

[Insert name of State]

In the Year Two Thousand and [insert year].

AN ACT RELATING TO THE [insert State's name] CONSUMER HEALTHCARE ASSOCIATION

Whereas, the Legislature of [state] finds that:

(1) The availability of adequate and affordable health services for all residents of [insert State's name] is necessary for the preservation of the general welfare of the citizens of this State.

(2) Health care insurance and delivery systems in the United States are currently undergoing massive reform at the state and federal level.

(3) Consumers lack and need a mechanism to facilitate their effective, direct participation in debates on health care reform, regulation, implementation and improvement.

(4) Employers, insurers, doctors and hospitals have their own well-funded associations which effectively represent their own interests. Only consumers lack the organization, funding and technical assistance necessary to fully participate.

(5) Informed consumers, fully and actively participating in a democratically controlled consumer healthcare association, will help educate citizens, will aid State regulatory agencies and other health care entities achieve market accountability, and will facilitate and improve the delivery of accessible, affordable and quality health care.

Accordingly, it is the purpose of this act to:

(1) Establish a nonprofit corporation of health care consumers.

(2) Assist in providing consumers with information concerning the provision and delivery of health care services.

(3) Ensure effective consumer representation in the development, operation, and review of public policies and practices affecting the quality and accessibility of health care.

Be it enacted by the Senate and House of Representatives assembled, and by the authority of the same, as follows:

CHAPTER [insert appropriate citation] [insert state's name] CONSUMER HEALTHCARE ASSOCIATION SECTION 1. DEFINITIONS

As used in this chapter:

(1) “Agency” means any department, board, bureau, commission, division, office, association, committee, officer, public benefit corporation or authority, institution or entity of the executive branch of [insert State’s name] government. [or insert definition from Administrative Procedures Act]

(2) “Association” means the [insert State’s name] Consumer Healthcare Association.

(3) “Commissioner” means the commissioner of insurance except where otherwise specified.

(4) “Consumer” means an individual who is not a health care provider as defined by — — — (cite appropriate statute).

(5) “Health insurer” means an insurer, health maintenance organization, hospital or medical service corporation, or any other entity responsible for the payment or provision of health care services under a health care coverage plan. [or cite to other appropriate statutory definition]

SECTION 2. JURISDICTION OF THE DEPARTMENT OF INSURANCE AND THE DEPARTMENT OF PUBLIC HEALTH [insert correct names]

Nothing in this chapter shall be deemed to limit or conflict with the duties of and powers granted to the commissioners of insurance and public health under the laws of this State.

SECTION 3. ESTABLISHMENT OF THE ASSOCIATION: POWERS AND DUTIES

(a) A nonprofit corporation is established under the authority of this chapter and Chapter ___ of the General Laws to be known as the “[State] Consumer Healthcare Association.”

(b) The Association shall have the following powers and duties:

(1) Advise the governor and the commissioners of insurance and public health on behalf of health care consumers of [insert State’s name] regarding policies and practices in the financing and delivery of health care services, and the regulation of health care providers, health insurers and health care plans;

(2) Educate and assist consumers as individuals or collectively, concerning preparation and submission of claims or disputes to the commissioner or any other entity relating to the financing and delivery of health care services;

(3) Represent and promote the interest of consumers individually or as a class before any administrative or judicial body, and before local, State and federal legislative or policymaking

bodies, provided that the Association shall not sponsor, endorse, or otherwise support or oppose any political party or candidacy of any person for elective office;

(4) Initiate, maintain, or participate in any proceeding related to health care services which affects the interests of consumers, for which it shall have standing, including standing to bring suit, except that the Association shall not represent any person in any action for compensation for injury or damages arising from any provision of health care services or health insurance;

(5) Conduct and support research, surveys, conferences and public information activities concerning health care services, health care providers, health insurers, and health care plans and related matters;

(6) Develop proposals to improve the delivery and quality of health care services;

(7) Inform consumers about the existence of the Association, including procedures for membership enrollment, and to take affirmative measures to encourage membership by low and moderate income and minority consumers;

(8) Perform all acts necessary or expedient for the administration of its affairs and the attainment of its purpose.

