove such exercise of power if, in his opinion, it would
43 substantially and adversely affect the financial soundness of the health maintenance organization

44 and endanger its ability to meet its obligations. If the director does not disapprove such exercise
45 of power within sixty days of the filing, it shall be deemed approved.

46 3. The director may exempt from the filing requirement of subsection 2 of this section
47 those activities having minimal effect.

354.430. 1. Every enrollee residing in this state is entitled to evidence of coverage. If
2 the enrollee obtains coverage through an insurance policy or a contract issued by a health
3 services corporation, whether by option or otherwise, the insurer or the health services
4 corporation shall issue the evidence of coverage. Otherwise the health maintenance organization
5 shall issue the evidence of coverage.

6 2. No evidence of coverage, or amendment thereto, shall be issued or delivered to any
7 person in this state until a copy of the form of the evidence of coverage, or amendment thereto,
8 has been filed with the director.

9 3. An evidence of coverage shall contain:

10 (1) No provisions or statements which are unjust, unfair, inequitable, misleading, or
11 deceptive, or which encourage misrepresentation, or which are untrue, misleading, or deceptive
12 as defined in subsection 1 of section 354.460; and

13 (2) A clear and complete statement, if a contract, or a reasonably complete summary, if
14 a certificate, of:

15 (a) The health care services and the insurance or other benefits, if any, to which the
16 enrollee is entitled;

17 (b) Any limitations on the services, kind of services, benefits or kinds of benefits to be
18 provided, including any deductible or co-payment, **coinsurance, or other cost-sharing** feature
19 **as requested by the group contract holder or, in the case of non-group coverage, the**
20 **individual certificate holder;**

21 (c) Where and in what manner information is available as to how services may be
22 obtained;

23 (d) The total amount of payment for health care services and the indemnity or service
24 benefits, if any, which the enrollee is obligated to pay with respect to individual contracts; and

25 (e) A clear and understandable description of the health maintenance organization's
26 method for resolving enrollee complaints, including the health maintenance organization's
27 toll-free customer service number and the department of insurance, financial institutions and
28 professional registration's consumer complaint hot line number.

29 4. Any subsequent change in an evidence of coverage may be made in a separate
30 document issued to the enrollee.

31 5. A copy of the form of the evidence of coverage to be used in this state, and any
32 amendment thereto, shall be subject to the filing of subsection 2 of this section unless it is

33 subject to the jurisdiction of the director under the laws governing health insurance or health
34 services corporations, in which event the filing provisions of those laws shall apply.

354.603. 1. A health carrier shall maintain a network that is sufficient in number and
2 types of providers to assure that all services to enrollees shall be accessible without unreasonable
3 delay. In the case of emergency services, enrollees shall have access twenty-four hours per day,
4 seven days per week. The health carrier's medical director shall be responsible for the
5 sufficiency and supervision of the health carrier's network. Sufficiency shall be determined by
6 the director in accordance with the requirements of this section and by reference to any
7 reasonable criteria, including but not limited to provider-enrollee ratios by specialty, primary care
8 provider-enrollee ratios, geographic accessibility, reasonable distance accessibility criteria for
9 pharmacy and other services, waiting times for appointments with participating providers, hours
10 of operation, and the volume of technological and specialty services available to serve the needs
11 of enrollees requiring technologically advanced or specialty care.

12 (1) In any case where the health carrier has an insufficient number or type of
13 participating providers to provide a covered benefit, the health carrier shall ensure that the
14 enrollee obtains the covered benefit at no greater cost than if the benefit was obtained from a
15 participating provider, or shall make other arrangements acceptable to the director.

16 (2) The health carrier shall establish and maintain adequate arrangements to ensure
17 reasonable proximity of participating providers, including local pharmacists, to the business or
18 personal residence of enrollees. In determining whether a health carrier has complied with this
19 provision, the director shall give due consideration to the relative availability of health care
20 providers in the service area under, especially rural areas, consideration.

21 (3) A health carrier shall monitor, on an ongoing basis, the ability, clinical capacity, and
22 legal authority of its providers to furnish all contracted benefits to enrollees. The provisions of
23 this subdivision shall not be construed to require any health care provider to submit copies of
24 such health care provider's income tax returns to a health carrier. A health carrier may require
25 a health care provider to obtain audited financial statements if such health care provider received
26 ten percent or more of the total medical expenditures made by the health carrier.

27 (4) A health carrier shall make its entire network available to all enrollees unless a
28 contract holder has agreed in writing to a different or reduced network.

29 2. A health carrier shall file with the director, in a manner and form defined by rule of
30 the department of insurance, financial institutions and professional registration, an access plan
31 meeting the requirements of sections 354.600 to 354.636 for each of the managed care plans that
32 the health carrier offers in this state. The health carrier may request the director to deem sections
33 of the access plan as proprietary or competitive information that shall not be made public. For
34 the purposes of this section, information is proprietary or competitive if revealing the

35 information will cause the health carrier's competitors to obtain valuable business information.
36 The health carrier shall provide such plans, absent any information deemed by the director to be
37 proprietary, to any interested party upon request. The health carrier shall prepare an access plan
38 prior to offering a new managed care plan, and shall update an existing access plan whenever it
39 makes any change as defined by the director to an existing managed care plan. The director shall
40 approve or disapprove the access plan, or any subsequent alterations to the access plan, within
41 sixty days of filing. The access plan shall describe or contain at a minimum the following:

42 (1) The health carrier's network;

43 (2) The health carrier's procedures for making referrals within and outside its network;

44 (3) The health carrier's process for monitoring and assuring on an ongoing basis the
45 sufficiency of the network to meet the health care needs of enrollees of the managed care plan;

46 (4) The health carrier's methods for assessing the health care needs of enrollees and their
47 satisfaction with services;

48 (5) The health carrier's method of informing enrollees of the plan's services and features,
49 including but not limited to the plan's grievance procedures, its process for choosing and
50 changing providers, and its procedures for providing and approving emergency and specialty
51 care;

52 (6) The health carrier's system for ensuring the coordination and continuity of care for
53 enrollees referred to specialty physicians, for enrollees using ancillary services, including social
54 services and other community resources, and for ensuring appropriate discharge planning;

55 (7) The health carrier's process for enabling enrollees to change primary care
56 professionals;

57 (8) The health carrier's proposed plan for providing continuity of care in the event of
58 contract termination between the health carrier and any of its participating providers, in the event
59 of a reduction in service area or in the event of the health carrier's insolvency or other inability
60 to continue operations. The description shall explain how enrollees shall be notified of the
61 contract termination, reduction in service area or the health carrier's insolvency or other
62 modification or cessation of operations, and transferred to other health care professionals in a
63 timely manner; and

64 (9) Any other information required by the director to determine compliance with the
65 provisions of sections 354.600 to 354.636.

66 3. In reviewing an access plan filed pursuant to subsection 2 of this section, the director
67 shall deem a managed care plan's network to be adequate if it meets one or more of the following
68 criteria:

69 (1) The managed care plan is a Medicare [+ Choice] **Advantage** coordinated care plan
70 offered by the health carrier pursuant to a contract with the federal Centers for Medicare and
71 Medicaid Services;

72 (2) The managed care plan is being offered by a health carrier that has been accredited
73 by the National Committee for Quality Assurance at a level of "accredited" or better, and such
74 accreditation is in effect at the time the access plan is filed;

75 (3) The managed care plan's network has been accredited by the Joint Commission on
76 the Accreditation of Health Organizations for Network Adequacy, and such accreditation is in
77 effect at the time the access plan is filed. If the accreditation applies to only a portion of the
78 managed care plan's network, only the accredited portion will be deemed adequate; or

79 (4) The managed care plan is being offered by a health carrier that has been accredited
80 by the Utilization Review Accreditation Commission at a level of "accredited" or better, and
81 such accreditation is in effect at the time the access plan is filed.

82 **4. Notwithstanding any other provision of law to the contrary, a health carrier, as**
83 **defined in section 354.600, may offer a health benefit plan that is a managed care plan that**
84 **requires all health care services to be delivered by a participating provider in the health**
85 **carrier's network, except for emergency services, as defined in section 354.600, and the**
86 **services described in subsection 4 of section 376.811. Such a provision shall be disclosed**
87 **in the policy form.**

376.405. 1. No insurance company licensed to transact business in this state shall deliver
2 or issue for delivery in this state any policy of group accident or group health insurance, or group
3 accident and health insurance, including insurance against hospital, medical or surgical expenses,
4 covering a group in this state, unless such policy form shall have been approved by the director
5 of the department of insurance, financial institutions and professional registration of the state of
6 Missouri.

7 2. The director of the department of insurance, financial institutions and professional
8 registration shall have authority to make such reasonable rules and regulations concerning the
9 filing and submission of such policy forms as are necessary, proper or advisable. Such rules and
10 regulations shall provide, among other things, that if a policy form is disapproved, [the reasons
11 therefor] **all specific reasons for nonconformance** shall be stated in writing **within forty-five**
12 **days from the date of filing**; that a hearing shall be granted upon such disapproval, if so
13 requested; and that the failure of the director of the department of insurance, financial institutions
14 and professional registration, to take action approving or disapproving a submitted policy form
15 within [a stipulated time, not to exceed sixty] **forty-five** days from the date of filing, shall be
16 deemed an approval thereof [until such time as the director of the department of insurance,
17 financial institutions and professional registration shall notify the submitting company, in

18 writing, of his disapproval thereof]. **If at any time after a policy form is approved or deemed**
19 **approved the director determines that any provision of the filing is contrary to state law,**
20 **the director shall notify the health carrier of the specific provision that is contrary to state**
21 **law and any specific statute to which the provision is contrary, and request that the health**
22 **carrier file within thirty days of the notification an amendment form that modifies the**
23 **provision to conform to state law. Upon approval of the amendment form by the director,**
24 **the health carrier shall issue a copy of the amendment to each individual and entity to**
25 **which the deemed filing was previously issued and shall attach a copy of the amendment**
26 **to the deemed filing when it is subsequently issued. Such amendment shall have the force**
27 **and effect as if the amendment was in the original filing or policy. Notwithstanding any**
28 **provision of law to the contrary, when a policy form is approved or deemed approved and**
29 **subsequently amended at the request of the director pursuant to this section the health**
30 **carrier issuing the policy form shall be considered to have committed a level one violation**
31 **under section 374.049.**

32 3. The director of the department of insurance, financial institutions and professional
33 registration shall approve only those policy forms which are in compliance with the insurance
34 laws of this state and which contain such words, phraseology, conditions and provisions which
35 are specific, certain and unambiguous and reasonably adequate to meet needed requirements for
36 the protection of those insured. The disapproval of any policy form shall be based upon the
37 requirements of the laws of this state or of any regulation lawfully promulgated thereunder.

