

CHAPTER 602

AN ACT to repeal 148.01 (3) (b) to (d) and 182.032 (5) to (7); to renumber 148.01 (3) (a) and 182.032 (8) to (10); to amend 182.032 (3) (d); and to create 148.03 (section title) and (2), 200.03 (18), 200.26 and 209.04 (8) of the statutes, relating to nonprofit sickness care and hospital service plans, creating a penalty and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 148.01 (3) (a) of the statutes is renumbered 148.03 (1).

SECTION 2. 148.01 (3) (b) to (d) of the statutes are repealed.

SECTION 3. 148.03 (section title) and (2) of the statutes are created to read:

148.03 (section title) NONPROFIT PLANS FOR SICKNESS CARE.

(2) Such plans shall be governed by the provisions of s. 200.26 and by no other law relating to insurance unless such law is referred to in s. 200.26 and no law hereinafter enacted shall apply to such plans unless they are expressly designated therein or refer to such organizations as are responsible for the operation of such plans.

SECTION 4. 182.032 (3) (d) of the statutes is amended to read:

182.032 (3) (d) Such hospital service corporations, heretofore or hereafter so formed and conducted, shall be governed by the provisions of this section and s. 200.26 and by no other law relating to insurance unless such law is referred to in s. 200.26 and no law hereinafter enacted shall apply to such plans unless they are expressly designated therein or refer to such corporations as are responsible for the operation of such plans.

SECTION 5. 182.032 (5) to (7) of the statutes are repealed.

SECTION 6. 182.032 (8) to (10) of the statutes are renumbered 182.032 (5) to (7), respectively.

SECTION 7. 200.03 (18) of the statutes is created to read:

200.03 (18) NONPROFIT SERVICE PLANS. He shall have such powers and perform such duties as are given to him or required of him and may perform such functions as he is permitted under s. 200.26, and for purposes of enforcing the provisions of that section may proceed under ss. 200.08, 200.13 and 200.14 to the same extent and in the same manner as if such organizations were domestic insurance corporations.

SECTION 8. 200.26 of the statutes is created to read:

200.26 NONPROFIT SERVICE PLANS. (1) DEFINITION. As used in this section unless the context clearly implies otherwise: "Organization" means any society, organization or corporation, operating a plan of sickness care as permitted by ch. 148, or hospital service as permitted by s. 182.032; but when any such plan is operated by any division or agency of any such society, organization or corporation then the term "organization" means only such division or agency.

(2) **FILING; GENERAL.** Any organization subject to this section shall file with the insurance commissioner the following information verified by 2 principal officers of such organization:

(a) A written declaration defining the organization and structure and area of operation of each existing or proposed plan for sickness care as permitted by ch. 148, or for hospital service as permitted by s. 182.032, and any amendments thereto.

(b) The bylaws, if any, of the organization immediately responsible for such plan and all amendments thereto.

(c) Each form of contract or contractual agreement executed or proposed to be executed by and between the organization and any physicians, hospital, public party or others embodying the terms under which sickness care as permitted by ch. 148 or hospital service as permitted by s. 182.032 is to be furnished to subscribers to the plan.

(d) A financial statement of the organization, which shall include the amount of each contribution paid or agreed to be paid to the organization for working capital, the name of each contributor and the terms of each contribution. Any plan in existence on the effective date of this section (1959) shall file such information as to its financial condition and capital as the commissioner requires.

(3) **ANNUAL STATEMENTS.** Every such organization shall annually, on or before March 1, file in the office of the commissioner, a statement verified by at least 2 principal officers of such organization showing its true condition as of the December 31 next preceding. Said statement shall be in such form and shall contain such information as the commissioner prescribes.

(4) **3-YEAR EXAMINATIONS.** The commissioner by himself or his subordinates shall, not less than once in 3 years, examine into the affairs of such organization and shall make a report in writing, which report, after such hearing as such organization may request, shall be filed in his office.

(5) **REPORTS.** (a) The commissioner may also require any such organization from time to time to report to him in such form as he requires, in relation to its condition and any matter connected with its transactions.

(b) The commissioner may require from any such organization, before and from time to time during any examination, such deposit with the state treasurer as he deems necessary to cover the cost of such examination. The commissioner shall determine the cost of each examination made, which shall include the salary and expenses of each examiner or other employe of the insurance department whose services are required in connection with such examination or any report thereof, and any other expenses which may be directly apportioned. Deposits or payments made for such examinations shall be credited to the appropriation under s. 20.460 (401). Any such deposits or payments shall not be deemed to be a tax or license fee within the meaning of any statute.

(c) The fees for stenographic services in investigations, examinations and hearings shall not exceed the sum provided for like services in the circuit court. The fees of officers, witnesses and stenographers on behalf of the commissioner or the state shall be paid by the state treasurer upon the warrant of the director of budget and accounts, authorized by the certificate of the commissioner and shall be charged to the appropriation for the commissioner.