SECTION 4. BOARD OF DIRECTORS

(a) The membership of the Association shall consist of all individuals 18 years of age or older residing in the State who have paid the annual membership fee to the Association. The board of directors shall establish an annual membership fee and establish a reduced fee membership for low income persons.

(b) The Association shall have a board of directors of 15 members. The term for all directors shall be three years, except that the interim board shall serve until the installation of candidates elected in the first election, and except that of the initially elected directors, one-third shall serve one-year terms, one-third shall serve two-year terms, and one third shall serve three-year terms. The initially elected directors shall draw lots to determine the length of their terms. A member who is appointed to fill an unexpired vacancy after a term has begun serves for the remainder of the term. No director shall serve more than two consecutive terms.

(c) A director must conform to the following requirements:

(1) shall be a member of the Association; and

(2) shall not be a present employee, director, consultant, or attorney of any private or public health care provider or health insurer, or of the commissioner, nor an immediate family member of any such person shall be eligible; and

(3) shall not in any way be affiliated with a licensee of the division of insurance or the department of public health, or other licensing authority, including an agent of a licensee, parties receiving compensation from a licensee or agent of a licensee, nor an immediate family member of any such person shall be eligible; and

(4) shall not be a holder of or a candidate for any other elective public office, nor appointed to hold state or local office; and

(5) shall not hold five percent or more interest in a health care provider or health insurer, nor own or be employed by a company who receives more than five percent of its gross revenue from a health care provider or health insurer, nor any combination of the above.

(d) Before the first general election for directors, the Association shall be managed as follows:

(1) Within 90 days of the effective date of this chapter, the governor shall appoint 15 individuals to the interim board of directors. The interim directors shall be representative of consumer, labor, children and families, elderly, people with disabilities, and lower income interests. In making such appointments, consideration shall also be given to the State's geographical, ethnic, gender, and work force diversity.

(2) Within 120 days of the effective date of this chapter, the interim board of directors shall organize the Association, inform health care consumers of and solicit their membership in the Association, elect officers, employ such staff as are necessary, solicit funds, and establish procedures for democratic election of members of the board of directors.

(3) Not more than 60 days after the membership of the Association reaches 3,000, the interim board of directors shall set a date for the first general election of directors at an annual or special meeting of the members called for such purpose, and shall so notify every member. The date set for elections shall be not less than four months nor more than eight months after such notification. The interim board shall oversee the election campaign and tally the votes.

(4) Not more than 30 days after the first general election, the interim board shall install the elected and newly appointed directors, and carry out all duties necessary to transfer leadership to the new board.

(5) The Association shall not represent the membership before any administrative, judicial or legislative body before such time as the first elected board of directors is installed, except in situations where the authority of the interim board or the existence of the Association is challenged. The interim board of directors shall not be authorized to carry out the powers and duties of the Association or board of directors enumerated in this chapter except such duties imposed by this subsection.

(6) The interim period will count as one term.

(e) When a director dies, resigns, is disqualified, or otherwise vacates office, the board of directors shall select a successor for the remainder of the director's term of office.

(f) The board of directors shall have the following powers and duties:

(1) To adopt bylaws for the conduct of elections and election campaigns;

(2) To adopt bylaws for the appointment of directors, and for installment of elected and appointed directors;

(3) To establish the policies of the Association regarding appearances before administrative, judicial and legislative bodies, and regarding other activities which the Association has the authority to perform under this chapter;

(4) To establish procedures for conducting open meetings. The provisions of _____ (cite appropriate statute on open meetings) shall apply to the Association;

(5) To make and maintain all reports and studies compiled by the Association pursuant to this chapter available for public inspection during regular business hours;

(6) To maintain up-to-date membership rolls, including a list of the current membership, available for inspection by any member upon request;