38 4. The director of the department of insurance, financial institutions and professional
39 registration may, by order or bulletin, exempt from the approval requirements of this section for
40 so long as he deems proper any insurance policy, document, or form or type thereof, as specified
41 in such order or bulletin, to which, in his opinion, this section may not practicably be applied,
42 or the approval of which is, in his opinion, not desirable or necessary for the protection of the
43 public.

 376.426. No policy of group health insurance shall be delivered in this state unless it
2 contains in substance the following provisions, or provisions which in the opinion of the director
3 of the department of insurance, financial institutions and professional registration are more
4 favorable to the persons insured or at least as favorable to the persons insured and more favorable
5 to the policyholder; except that: provisions in subdivisions (5), (7), (12), (15), and (16) of this
6 section shall not apply to policies insuring debtors; standard provisions required for individual
7 health insurance policies shall not apply to group health insurance policies; and if any provision
8 of this section is in whole or in part inapplicable to or inconsistent with the coverage provided
9 by a particular form of policy, the insurer, with the approval of the director, shall omit from such
10 policy any inapplicable provision or part of a provision, and shall modify any inconsistent

11 provision or part of the provision in such manner as to make the provision as contained in the
12 policy consistent with the coverage provided by the policy:

13 (1) A provision that the policyholder is entitled to a grace period of thirty-one days for
14 the payment of any premium due except the first, during which grace period the policy shall
15 continue in force, unless the policyholder shall have given the insurer written notice of
16 discontinuance in advance of the date of discontinuance and in accordance with the terms of the
17 policy. The policy may provide that the policyholder shall be liable to the insurer for the
18 payment of a pro rata premium for the time the policy was in force during such grace period;

19 (2) A provision that the validity of the policy shall not be contested, except for
20 nonpayment of premiums, after it has been in force for two years from its date of issue, and that
21 no statement made by any person covered under the policy relating to insurability shall be used
22 in contesting the validity of the insurance with respect to which such statement was made after
23 such insurance has been in force prior to the contest for a period of two years during such
24 person's lifetime nor unless it is contained in a written instrument signed by the person making
25 such statement; except that, no such provision shall preclude the assertion at any time of defenses
26 based upon the person's ineligibility for coverage under the policy or upon other provisions in
27 the policy;

28 (3) A provision that a copy of the application, if any, of the policyholder shall be
29 attached to the policy when issued, that all statements made by the policyholder or by the persons
30 insured shall be deemed representations and not warranties and that no statement made by any
31 person insured shall be used in any contest unless a copy of the instrument containing the
32 statement is or has been furnished to such person or, in the event of the death or incapacity of
33 the insured person, to the individual's beneficiary or personal representative;

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

37 (5) A provision specifying the additional exclusions or limitations, if any, applicable
38 under the policy with respect to a disease or physical condition of a person, not otherwise
39 excluded from the person's coverage by name or specific description effective on the date of the
40 person's loss, which existed prior to the effective date of the person's coverage under the policy.
41 Any such exclusion or limitation may only apply to a disease or physical condition for which
42 medical advice or treatment was received by the person during the twelve months prior to the
43 effective date of the person's coverage. In no event shall such exclusion or limitation apply to
44 loss incurred or disability commencing after the earlier of:

45 (a) The end of a continuous period of twelve months commencing on or after the
46 effective date of the person's coverage during all of which the person has received no medical
47 advice or treatment in connection with such disease or physical condition; or

48 (b) The end of the two-year period commencing on the effective date of the person's
49 coverage;

50 (6) If the premiums or benefits vary by age, there shall be a provision specifying an
51 equitable adjustment of premiums or of benefits, or both, to be made in the event the age of the
52 covered person has been misstated, such provision to contain a clear statement of the method of
53 adjustment to be used;

54 (7) A provision that the insurer shall issue to the policyholder, for delivery to each
55 person insured, a certificate setting forth a statement as to the insurance protection to which that
56 person is entitled, to whom the insurance benefits are payable, and a statement as to any family
57 member's or dependent's coverage;

58 (8) A provision that written notice of claim must be given to the insurer within twenty
59 days after the occurrence or commencement of any loss covered by the policy. Failure to give
60 notice within such time shall not invalidate nor reduce any claim if it shall be shown not to have
61 been reasonably possible to give such notice and that notice was given as soon as was reasonably
62 possible;

63 (9) A provision that the insurer shall furnish to the person making claim, or to the
64 policyholder for delivery to such person, such forms as are usually furnished by it for filing proof
65 of loss. If such forms are not furnished before the expiration of fifteen days after the insurer
66 receives notice of any claim under the policy, the person making such claim shall be deemed to
67 have complied with the requirements of the policy as to proof of loss upon submitting, within
68 the time fixed in the policy for filing proof of loss, written proof covering the occurrence,
69 character, and extent of the loss for which claim is made;

70 (10) A provision that in the case of claim for loss of time for disability, written proof of
71 such loss must be furnished to the insurer within ninety days after the commencement of the
72 period for which the insurer is liable, and that subsequent written proofs of the continuance of
73 such disability must be furnished to the insurer at such intervals as the insurer may reasonably
74 require, and that in the case of claim for any other loss, written proof of such loss must be
75 furnished to the insurer within ninety days after the date of such loss. Failure to furnish such
76 proof within such time shall not invalidate nor reduce any claim if it was not reasonably possible
77 to furnish such proof within such time, provided such proof is furnished as soon as reasonably
78 possible and in no event, except in the absence of legal capacity of the claimant, later than one
79 year from the time proof is otherwise required;

80 (11) A provision that all benefits payable under the policy other than benefits for loss of
81 time shall be payable not more than thirty days after receipt of proof and that, subject to due
82 proof of loss, all accrued benefits payable under the policy for loss of time shall be paid not less
83 frequently than monthly during the continuance of the period for which the insurer is liable, and
84 that any balance remaining unpaid at the termination of such period shall be paid as soon as
85 possible after receipt of such proof;

86 (12) A provision that benefits for accidental loss of life of a person insured shall be
87 payable to the beneficiary designated by the person insured or, if the policy contains conditions
88 pertaining to family status, the beneficiary may be the family member specified by the policy
89 terms. In either case, payment of these benefits is subject to the provisions of the policy in the
90 event no such designated or specified beneficiary is living at the death of the person insured. All
91 other benefits of the policy shall be payable to the person insured. The policy may also provide
92 that if any benefit is payable to the estate of a person, or to a person who is a minor or otherwise
93 not competent to give a valid release, the insurer may pay such benefit, up to an amount not
94 exceeding two thousand dollars, to any relative by blood or connection by marriage of such
95 person who is deemed by the insurer to be equitably entitled thereto;

96 (13) A provision that the insurer shall have the right and opportunity, at the insurer's own
97 expense, to examine the person of the individual for whom claim is made when and so often as
98 it may reasonably require during the pendency of the claim under the policy and also the right
99 and opportunity, at the insurer's own expense, to make an autopsy in case of death where it is not
100 prohibited by law;

101 (14) A provision that no action at law or in equity shall be brought to recover on the
102 policy prior to the expiration of sixty days after proof of loss has been filed in accordance with
103 the requirements of the policy and that no such action shall be brought at all unless brought
104 within three years from the expiration of the time within which proof of loss is required by the
105 policy;

106 (15) A provision specifying the conditions under which the policy may be terminated.
107 Such provision shall state that except for nonpayment of the required premium or the failure to
108 meet continued underwriting standards, the insurer may not terminate the policy prior to the first
109 anniversary date of the effective date of the policy as specified therein, and a notice of any
110 intention to terminate the policy by the insurer must be given to the policyholder at least
111 thirty-one days prior to the effective date of the termination. Any termination by the insurer shall
112 be without prejudice to any expenses originating prior to the effective date of termination. An
113 expense will be considered incurred on the date the medical care or supply is received;

114 (16) A provision stating that if a policy provides that coverage of a dependent child
115 terminates upon attainment of the limiting age for dependent children specified in the policy,

116 such policy, so long as it remains in force, shall be deemed to provide that attainment of such
117 limiting age does not operate to terminate the hospital and medical coverage of such child while
118 the child is and continues to be both incapable of self-sustaining employment by reason of
119 mental or physical handicap and chiefly dependent upon the certificate holder for support and
120 maintenance. Proof of such incapacity and dependency must be furnished to the insurer by the
121 certificate holder at least thirty-one days after the child's attainment of the limiting age. The
122 insurer may require at reasonable intervals during the two years following the child's attainment
123 of the limiting age subsequent proof of the child's incapacity and dependency. After such
124 two-year period, the insurer may require subsequent proof not more than once each year. This
125 subdivision shall apply only to policies delivered or issued for delivery in this state on or after
126 one hundred twenty days after September 28, 1985;