(6) **FILING OF CONTRACT FORMS.** (a) All forms of contracts, riders, endorsements, applications, notices of proposed contracts or other instruments which such organization proposes to issue as part of a contract shall be filed with the commissioner for approval, with a statement of the rate to be charged therefor or the effect such attached paper will have

upon the rate, but the rate shall not be a ground for withholding approval unless the rate is unfairly discriminatory. Rates for contracts may reflect a differential attributable to the number of persons covered, actuarial experience or plan of operation under which the contracts are issued without being considered unfairly discriminatory. Contracts filed for approval under this subsection shall not include those referred to in sub. (2) (c).

(b) No such contract shall be issued, nor shall any application, rider or endorsement be used in connection therewith until the expiration of 30 days after it has been so filed unless the commissioner shall sooner give his written approval thereto.

(c) The commissioner may within 30 days after the filing of any such form disapprove such form if it contains a provision which is unjust, unfair, inequitable, misleading, deceptive or encourages misrepresentation of such contract. If the commissioner notifies such organization that the form does not comply with this subsection, it is unlawful thereafter for such organization to issue or use such form. In such notice the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the organization.

(d) The commissioner may at any time, after a hearing on not less than 20 days' written notice to such organization, withdraw his approval of any such form on any of such grounds. It is unlawful for such organization to issue such form or use it after the effective date of such withdrawal of approval.

(e) Notice of all hearings shall specify the matters to be considered, and each decision affirming disapproval or directing withdrawal of approval shall be in writing and shall specify the reasons.

(7) SUBJECT TO INSURANCE LAWS FOR CERTAIN PURPOSES. Such organizations and their agents, plans and contracts shall be subject to the provisions of s. 201.25 relating to investments, ch. 207 relating to unfair methods of competition and unfair or deceptive acts or practices and s. 200.03 (18) relating to powers of the commissioner of insurance, to the same extent and in the same manner as if such organizations were domestic insurance corporations and to s. 209.04 relating to agents as provided in sub. (8) thereof. Such organizations shall also be subject to s. 201.18 (1) relating to premium reserves except that where risks are written for more than one month and the premium or fee is paid on a monthly basis, the reserve shall be computed at 50 per cent of the monthly premium or fee received each month. Any investments made by a corporation organized under s. 182.032 prior to the effective date of this subsection (1959) and which investments at the time they were made complied with ss. 206.34 and 206.35 shall not be deemed a violation of this subsection and such investments may at the option of such corporation be retained without being deemed a violation of this subsection.

(8) DIRECT PAYMENT. Any contract may provide that all or any portion of any benefits provided by any such contract may, at the option of the organization, be paid directly to the party rendering such services.

(9) DISSOLUTION. In the event of dissolution of any such organization, the distribution of its assets shall be made as provided for in ch. 181.

(10) SUPERVISION AND RULE-MAKING POWER. The commissioner shall enforce the provisions of this section and shall exercise such supervision and control over such organizations as the law requires; and to that end, he may make reasonable rules for their enforcement.

(11) PENALTIES. (a) Any person violating any provision of sub. (3) shall be subject to the penalty provision of s. 201.50 (2).

(b) Any person violating sub. (6) shall be subject to the penalty provision of s. 204.31 (8).

(c) Any person violating any provision referred to in sub. (7) shall be subject to the penalty sections applicable to those provisions.

(12) JUDICIAL REVIEW. Hearings shall be noticed and conducted and any final order of the commissioner may be reviewed as provided in ch. 227.

(13) EFFECTIVE DATE. This section shall take effect as provided in s. 990.05 but those portions of sub. (6) relating to approval of contracts shall take effect November 1, 1961, and those portions of sub. (7) relating to agents shall take effect November 1, 1960.

SECTION 9. 209.04 (8) of the statutes is created to read:

209.04 (8) NONPROFIT SICKNESS CARE AND HOSPITAL SERVICE PLANS. For purposes of regulating agents of nonprofit sickness care plans as organized under ch. 148 or hospital service plans as organized under s. 182.032:

(a) "Agents" as used in this section includes any sales representative soliciting, negotiating or effecting such contracts of sickness care as permitted by ch. 148 or hospital service as permitted by s. 182.032 but excludes any regular salaried officer or employe, who does not solicit, negotiate or effect such contracts. A regular salaried officer or employe of an authorized organization or corporation offering such contracts shall not be deemed to be an agent by reason of rendering assistance to, or on behalf of an agent, provided that such salaried officer or employe devotes substantially all of his time to activities other than the solicitation of applications for such contracts and receives no commission or other compensation directly dependent upon the amount of business obtained.

(b) "Company" as used in this section includes any organization or corporation established pursuant to ch. 148 or s. 182.032.

(c) The exception from the requirement of application in sub. (1) (b) 1 is not applicable to this subsection; every person who is an agent under this subsection shall make application for a license by November 1, 1960 and pay the fee therefor.

Approved November 2, 1959.