127 (17) A provision stating that if a policy provides that coverage of a dependent child
128 terminates upon attainment of the limiting age for dependent children specified in the policy,
129 such policy, so long as it remains in force, until the dependent child attains the limiting age, shall
130 remain in force at the option of the certificate holder. Eligibility for continued coverage shall
131 be established where the dependent child is:

132 (a) Unmarried and no more than that twenty-five years of age; and

133 (b) A resident of this state; and

134 (c) Not provided coverage as a named subscriber, insured, enrollee, or covered person
135 under any group or individual health benefit plan, or entitled to benefits under Title XVIII of the
136 Social Security Act, P.L. 89-97, 42 U.S.C. Section 1395, et seq.;

137 (18) In the case of a policy insuring debtors, a provision that the insurer shall furnish to
138 the policyholder for delivery to each debtor insured under the policy a certificate of insurance
139 describing the coverage and specifying that the benefits payable shall first be applied to reduce
140 or extinguish the indebtedness;

141 **(19) Notwithstanding any other provision of law to the contrary, a health carrier,**
142 **as defined in section 376.1350, may offer a health benefit plan that is a managed care plan**
143 **that requires all health care services to be delivered by a participating provider in the**
144 **health carrier's network, except for emergency services, as defined in section 354.600, and**
145 **the services described in subsection 4 of section 376.811. Such a provision shall be**
146 **disclosed in the policy form.**

376.777. 1. Required provisions. Except as provided in subsection 3 of this section each
2 such policy delivered or issued for delivery to any person in this state shall contain the provisions
3 specified in this subsection in the words in which the same appear in this section; provided,
4 however, that the insurer may, at its option, substitute for one or more of such provisions
5 corresponding provisions of different wording approved by the director of the department of

6 insurance, financial institutions and professional registration which are in each instance not less
7 favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded
8 individually by the caption appearing in this subsection or, at the option of the insurer, by such
9 appropriate individual or group captions or subcaptions as the director of the department of
10 insurance, financial institutions and professional registration may approve.

11 (1) A provision as follows: "ENTIRE CONTRACT; CHANGES: This policy, including
12 the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No
13 change in this policy shall be valid until approved by an executive officer of the insurer and
14 unless such approval be endorsed hereon or attached hereto. No agent has authority to change
15 this policy or to waive any of its provisions".

16 (When under the provisions of subdivision (2) of subsection 1 of section 376.775 the
17 effective and termination dates are stated in the premium receipt, the insurer shall insert in the
18 first sentence of the foregoing policy provision immediately following the comma after the word
19 "any", the following words: "and the insurer's official premium receipt when executed").

20 (2) A provision as follows: "TIME LIMIT ON CERTAIN DEFENSES: (a) After two
21 years from the date of issue of this policy no misstatements, except fraudulent misstatements,
22 made by the applicant in the application for such policy shall be used to void the policy or to
23 deny a claim for loss incurred or disability (as defined in the policy) commencing after the
24 expiration of such two-year period".

25 (The foregoing policy provision shall not be so construed as to affect any legal
26 requirements for avoidance of a policy or denial of a claim during such initial two-year period,
27 nor to limit the application of subdivisions (1), (2), (3), (4) and (5) of subsection 2 of this section
28 in the event of misstatement with respect to age or occupation or other insurance.)

29 (A policy which the insured has the right to continue in force subject to its terms by the
30 timely payment of premium (1) until at least age fifty or, (2) in the case of a policy issued after
31 age forty-four, for at least five years from its date of issue, may contain in lieu of the foregoing
32 the following provision (from which the clause in parentheses may be omitted at the insurer's
33 option) under the caption "UNCONTESTABLE": "After this policy has been in force for a
34 period of three years during the lifetime of the insured (excluding any period during which the
35 insured is disabled), it shall become uncontestable as to the statements contained in the
36 application). (b) No claim for loss incurred or disability (as defined in the policy) commencing
37 after two years from the date of issue of this policy shall be reduced or denied on the ground that
38 a disease or physical condition not excluded from coverage by name or specific description
39 effective on the date of loss had existed prior to the effective date of coverage of this policy."

40 (3) A provision as follows: "GRACE PERIOD:

41 A grace period of . . . (insert a number not less than "7" for weekly premium policies,
42 "10" for monthly premium policies and "31" for all other policies) days will be granted for the
43 payment of each premium falling due after the first premium, during which grace period the
44 policy shall continue in force."

45 (A policy which contains a cancellation provision may add, at the end of the above
46 provision, subject to the right of the insurer to cancel in accordance with the cancellation
47 provision hereof. A policy in which the insurer reserves the right to refuse any renewal shall
48 have, at the beginning of the above provision, "Unless not less than five days prior to the
49 premium due date the insurer has delivered to the insured or has mailed to his last address as
50 shown by the records of the insurer written notice of its intention not to renew this policy beyond
51 the period for which the premium has been accepted").

52 (4) A provision as follows: "REINSTATEMENT:

53 If any renewal premium be not paid within the time granted the insured for payment, a
54 subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer
55 to accept such premium, without requiring in connection therewith an application for
56 reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent
57 requires an application for reinstatement and issues a conditional receipt for the premium
58 tendered, the policy will be reinstated upon approval of such application by the insurer, or,
59 lacking such approval, upon the forty-fifth day following the date of such conditional receipt
60 unless the insurer has previously notified the insured in writing of its disapproval of such
61 application. The reinstated policy shall cover only loss resulting from such accidental injury as
62 may be sustained after the date of reinstatement and loss due to such sickness as may begin more
63 than ten days after such date. In all other respects the insured and insurer shall have the same
64 rights thereunder as they had under the policy immediately before the due date of the defaulted
65 premium, subject to any provisions endorsed hereon or attached hereto in connection with the
66 reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a
67 period for which premium has not been previously paid, but not to any period more than sixty
68 days prior to the date of reinstatement".

69 (The last sentence of the above provision may be omitted from any policy which the
70 insured has the right to continue in force subject to its terms by the timely payment of premiums
71 (1) until at least age fifty or, (2) in the case of a policy issued after age forty-four, for at least five
72 years from its date of issue.)

73 (5) A provision as follows: "NOTICE OF CLAIM:

74 Written notice of claim must be given to the insurer within twenty days after the
75 occurrence or commencement of any loss covered by the policy, or as soon thereafter as is
76 reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insured

77 at (insert the location of such office as the insurer may designate for the purpose), or to
78 any authorized agent of the insurer, with information sufficient to identify the insured, shall be
79 deemed notice to the insurer".

80 (In a policy providing a loss-of-time benefit which may be payable for at least two years,
81 an insurer may at its option insert the following between the first and second sentences of the
82 above provision: "Subject to the qualifications set forth below, if the insured suffers loss of time
83 on account of disability for which indemnity may be payable for at least two years, he shall, at
84 least once in every six months after having given notice of claim, give to the insurer notice of
85 continuance of said disability, except in the event of legal incapacity. The period of six months
86 following any filing of proof by the insured or any payment by the insurer on account of such
87 claim or any denial of liability in whole or in part by the insurer shall be excluded in applying
88 this provision. Delay in the giving of such notice shall not impair the insured's right to any
89 indemnity which would otherwise have accrued during the period of six months preceding the
90 date on which such notice is actually given").

91 (6) A provision as follows: "CLAIM FORMS:

92 The insurer upon receipt of a notice of claim, will furnish to the claimant such forms as
93 are usually furnished by it for filing proofs of loss.

94 If such forms are not furnished within fifteen days after the giving of such notice the claimant
95 shall be deemed to have complied with the requirements of this policy as to proof of loss upon
96 submitting, within the time fixed in the policy for filing proofs of loss, written proof covering
97 the occurrence, the character and the extent of the loss for which claim is made".

98 (7) A provision as follows: "PROOFS OF LOSS:

99 Written proof of loss must be furnished to the insurer at its said office in case of claim
100 for loss for which this policy provides any periodic payment contingent upon continuing loss
101 within ninety days after the termination of the period for which the insurer is liable and in case
102 of claim for any other loss within ninety days after the date of such loss. Failure to furnish such
103 proof within the time required shall not invalidate nor reduce any claim if it was not reasonably
104 possible to give proof within such time, provided such proof is furnished as soon as reasonably
105 possible and in no event, except in the absence of legal capacity, later than one year from the
106 time proof is otherwise required".

107 (8) A provision as follows: "TIME OF PAYMENT OF CLAIMS:

108 Indemnities payable under this policy for any loss other than loss for which this policy
109 provides any periodic payment will be paid immediately upon receipt of due written proof of
110 such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this
111 policy provides periodic payment will be paid (insert period for payment which must not

112 be less frequently than monthly) and any balance remaining unpaid upon the termination of
113 liability will be paid immediately upon receipt of due written proof".

114 (9) A provision as follows: "PAYMENT OF CLAIMS:

115 Indemnity for loss of life will be payable in accordance with the beneficiary designation
116 and the provisions respecting such payment which may be prescribed herein and effective at the
117 time of payment. If no such designation or provision is then effective, such indemnity shall be
118 payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death
119 may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other
120 indemnities will be payable to the insured".

121 (The following provisions, or either of them, may be included with the foregoing
122 provision at the option of the insurer: "If any indemnity of this policy shall be payable to the
123 estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent
124 to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$.....
125 (insert an amount which shall not exceed one thousand dollars), to any relative by blood or
126 connection by marriage of the insured or beneficiary who is deemed by the insurer to be
127 equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this
128 provision shall fully discharge the insurer to the extent of such payment. Subject to any written
129 direction of the insured in the application or otherwise all or a portion of any indemnities
130 provided by this policy on account of hospital, nursing, medical, or surgical services may, at the
131 insurer's option and unless the insured requests otherwise in writing not later than the time of
132 filing proofs of such loss, be paid directly to the hospital or person rendering such services; but
133 it is not required that the service be rendered by a particular hospital or person").

134 (10) A provision as follows: "PHYSICAL EXAMINATIONS AND AUTOPSY:

135 The insurer at its own expense shall have the right and opportunity to examine the person
136 of the insured when and as often as it may reasonably require during the pendency of a claim
137 hereunder and to make an autopsy in case of death where it is not forbidden by law".

138 (11) A provision as follows: "LEGAL ACTIONS:

139 No action at law or in equity shall be brought to recover on this policy prior to the
140 expiration of sixty days after written proof of loss has been furnished in accordance with the
141 requirements of this policy. No such action shall be brought after the expiration of three years
142 after the time written proof of loss is required to be furnished".

143 (12) A provision as follows: "CHANGE OF BENEFICIARY:

144 Unless the insured makes an irrevocable designation of beneficiary, the right to change
145 of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall
146 not be requisite to surrender or assignment of this policy or to change of beneficiary or
147 beneficiaries, or to any other changes in this policy".

148 (The first clause of this provision, relating to the irrevocable designation of beneficiary,
149 may be omitted at the insurer's option).

150 2. Other provisions. Except as provided in subsection 3 of this section, no such policy
151 delivered or issued for delivery to any person in this state shall contain provisions respecting the
152 matters set forth below unless such provisions are in the words in which the same appear in this
153 section; provided, however, that the insurer may, at its option, use in lieu of any such provision
154 a corresponding provision of different wording approved by the director of the department of
155 insurance, financial institutions and professional registration which is not less favorable in any
156 respect to the insured or the beneficiary. Any such provision contained in the policy shall be
157 preceded individually by the appropriate caption appearing in this subsection or, at the option
158 of the insurer, by such appropriate individual or group captions or subcaptions as the director of
159 the department of insurance, financial institutions and professional registration may approve.

160 (1) A provision as follows: "CHANGE OF OCCUPATION:

161 If the insured be injured or contract sickness after having changed his occupation to one
162 classified by the insurer as more hazardous than that stated in this policy or while doing for
163 compensation anything pertaining to an occupation so classified, the insurer will pay only such
164 portion of the indemnities provided in this policy as the premium paid would have purchased at
165 the rates and within the limits fixed by the insurer for such more hazardous occupation. If the
166 insured changes his occupation to one classified by the insurer as less hazardous than that stated
167 in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the
168 premium rate accordingly, and will return the excess pro rata unearned premium from the date
169 of change of occupation or from the policy anniversary date immediately preceding receipt of
170 such proof, whichever is the more recent. In applying this provision, the classification of
171 occupational risk and the premium rates shall be such as have been last filed by the insurer prior
172 to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in
173 occupation with the state official having supervision of insurance in the state where the insured
174 resided at the time this policy was issued; but if such filing was not required, then the
175 classification of occupational risk and the premium rates shall be those last made effective by
176 the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change
177 in occupation".

178 (2) A provision as follows: "MISSTATEMENT OF AGE:

179 If the age of the insured has been misstated, all amounts payable under this policy shall
180 be such as the premium paid would have purchased at the correct age".

181 (3) A provision as follows: "OTHER INSURANCE IN THIS INSURER:

182 If an accident or sickness or accident and sickness policy or policies previously issued
183 by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity

184 for (insert type of coverage or coverages) in excess of \$..... (insert maximum limit of
185 indemnity or indemnities) the excess insurance shall be void and all premiums paid for such
186 excess shall be returned to the insured or to his estate, or in lieu thereof. Insurance effective at
187 any one time on the insured under a like policy or policies in this insurer is limited to the one
188 such policy elected by the insured, his beneficiary or his estate, as the case may be, and the
189 insurer will return all premiums paid for all other such policies".

190 (4) A provision as follows: "INSURANCE WITH OTHER INSURERS:

191 If there be other valid coverage, not with this insurer, providing benefits for the same loss
192 on a provision of service basis or on an expense incurred basis and of which this insurer has not
193 been given written notice prior to the occurrence or commencement of loss, the only liability
194 under any expense incurred coverage of this policy shall be for such proportion of the loss as the
195 amount which would otherwise have been payable hereunder plus the total of the like amounts
196 under all such other valid coverages for the same loss of which this insurer had notice bears to
197 the total like amounts under all valid coverages for such loss, and for the return of such portion
198 of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the
199 purpose of applying this provision when other coverage is on a provision of service basis, the
200 "like amount" of such other coverage shall be taken as the amount which the services rendered
201 would have cost in the absence of such coverage".

202 (If the foregoing policy provision is included in a policy which also contains the next
203 following policy provision there shall be added to the caption of the foregoing provision the
204 phrase "EXPENSE INCURRED BENEFITS". The insurer may, at its option, include in this
205 provision a definition of "other valid coverage", approved as to form by the director of the
206 department of insurance, financial institutions and professional registration, which definition
207 shall be limited in subject matter to coverage provided by organizations subject to regulation by
208 insurance law or by insurance authorities of this or any other state of the United States or any
209 province of Canada, and by hospital or medical service organizations, and to any other coverage
210 the inclusion of which may be approved by the director of the department of insurance, financial
211 institutions and professional registration. In the absence of such definition such term shall not
212 include group insurance, automobile medical payments insurance, or coverage provided by
213 hospital or medical service organizations or by union welfare plans or employer or employees
214 benefit organizations. For the purpose of applying the foregoing policy provision with respect
215 to any insured, any amount of benefit provided for such insured pursuant to any compulsory
216 benefit statute (including any workers' compensation or employer's liability statute whether
217 provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid
218 coverage" of which the insurer has had notice. In applying the foregoing policy provision no
219 third party liability coverage shall be included as "other valid coverage").

220 (5) A provision as follows: "INSURANCE WITH OTHER INSURERS:

221 If there be other valid coverage, not with this insurer, providing benefits for the same loss
222 on other than an expense incurred basis and of which this insurer has not been given written
223 notice prior to the occurrence or commencement of loss, the only liability for such benefits under
224 this policy shall be for such proportion of the indemnities otherwise provided hereunder for such
225 loss as the like indemnities of which the insurer had notice (including the indemnities under this
226 policy) bear to the total amount of all like indemnities for such loss, and for the return of such
227 portion of the premium paid as shall exceed the pro rata portion for the indemnities thus
228 determined".

229 (If the foregoing policy provision is included in a policy which also contains the next
230 preceding policy provision there shall be added to the caption of the foregoing provision the
231 phrase "OTHER BENEFITS". The insurer may, at its option, include in this provision a
232 definition of "other valid coverage", approved as to form by the director of the department of
233 insurance, financial institutions and professional registration which definition shall be limited
234 in subject matter to coverage provided by organizations subject to regulation by insurance law
235 or by insurance authorities of this or any other state of the United States or any province of
236 Canada, and to any other coverage the inclusion of which may be approved by the director of the
237 department of insurance, financial institutions and professional registration. In the absence of
238 such definition such term shall not include group insurance, or benefits provided by union
239 welfare plans or by employer or employee benefit organizations. For the purpose of applying
240 the foregoing policy provision with respect to any insured, any amount of benefit provided for
241 such insured pursuant to any compulsory benefit statute (including any workers' compensation
242 or employer's liability statute) whether provided by a governmental agency or otherwise shall in
243 all cases be deemed to be "other valid coverage", of which the insurer has had notice. In
244 applying the foregoing policy provision no third party liability coverage shall be included as
245 "other valid coverage").

246 (6) A provision as follows: "RELATION OF EARNINGS TO INSURANCE:

247 If the total monthly amount of loss of time benefits promised for the same loss under all
248 valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis,
249 shall exceed the monthly earnings of the insured at the time disability commenced or his average
250 monthly earnings for the period of two years immediately preceding a disability for which claim
251 is made, whichever is the greater, the insurer will be liable only for such proportionate amount
252 of such benefits under this policy as the amount of such monthly earnings or such average
253 monthly earnings of the insured bears to the total amount of monthly benefits for the same loss
254 under all such coverage upon the insured at the time such disability commences and for the
255 return of such part of the premiums paid during such two years as shall exceed the pro rata

256 amount of the premiums for the benefits actually paid hereunder; but this shall not operate to
257 reduce the total monthly amount of benefits payable under all such coverage upon the insured
258 below the sum of two hundred dollars or the sum of the monthly benefits specified in such
259 coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable
260 for loss of time".

261 (The foregoing policy provision may be inserted only in a policy which the insured has
262 the right to continue in force subject to its terms by the timely payment of premiums (1) until at
263 least age fifty or, (2) in the case of a policy issued after age forty-four, for at least five years from
264 this date of issue. The insurer may, at its option, include in this provision a definition of "valid
265 loss of time coverage", approved as to form by the director of the department of insurance,
266 financial institutions and professional registration, which definition shall be limited in subject
267 matter to coverage provided by governmental agencies or by organizations subject to regulation
268 by insurance law or by insurance authorities of this or any other state of the United States or any
269 province of Canada, or to any other coverage the inclusion of which may be approved by the
270 director of the department of insurance, financial institutions and professional registration or any
271 combination of such coverages. In the absence of such definition such term shall not include any
272 coverage provided for such insured pursuant to any compulsory benefit statute (including any
273 workers' compensation or employer's liability statute), or benefits provided by union welfare
274 plans or by employer or employee benefit organizations).

275 (7) A provision as follows: "UNPAID PREMIUM:

276 Upon the payment of a claim under this policy, any premium then due and unpaid or
277 covered by any note or written order may be deducted therefrom".

278 (8) A provision as follows: "CANCELLATION:

279 The insurer may cancel this policy at any time by written notice delivered to the insured,
280 or mailed to his last address as shown by the records of the insurer, stating when, not less than
281 five days thereafter, such cancellation shall be effective; and after the policy has been continued
282 beyond its original term the insured may cancel this policy at any time by written notice delivered
283 or mailed to the insurer, effective upon receipt or on such later date as may be specified in such
284 notice. In the event of cancellation, the insurer will return promptly the unearned portion of any
285 premium paid. If the insured cancels, the earned premium shall be computed by the use of the
286 short-rate table last filed with the state official having supervision of insurance in the state where
287 the insured resided when the policy was issued. If the insurer cancels, the earned premium shall
288 be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to
289 the effective date of cancellation".

290 (9) A provision as follows: "CONFORMITY WITH STATE STATUTES:

291 Any provision of this policy which, on its effective date, is in conflict with the statutes
292 of the state in which the insured resides on such date is hereby amended to conform to the
293 minimum requirements of such statutes".

294 (10) A provision as follows: "ILLEGAL OCCUPATION:

295 The insurer shall not be liable for any loss to which a contributing cause was the insured's
296 commission of or attempt to commit a felony or to which a contributing cause was the insured's
297 being engaged in an illegal occupation".

298 (11) A provision as follows: "INTOXICANTS AND NARCOTICS:

299 The insurer shall not be liable for any loss sustained or contracted in consequence of the
300 insured's being intoxicated or under the influence of any narcotic unless administered on the
301 advice of a physician".

302 3. Inapplicable or inconsistent provisions. If any provision of this section is in whole
303 or in part inapplicable to or inconsistent with the coverage provided by a particular form of
304 policy the insurer, with the approval of the director of the department of insurance, financial
305 institutions and professional registration, shall omit from such policy an inapplicable provision
306 or part of a provision, and shall modify any inconsistent provision or part of the provision, in
307 such manner as to make the provision as contained in the policy consistent with the coverage
308 provided by the policy.

309 4. Order of certain policy provisions. The provisions which are the subject of
310 subsections 1 and 2 of this section, or any corresponding provisions which are used in lieu
311 thereof in accordance with such subsections, shall be printed in the consecutive order of the
312 provisions in such subsections or, at the option of the insurer, any such provision may appear as
313 a unit in any part of the policy, with other provisions to which it may be logically related,
314 provided the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous,
315 abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

316 5. Third party ownership. The word "insured" as used in sections 376.770 to 376.800,
317 shall not be construed as preventing a person other than the insured with a proper insurable
318 interest from making application for and owning a policy covering the insured or from being
319 entitled under such a policy to any indemnities, benefits and rights provided therein.

320 6. Requirements of other jurisdictions.

321 (1) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any
322 person in this state, may contain any provision which is not less favorable to the insured or the
323 beneficiary than the provisions of sections 376.770 to 376.800 and which is prescribed or
324 required by the law of the state under which the insurer is organized.

325 (2) Any policy of a domestic insurer may, when issued for delivery in any other state or
326 country, contain any provision permitted or required by the laws of such other state or country.

327 7. Approval of policies.

328 (1) No policy subject to sections 376.770 to 376.800 shall be delivered or issued for
329 delivery to any person in this state unless such policy, including any rider, endorsement or other
330 provisions, supplementary thereto, shall have been approved by the director of the department
331 of insurance, financial institutions and professional registration.

332 (2) The director of the department of insurance, financial institutions and professional
333 registration shall have authority to make such reasonable rules and regulations concerning the
334 filing and submission of policies as are necessary, proper or advisable. Such rules and
335 regulations shall provide, among other things, that if a policy form is disapproved, [the reasons
336 therefor] **all specific reasons for nonconformance** shall be stated in writing **within forty-five**
337 **days from the date of filing**; that a hearing shall be granted upon such disapproval, if so
338 requested; and that the failure of the director of the department of insurance, financial institutions
339 and professional registration to take action approving or disapproving a submitted policy form
340 within [a stipulated time, not to exceed sixty] **forty-five** days from the date of filing, shall be
341 deemed an approval thereof [until such time as the director of the department of insurance,
342 financial institutions and professional registration shall notify the submitting company, in
343 writing, of his disapproval thereof]. **If at any time after a policy form is approved or deemed**
344 **approved, the director determines that any provision of the filing is contrary to state law,**
345 **the director shall notify the health carrier of the specific provision that is contrary to state**
346 **law and any specific statute to which the provision is contrary and request that the health**
347 **carrier file, within thirty days of the notification, an amendment form that modifies the**
348 **provision to conform to state law. Upon approval of the amendment form by the director,**
349 **the health carrier shall issue a copy of the amendment to each individual and entity to**
350 **which the deemed filing was previously issued and shall attach a copy of the amendment**
351 **to the deemed filing when it is subsequently issued. Such amendment shall have the force**
352 **and effect as if the amendment was in the original filing or policy. Notwithstanding any**
353 **provision of law to the contrary, when a policy form is approved or deemed approved and**
354 **subsequently amended at the request of the director pursuant to this section, the health**
355 **carrier issuing the policy form shall be considered to have committed a level one violation**
356 **under section 374.049.**

357 (3) The director of the department of insurance, financial institutions and professional
358 registration shall approve only those policies which are in compliance with the insurance laws
359 of this state and which contain such words, phraseology, conditions and provisions which are
360 specific, certain and unambiguous and reasonably adequate to meet needed requirements for the
361 protection of those insured. The disapproval of any policy form shall be based upon the
362 requirements of the laws of this state or of any regulation lawfully promulgated thereunder.

363 (4) The director of the department of insurance, financial institutions and professional
364 registration may, by order or bulletin, exempt from the approval requirements of this section for
365 so long as he deems proper any insurance policy, document, or form or type thereof, as specified
366 in such order or bulletin, to which, in his opinion, this section may not practicably be applied,
367 or the approval of which is, in his opinion, not desirable or necessary for the protection of the
368 public.

369 **(5) Notwithstanding any other provision of law to the contrary, a health carrier, as**
370 **defined in section 376.1350, may offer a health benefit plan that is a managed care plan**
371 **that requires all health care services to be delivered by a participating provider in the**
372 **health carrier's network, except for emergency services, as defined in section 354.600, and**
373 **the services described in subsection 4 of section 376.811. Such a provision shall be**
374 **disclosed in the policy form.**

376.961. 1. There is hereby created a nonprofit entity to be known as the "Missouri
2 Health Insurance Pool". All insurers issuing health insurance in this state and insurance
3 arrangements providing health plan benefits in this state shall be members of the pool.

4 2. Beginning January 1, 2007, the board of directors shall consist of the director of the
5 department of insurance, financial institutions and professional registration or the director's
6 designee, and eight members appointed by the director. Of the initial eight members appointed,
7 three shall serve a three-year term, three shall serve a two-year term, and two shall serve a
8 one-year term. All subsequent appointments to the board shall be for three-year terms. Members
9 of the board shall have a background and experience in health insurance plans or health
10 maintenance organization plans, in health care finance, or as a health care provider or a member
11 of the general public; except that, the director shall not be required to appoint members from
12 each of the categories listed. The director may reappoint members of the board. The director
13 shall fill vacancies on the board in the same manner as appointments are made at the expiration
14 of a member's term and may remove any member of the board for neglect of duty, misfeasance,
15 malfeasance, or nonfeasance in office.

16 3. Beginning August 28, 2007, the board of directors shall consist of fourteen members.
17 The board shall consist of the director and the eight members described in subsection 2 of this
18 section and shall consist of the following additional five members:

19 (1) One member from a hospital located in Missouri, appointed by the governor, with
20 the advice and consent of the senate;

21 (2) Two members of the senate, with one member from the majority party appointed by
22 the president pro tem of the senate and one member of the minority party appointed by the
23 president pro tem of the senate with the concurrence of the minority floor leader of the senate;
24 and

25 (3) Two members of the house of representatives, with one member from the majority
26 party appointed by the speaker of the house of representatives and one member of the minority
27 party appointed by the speaker of the house of representatives with the concurrence of the
28 minority floor leader of the house of representatives.

29 4. The members appointed under subsection 3 of this section shall serve in an ex officio
30 capacity. The terms of the members of the board of directors appointed under subsection 3 of
31 this section shall expire on December 31, 2009. On such date, the membership of the board shall
32 revert back to nine members as provided for in subsection 2 of this section.

33 **5. Beginning on August 28, 2013, the board of directors, on behalf of the pool, the**
34 **executive director, and any other employees of the pool, shall have the authority to provide**
35 **assistance or resources to any department, agency, public official, employee, or agent of the**
36 **federal government for the specific purpose of transitioning individuals enrolled in the pool**
37 **to coverage outside of the pool beginning on or before January 1, 2014. Such authority**
38 **does not extend to authorizing the pool to implement, establish, create, administer, or**
39 **otherwise operate a state-based exchange.**

376.962. 1. The board of directors on behalf of the pool shall submit to the director a
2 plan of operation for the pool and any amendments thereto necessary or suitable to assure the
3 fair, reasonable and equitable administration of the pool. After notice and hearing, the director
4 shall approve the plan of operation, provided it is determined to be suitable to assure the fair,
5 reasonable and equitable administration of the pool, and it provides for the sharing of pool gains
6 or losses on an equitable proportionate basis. The plan of operation shall become effective upon
7 approval in writing by the director consistent with the date on which the coverage under sections
8 376.960 to 376.989 becomes available. If the pool fails to submit a suitable plan of operation
9 within one hundred eighty days after the appointment of the board of directors, or at any time
10 thereafter fails to submit suitable amendments to the plan, the director shall, after notice and
11 hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate
12 the provisions of this section. Such rules shall continue in force until modified by the director
13 or superseded by a plan submitted by the pool and approved by the director.

14 2. In its plan, the board of directors of the pool shall:

15 (1) Establish procedures for the handling and accounting of assets and moneys of the
16 pool;

17 (2) Select an administering insurer **or third-party administrator** in accordance with
18 section 376.968;

19 (3) Establish procedures for filling vacancies on the board of directors; **and**

20 (4) Establish procedures for the collection of assessments from all members to provide
21 for claims paid under the plan and for administrative expenses incurred or estimated to be

22 incurred during the period for which the assessment is made. The level of payments shall be
23 established by the board pursuant to the provisions of section 376.973. Assessment shall occur
24 at the end of each calendar year and shall be due and payable within thirty days of receipt of the
25 assessment notice[;

26 (5) Develop and implement a program to publicize the existence of the plan, the
27 eligibility requirements, and procedures for enrollment, and to maintain public awareness of the
28 plan].

29 **3. On or before September 1, 2013, the board shall submit the amendments to the**
30 **plan of operation as are necessary or suitable to ensure a reasonable transition period to**
31 **allow for the termination of issuance of policies by the pool.**

32 **4. The amendments to the plan of operation submitted by the board shall include**
33 **all of the requirements outlined in subsection 2 of this section and shall address the**
34 **transition of individuals covered under the pool to alternative health insurance coverage**
35 **as it is available after January 1, 2014. The plan of operation shall also address procedures**
36 **for finalizing the financial matters of the pool, including assessments, claims expenses, and**
37 **other matters identified in subsection 2 of this section.**

38 **5. The director shall review the plan of operation submitted under subsection 3 of**
39 **this section and shall promulgate rules to effectuate the transitional plan of operation.**
40 **Such rule shall be effective no later than October 1, 2013. Any rule or portion of a rule,**
41 **as that term is defined in section 536.010, that is created under the authority delegated in**
42 **this section shall become effective only if it complies with and is subject to all of the**
43 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536**
44 **are nonseverable and if any of the powers vested with the general assembly pursuant to**
45 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
46 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
47 **proposed or adopted after August 28, 2013, shall be invalid and void.**

376.964. The board of directors and administering insurers of the pool shall have the
2 general powers and authority granted under the laws of this state to insurance companies licensed
3 to transact health insurance as defined in section 376.960, and, in addition thereto, the specific
4 authority to:

5 (1) Enter into contracts as are necessary or proper to carry out the provisions and
6 purposes of sections 376.960 to 376.989, including the authority, with the approval of the
7 director, to enter into contracts with similar pools of other states for the joint performance of
8 common administrative functions, or with persons or other organizations for the performance
9 of administrative functions;

10 (2) Sue or be sued, including taking any legal actions necessary or proper for recovery
11 of any assessments for, on behalf of, or against pool members;

12 (3) Take such legal actions as necessary to avoid the payment of improper claims against
13 the pool or the coverage provided by or through the pool;

14 (4) Establish appropriate rates, rate schedules, rate adjustments, expense allowances,
15 agents' referral fees, claim reserve formulas and any other actuarial function appropriate to the
16 operation of the pool. Rates shall not be unreasonable in relation to the coverage provided, the
17 risk experience and expenses of providing the coverage. Rates and rate schedules may be
18 adjusted for appropriate risk factors such as age and area variation in claim costs and shall take
19 into consideration appropriate risk factors in accordance with established actuarial and
20 underwriting practices;

21 (5) Assess members of the pool in accordance with the provisions of this section, and
22 to make advance interim assessments as may be reasonable and necessary for the organizational
23 and interim operating expenses. Any such interim assessments are to be credited as offsets
24 against any regular assessments due following the close of the fiscal year;

25 (6) **Prior to January 1, 2014**, issue policies of insurance in accordance with the
26 requirements of sections 376.960 to 376.989. **In no event shall new policies of insurance be**
27 **issued on or after January 1, 2014;**

28 (7) Appoint, from among members, appropriate legal, actuarial and other committees as
29 necessary to provide technical assistance in the operation of the pool, policy or other contract
30 design, and any other function within the authority of the pool;

31 (8) Establish rules, conditions and procedures for reinsuring risks of pool members
32 desiring to issue pool plan coverages in their own name. Such reinsurance facility shall not
33 subject the pool to any of the capital or surplus requirements, if any, otherwise applicable to
34 reinsurers;

35 (9) Negotiate rates of reimbursement with health care providers on behalf of the
36 association and its members;

37 (10) Administer separate accounts to separate federally defined eligible individuals and
38 trade act eligible individuals who qualify for plan coverage from the other eligible individuals
39 entitled to pool coverage and apportion the costs of administration among such separate
40 accounts.

376.966. 1. No employee shall involuntarily lose his or her group coverage by decision
2 of his or her employer on the grounds that such employee may subsequently enroll in the pool.
3 The department shall have authority to promulgate rules and regulations to enforce this
4 subsection.

5 2. **Prior to January 1, 2014**, the following individual persons shall be eligible for
6 coverage under the pool if they are and continue to be residents of this state:

7 (1) An individual person who provides evidence of the following:

8 (a) A notice of rejection or refusal to issue substantially similar health insurance for
9 health reasons by at least two insurers; or

10 (b) A refusal by an insurer to issue health insurance except at a rate exceeding the plan
11 rate for substantially similar health insurance;

12 (2) A federally defined eligible individual who has not experienced a significant break
13 in coverage;

14 (3) A trade act eligible individual;

15 (4) Each resident dependent of a person who is eligible for plan coverage;

16 (5) Any person, regardless of age, that can be claimed as a dependent of a trade act
17 eligible individual on such trade act eligible individual's tax filing;

18 (6) Any person whose health insurance coverage is involuntarily terminated for any
19 reason other than nonpayment of premium or fraud, and who is not otherwise ineligible under
20 subdivision (4) of subsection 3 of this section. If application for pool coverage is made not later
21 than sixty-three days after the involuntary termination, the effective date of the coverage shall
22 be the date of termination of the previous coverage;

23 (7) Any person whose premiums for health insurance coverage have increased above the
24 rate established by the board under paragraph (a) of subdivision (1) of subsection 3 of this
25 section;

26 (8) Any person currently insured who would have qualified as a federally defined eligible
27 individual or a trade act eligible individual between the effective date of the federal Health
28 Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the effective date
29 of this act.

30 3. The following individual persons shall not be eligible for coverage under the pool:

31 (1) Persons who have, on the date of issue of coverage by the pool, or obtain coverage
32 under health insurance or an insurance arrangement substantially similar to or more
33 comprehensive than a plan policy, or would be eligible to have coverage if the person elected to
34 obtain it, except that:

35 (a) This exclusion shall not apply to a person who has such coverage but whose
36 premiums have increased to one hundred fifty percent to two hundred percent of rates established
37 by the board as applicable for individual standard risks;

38 (b) A person may maintain other coverage for the period of time the person is satisfying
39 any preexisting condition waiting period under a pool policy; and

40 (c) A person may maintain plan coverage for the period of time the person is satisfying
41 a preexisting condition waiting period under another health insurance policy intended to replace
42 the pool policy;

43 (2) Any person who is at the time of pool application receiving health care benefits under
44 section 208.151;

45 (3) Any person having terminated coverage in the pool unless twelve months have
46 elapsed since such termination, unless such person is a federally defined eligible individual;

47 (4) Any person on whose behalf the pool has paid out one million dollars in benefits;

48 (5) Inmates or residents of public institutions, unless such person is a federally defined
49 eligible individual, and persons eligible for public programs;

50 (6) Any person whose medical condition which precludes other insurance coverage is
51 directly due to alcohol or drug abuse or self-inflicted injury, unless such person is a federally
52 defined eligible individual or a trade act eligible individual;

53 (7) Any person who is eligible for Medicare coverage.

54 4. Any person who ceases to meet the eligibility requirements of this section may be
55 terminated at the end of such person's policy period.

56 5. If an insurer issues one or more of the following or takes any other action based
57 wholly or partially on medical underwriting considerations which is likely to render any person
58 eligible for pool coverage, the insurer shall notify all persons affected of the existence of the
59 pool, as well as the eligibility requirements and methods of applying for pool coverage:

60 (1) A notice of rejection or cancellation of coverage;

61 (2) A notice of reduction or limitation of coverage, including restrictive riders, if the
62 effect of the reduction or limitation is to substantially reduce coverage compared to the coverage
63 available to a person considered a standard risk for the type of coverage provided by the plan.

64 **6. Coverage under the pool shall expire on January 1, 2014.**

376.968. The board shall select an insurer [or], insurers, or **third-party administrators**
2 through a competitive bidding process to administer the pool. The board shall evaluate bids
3 submitted based on criteria established by the board which shall include:

4 (1) The insurer's proven ability to handle individual accident and health insurance;

5 (2) The efficiency of the insurer's claim-paying procedures;

6 (3) An estimate of total charges for administering the plan;

7 (4) The insurer's ability to administer the pool in a cost-efficient manner.

376.970. 1. The administering insurer shall serve for a period of three years subject to
2 removal for cause. At least one year prior to the expiration of each three-year period of service
3 by an administering insurer, the board shall invite all insurers, including the current
4 administering insurer, to submit bids to serve as the administering insurer for the succeeding

5 three-year period. Selection of the administering insurer for the succeeding period shall be made
6 at least six months prior to the end of the current three-year period.

7 2. The administering insurer shall:

8 (1) Perform all eligibility and administrative claim-payment functions relating to the
9 pool;

10 (2) Establish a premium billing procedure for collection of premium from insured
11 persons. Billings shall be made on a period basis as determined by the board;

12 (3) Perform all necessary functions to assure timely payment of benefits to covered
13 persons under the pool including:

14 (a) Making available information relating to the proper manner of submitting a claim for
15 benefits to the pool and distributing forms upon which submission shall be made;

16 (b) Evaluating the eligibility of each claim for payment by the pool;

17 (4) Submit regular reports to the board regarding the operation of the pool. The
18 frequency, content and form of the report shall be determined by the board;

19 (5) Following the close of each calendar year, determine net written and earned
20 premiums, the expense of administration, and the paid and incurred losses for the year and report
21 this information to the board and the department on a form prescribed by the director;

22 (6) Be paid as provided in the plan of operation for its expenses incurred in the
23 performance of its services.

24 **3. On or before September 1, 2013, the board shall invite all insurers and third-**
25 **party administrators, including the current administering insurer, to submit bids to serve**
26 **as the administering insurer or third-party administrator for the pool. Selection of the**
27 **administering insurer or third-party administrator shall be made prior to January 1, 2014.**

28 **4. Beginning January 1, 2014, the administering insurer or third-party**
29 **administrator shall:**

30 (1) **Submit to the board and director a detailed plan outlining the winding down**
31 **of operations of the pool. The plan shall be submitted no later than January 31, 2014, and**
32 **shall be updated quarterly thereafter;**

33 (2) **Perform all administrative claim-payment functions relating to the pool;**

34 (3) **Perform all necessary functions to assure timely payment of benefits to covered**
35 **persons under the pool including:**

36 (a) **Making available information relating to the proper manner of submitting a**
37 **claim for benefits to the pool and distributing forms upon which submission shall be made;**

38 (b) **Evaluating the eligibility of each claim for payment by the pool;**

39 (4) **Submit regular reports to the board regarding the operation of the pool. The**
40 **frequency, content and form of the report shall be determined by the board;**

41 **(5) Following the close of each calendar year, determine the expense of**
42 **administration, and the paid and incurred losses for the year, and report such information**
43 **to the board and department on a form prescribed by the director;**

44 **(6) Be paid as provided in the plan of operation for its expenses incurred in the**
45 **performance of its services.**

376.973. 1. Following the close of each fiscal year, the pool administrator shall
2 determine the net premiums (premiums less administrative expense allowances), the pool
3 expenses of administration and the incurred losses for the year, taking into account investment
4 income and other appropriate gains and losses. Health insurance premiums and benefits paid by
5 an insurance arrangement that are less than an amount determined by the board to justify the cost
6 of collection shall not be considered for purposes of determining assessments. The total cost of
7 pool operation shall be the amount by which all program expenses, including pool expenses of
8 administration, incurred losses for the year, and other appropriate losses exceeds all program
9 revenues, including net premiums, investment income, and other appropriate gains.

10 2. Each insurer's assessment shall be determined by multiplying the total cost of pool
11 operation by a fraction, the numerator of which equals that insurer's premium and subscriber
12 contract charges for health insurance written in the state during the preceding calendar year and
13 the denominator of which equals the total of all premiums, subscriber contract charges written
14 in the state and one hundred ten percent of all claims paid by insurance arrangements in the state
15 during the preceding calendar year; provided, however, that the assessment for each health
16 maintenance organization shall be determined through the application of an equitable formula
17 based upon the value of services provided in the preceding calendar year.

18 3. Each insurance arrangement's assessment shall be determined by multiplying the total
19 cost of pool operation calculated under subsection 1 of this section by a fraction, the numerator
20 of which equals one hundred ten percent of the benefits paid by that insurance arrangement on
21 behalf of insureds in this state during the preceding calendar year and the denominator of which
22 equals the total of all premiums, subscriber contract charges and one hundred ten percent of all
23 benefits paid by insurance arrangements made on behalf of insureds in this state during the
24 preceding calendar year. Insurance arrangements shall report to the board claims payments made
25 in this state on an annual basis on a form prescribed by the director.

26 4. If assessments exceed actual losses and administrative expenses of the pool, the excess
27 shall be held at interest and used by the board to offset future losses or to reduce pool premiums.
28 As used in this subsection, "future losses" include reserves for incurred but not paid claims.

29 **5. Assessments shall continue until such a time as the executive director of the pool**
30 **provides notice to the board and director that all claims have been paid.**

31 **6. Any assessment funds remaining at the time the executive director provides**
32 **notice that all claims have been paid shall be deposited in the state general revenue fund.**

376.1363. 1. A health carrier shall maintain written procedures for making utilization
2 review decisions and for notifying enrollees and providers acting on behalf of enrollees of its
3 decisions. For purposes of this section, "enrollee" includes the representative of an enrollee.

4 2. For initial determinations, a health carrier shall make the determination within two
5 working days of obtaining all necessary information regarding a proposed admission, procedure
6 or service requiring a review determination. For purposes of this section, "necessary
7 information" includes the results of any face-to-face clinical evaluation or second opinion that
8 may be required:

9 (1) In the case of a determination to certify an admission, procedure or service, the
10 carrier shall notify the provider rendering the service by telephone **or electronically** within
11 twenty-four hours of making the initial certification, and provide written or electronic
12 confirmation of [the] **a telephone or electronic** notification to the enrollee and the provider
13 within two working days of making the initial certification;

14 (2) In the case of an adverse determination, the carrier shall notify the provider rendering
15 the service by telephone **or electronically** within twenty-four hours of making the adverse
16 determination; and shall provide written or electronic confirmation of [the] **a telephone or**
17 **electronic** notification to the enrollee and the provider within one working day of making the
18 adverse determination.

19 3. For concurrent review determinations, a health carrier shall make the determination
20 within one working day of obtaining all necessary information:

21 (1) In the case of a determination to certify an extended stay or additional services, the
22 carrier shall notify by telephone **or electronically** the provider rendering the service within one
23 working day of making the certification, and provide written or electronic confirmation to the
24 enrollee and the provider within one working day after [the] telephone **or electronic** notification.
25 The written notification shall include the number of extended days or next review date, the new
26 total number of days or services approved, and the date of admission or initiation of services;

27 (2) In the case of an adverse determination, the carrier shall notify by telephone **or**
28 **electronically** the provider rendering the service within twenty-four hours of making the adverse
29 determination, and provide written or electronic notification to the enrollee and the provider
30 within one working day of [the] **a telephone or electronic** notification. The service shall be
31 continued without liability to the enrollee until the enrollee has been notified of the
32 determination.

33 4. For retrospective review determinations, a health carrier shall make the determination
34 within thirty working days of receiving all necessary information. A carrier shall provide notice

35 in writing of the carrier's determination to an enrollee within ten working days of making the
36 determination.

37 5. A written notification of an adverse determination shall include the principal reason
38 or reasons for the determination, the instructions for initiating an appeal or reconsideration of
39 the determination, and the instructions for requesting a written statement of the clinical rationale,
40 including the clinical review criteria used to make the determination. A health carrier shall
41 provide the clinical rationale in writing for an adverse determination, including the clinical
42 review criteria used to make that determination, to any party who received notice of the adverse
43 determination and who requests such information.

44 6. A health carrier shall have written procedures to address the failure or inability of a
45 provider or an enrollee to provide all necessary information for review. In cases where the
46 provider or an enrollee will not release necessary information, the health carrier may deny
47 certification of an admission, procedure or service.

**376.2000. 1. Sections 376.2000 to 376.2014 shall be known and may be cited as the
2 "Health Insurance Marketplace Innovation Act of 2013".**

3 **2. As used in sections 376.2000 to 376.2014, the following terms mean:**

4 **(1) "Department", the department of insurance, financial institutions and
5 professional registration;**

6 **(2) "Director", the director of the department of insurance, financial institutions
7 and professional registration;**

8 **(3) "Exchange", any health benefit exchange established or operating in this state,
9 including any exchange established or operated by the United States Department of Health
10 and Human Services.**

11 **(4) "Navigator", a person that, for compensation, provides information or services
12 in connection with eligibility, enrollment, or program specifications of any health benefit
13 exchange operating in this state, including any person that is selected to perform the
14 activities and duties identified in 42 U.S.C. 18031(i) in this state, any person who receives
15 funds from the United States Department of Health and Human Services to perform any
16 of the activities and duties identified in 42 U.S.C. 18031(i), or any other person certified by
17 the United States Department of Health and Human Services, or a health benefit exchange
18 operating in this state, to perform such defined or related duties irrespective of whether
19 such person is identified as a navigator, certified application counselor, in-person assister,
20 or other title.**

**376.2002. 1. No individual or entity shall perform, offer to perform, or advertise
2 any service as a navigator in this state, or receive navigator funding from the state or an**

3 exchange unless licensed as a navigator by the department under sections 376.2000 to
4 376.2014.

5 2. A navigator may:

6 (1) Provide fair and impartial information and services in connection with
7 eligibility, enrollment, and program specifications of any health benefit exchange operating
8 in this state, including information about the costs of coverage, advance payments of
9 premium tax credits, and cost sharing reductions;

10 (2) Facilitate the selection of a qualified health plan;

11 (3) Initiate the enrollment process;

12 (4) Provide referrals to any applicable office of health insurance consumer
13 assistance, ombudsman, or other agency for any enrollee with a grievance, complaint, or
14 question regarding their health plan, coverage, or determination under the plan; and

15 (5) Use culturally and linguistically appropriate language to communicate the
16 information authorized in this subsection.

17 3. Unless also properly licensed as an insurance producer in this state with
18 authority for health under section 375.014, a navigator shall not:

19 (1) Sell, solicit, or negotiate health insurance;

20 (2) Engage in any activity that would require an insurance producer license;

21 (3) Provide advice concerning the benefits, terms, and features of a particular
22 health plan or offer advice about which exchange health plan is better or worse for a
23 particular individual or employer;

24 (4) Recommend or endorse a particular health plan or advise consumers about
25 which health plan to choose; or

26 (5) Provide any information or services related to health benefit plans or other
27 products not offered in the exchange.

28 4. The following entities or persons are exempt from the requirement to be licensed
29 as a navigator:

30 (1) An entity or person licensed as an insurance producer in this state with
31 authority for health under section 375.014;

32 (2) A law firm or licensed attorney in this state; and

33 (3) A "health care provider" as defined in section 376.1350 provided that:

34 (a) The health care provider does not receive any funds from the United States
35 Department of Health and Human Services or a health exchange operating in this state to
36 act as a navigator; and

37 **(b) The activities or functions performed are related to advising, assisting, or**
38 **counseling patients regarding private or public coverage or financial matters related to**
39 **medical treatments or government assistance programs.**

40

41 **Nothing in this section shall prohibit a health care provider from voluntarily becoming**
42 **licensed as a navigator.**

376.2004. 1. An individual applying for a navigator license shall make application
2 **to the department on a form developed by the director and declare under penalty of**
3 **refusal, suspension, or revocation of the license that the statements made in the application**
4 **are true, correct, and complete to the best of the individual's knowledge and belief. Before**
5 **approving the application, the director shall find that the individual:**

6 **(1) Is eighteen years of age or older;**

7 **(2) Resides in this state or maintains his or her principal place of business in the**
8 **state;**

9 **(3) Is not disqualified for having committed any act that would be grounds for**
10 **refusal to issue, renew, suspend, or revoke an insurance producer license under section**
11 **375.141;**

12 **(4) Has successfully passed the written examination prescribed by the director;**

13 **(5) When applicable, has the written consent of the director under 18 U.S.C. 1033**
14 **or any successor statute regulating crimes by or affecting persons engaged in the business**
15 **of insurance whose activities affect interstate commerce;**

16 **(6) Has identified the entity with which he or she is affiliated and supervised; and**

17 **(7) Has paid the fees prescribed by the director.**

18 **2. An entity that acts as a navigator, supervises the activities of individual**
19 **navigators, or receives funding to perform such activities shall obtain a navigator entity**
20 **license. An entity applying for a navigator entity license shall make application on a form**
21 **containing the information prescribed by the director.**

22 **3. The director may require any documents deemed necessary to verify the**
23 **information contained in an application submitted in accordance with subsections 1 and**
24 **2 of this section.**

25 **4. Entities licensed as navigators shall, in a manner prescribed by the director,**
26 **provide a list of all individual navigators that are employed by or in any manner affiliated**
27 **with the navigator entity and shall report any changes in employment or affiliation within**
28 **twenty days of such change.**

29 **5. The director shall require that each navigator obtain a surety bond in an amount**
30 **acceptable to the director or otherwise demonstrate a level of financial responsibility**

31 capable of protecting all persons against the wrongful acts, misrepresentations, errors,
32 omissions, or negligence of the navigator. The director may ask for a copy of the bond or
33 other evidence of financial responsibility at any time.

34 6. Prior to any exchange becoming operational in this state, the director shall
35 prescribe initial training, continuing education, and written examination standards and
36 requirements for navigators.

376.2006. 1. A navigator license shall be valid for two years.

2 2. A navigator may file an application for renewal of a license and pay the renewal
3 fee as prescribed by the director. Any navigator who fails to timely file for license renewal
4 shall be charged a late fee in an amount prescribed by the director.

5 3. Prior to the filing date for an application for renewal of a license, an individual
6 licensee shall comply with any ongoing training and continuing education requirements
7 established by the director. Such navigator shall file with the director, by a method
8 prescribed by the director, proof of satisfactory certification of completion of the
9 continuing education requirements. Any failure to fulfill the ongoing training and
10 continuing education requirements shall result in the expiration of the license.

376.2008. Upon contact with a person who acknowledges having existing health
2 insurance coverage obtained through an insurance producer, a navigator shall advise the
3 person to consult with a licensed insurance producer regarding coverage in the private
4 market.

376.2010. 1. The director may place on probation, suspend, revoke, or refuse to
2 issue, renew, or reinstate a navigator license or may levy a fine not to exceed one thousand
3 dollars for each violation, or any combination of actions, for any one or more of the causes
4 listed in section 375.141, 375.936 or for other good cause. In the event that the action by
5 the director is not to renew or to deny an application for a license, the director shall notify
6 the applicant or licensee in writing and shall advise the applicant or licensee of the reason
7 for the denial or nonrenewal. Appeal of the nonrenewal or denial of the application for a
8 navigator license shall be made under the provisions of chapter 621.

9 2. In addition to imposing the penalties authorized by subsection 1 of this section,
10 the director may require that restitution be made to any person who has suffered financial
11 injury because of a violation of this section.

12 3. The director shall have the power to examine and investigate the business affairs
13 and records of any navigator to determine whether the individual or entity has engaged or
14 is engaging in any violation of this section.

15 4. The navigator license held by an entity may be suspended or revoked, renewal
16 or reinstatement thereof may be refused, or a fine may be levied, with or without a

17 suspension, revocation, or refusal to renew a license, if the director finds that an individual
18 licensee's violation was known or should have been known by the employing or supervising
19 entity and the violation was not reported to the director and no corrective action was
20 undertaken on a timely basis.

376.2011. 1. If the director determines that a person has engaged, is engaging, or
2 has taken a substantial step toward engaging in an act, practice, omission, or course of
3 business constituting a violation of sections 376.2000 to 376.2014 or a rule adopted or order
4 issued pursuant thereto, or a person has materially aided or is materially aiding an act,
5 practice, omission, or course of business constituting a violation of sections 376.2000 to
6 376.2014 or a rule adopted or order issued pursuant thereto, the director may issue such
7 administrative orders as authorized under section 374.046.

8 2. If the director believes that a person has engaged, is engaging, or has taken a
9 substantial step toward engaging in an act, practice, omission, or course of business
10 constituting a violation of sections 376.2000 to 376.2014 or a rule adopted or order issued
11 pursuant thereto, or that a person has materially aided or is materially aiding an act,
12 practice, omission, or course of business constituting a violation of sections 376.2000 to
13 376.2014 or a rule adopted or order issued pursuant thereto, the director may maintain a
14 civil action for relief authorized under section 374.048.

15 3. A violation of sections 376.2000 to 376.2014 is a level two violation under section
16 374.049.

376.2012. 1. Each licensed navigator shall report to the director within thirty
2 calendar days of the final disposition of the matter of any administrative action taken
3 against him or her in another jurisdiction or by another governmental agency in this state.
4 This report shall include a copy of the order, consent to order, or other relevant legal
5 documents.

6 2. Within thirty days of the initial pretrial hearing date, a navigator shall report
7 to the director any criminal prosecution of the navigator in any jurisdiction. The report
8 shall include a copy of the initial complaint filed, the order resulting from the hearing, and
9 any other relevant legal documents.

10 3. An entity that acts as a navigator that terminates the employment, engagement,
11 affiliation, or other relationship with an individual navigator shall notify the director
12 within twenty days following the effective date of the termination, using a format
13 prescribed by the director if the reason for termination is one of the reasons set forth in
14 section 375.141 or 375.936 or if the entity has knowledge that the navigator was found by
15 a court or governmental body to have engaged in any such activities. Upon the written

16 **request of the director, the entity shall provide additional information, documents, records,**
17 **or other data pertaining to the termination or activity of the individual.**

2 **376.2014. 1. The requirements of sections 379.930 to 379.952 and chapters 375, 376,**
3 **407 and any related rules shall apply to navigators. The activities and duties of a navigator**
4 **shall be deemed to constitute transacting the business of insurance.**

5 **2. If any provision of sections 376.2000 to 376.2014 or its application to any person**
6 **or circumstance is held invalid by a court of competent jurisdiction or by federal law, the**
7 **invalidity does not affect other provisions or applications of sections 376.2000 to 376.2014**
8 **that can be given effect without the invalid provision or application. The provisions of**
9 **sections 376.2000 to 376.2014 are severable, and the valid provisions or applications shall**

10 **3. The director may promulgate rules and regulations to implement and administer**
11 **the provisions of sections 376.2000 to 376.2014. Any rule or portion of a rule, as that term**
12 **is defined in section 536.010, that is created under the authority delegated in sections**
13 **376.2000 to 376.2014 shall become effective only if it complies with and is subject to all of**
14 **the provisions of chapter 536 and, if applicable, section 536.028. Sections 376.2000 to**
15 **376.2014 and chapter 536 are nonseverable and if any of the powers vested with the general**
16 **assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove**
17 **and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
18 **authority and any rule proposed or adopted after August 28, 2013, shall be invalid and**
19 **void.**

2 **Section 1. Notwithstanding any other provision of law to the contrary, the**
3 **department of insurance, financial institutions and professional registration shall exercise**
4 **its authority and responsibility over health insurance product form filings, consumer**
5 **complaints, and investigations into compliance with state law, regardless as to how a health**
6 **insurance product may be sold or marketed in this state or to residents of this state.**

7 **Section B. Because of the need to ensure that navigators are adequately trained to**
8 **provide essential health insurance information to the public, the enactment of sections 376.2000,**
9 **376.2002, 376.2004, 376.2006, 376.2008, 376.2010, 376.2011, 376.2012, 376.2014, and 1 of**
10 **this act is deemed necessary for the immediate preservation of the public health, welfare, peace**
11 **and safety, and is hereby declared to be an emergency act within the meaning of the constitution,**
12 **and the enactment of sections 376.2000, 376.2002, 376.2004, 376.2006, 376.2008, 376.2010,**
13 **376.2011, 376.2012, 376.2014, and 1 of this act shall be in full force and effect upon its passage**
14 **and approval.**

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