(7) To establish procedures governing the reimbursement of directors for actual reasonable expenses incurred by them in the performance of their duties;

(8) To keep minutes, books and records which shall reflect all the acts and transactions of the board of directors, and which shall be open to examination by any member, with the exception of closed sessions in which the minutes may be sealed;

(9) To ensure that the Association's books are audited by an independent certified public accountant at least once every two fiscal years, and to make the audit available to the general public;

(10) To prepare, as soon as practicable but not later than four months after the close of the

Association's fiscal year, an annual report of the Association's financial and substantive operation which shall be made available for public inspection;

(11) To conduct an annual membership meeting and therein report to the membership on the past and projected activities and policies of the Association;

(12) To annually elect officers;

(13) To employ an executive director, and establish policies for employment and removal. The executive director may employ and direct staff as necessary to carry out the provisions of this chapter;

(14) To hold regular board meetings open to the public at least once every four months on such dates and at such places as it may determine. Special meetings may be called by the president of the board of directors or by at least one-quarter of the directors upon at least five days' notice. One-half of the directors plus one shall constitute a quorum. Additional meetings of the board shall also be open to the public except where circumstances require closed sessions and procedures to close a meeting have been followed;

(15) To carry out all other duties imposed upon the Association and the board of directors, and to exercise all the powers of a nonprofit association necessary to accomplish the purposes of this chapter.

(g) The executive director hired by the board of directors shall conform to the requirements of directors pursuant to Section 4 (c).

SECTION 5. FUNDING

(a) The Association shall be funded by voluntary donations from its members and through other grants and donations from public or private sources, including intervenor compensation funds for which it might be eligible or litigation awards, subject to the restriction that no gift, loan, grant or other aid shall be accepted from any health care provider as defined by _____ (cite appropriate statute).

(b) The Association shall prepare an enclosure soliciting voluntary membership which shall be furnished to any agency. Upon the request of the Association, an agency shall include such enclosure in any mailing, subject to the following requirements:

(1) Enclosures shall be limited to providing the following information:

- (i) the purpose, goals, history, nature, activities, and achievements of the Association;
- (ii) that the membership is open to all residents of [insert State's name];
- (iii) that the Association is a not-for-profit corporation directed by its consumer members;
- (iv) the procedures for contributing to or becoming a member of the Association; and
- (v) the yearly membership fees.

(2) Upon furnishing any agency the enclosure permitted by this subsection, the Association shall certify that the enclosure is neither false nor misleading.

(3) If the agency finds the enclosure to be false or misleading, it shall notify the Association and provide opportunity for the Association to correct the enclosure expeditiously. If the Association refuses to modify the enclosure, the agency may submit its complaint in writing to the commissioner, who shall review the enclosure within 30 days, and may disapprove the enclosure if it is deemed false or misleading. Upon submitting its complaint, the agency may proceed with regularly scheduled mailings until notified by the commissioner. The Association may appeal an agency's or the commissioner's rejection of an enclosure to the superior court for the county (a) where the Association has its principal place of business, or (b) where the agency has its principal office, or (c) [insert court where agency litigation must be filed], on an expedited basis.

(4) The Association shall reimburse the agency for the reasonable postage and handling costs incurred as a result of compliance with this subsection, provided that an itemized accounting of the costs is received by the Association prior to the costs being incurred.

(c) The commissioner shall prepare and furnish to health insurers doing business in the State a legal notice insert soliciting voluntary membership in the Association within 90 days of the effective date of this chapter. Upon order of the commissioner, after notice and hearing, a health insurer shall include such legal notice insert in any periodic premium notice mailing by such health insurer subject to the following requirements. The terms of such legal notice may be amended from time to time upon petition by any interested person, including the Association and any health insurer, and after notice and hearing:

(1) The legal notice shall be neither biased nor expressly contradictory to the views of the health insurer. The legal notice insert shall contain neutral language intended to inform a consumer, and shall be limited to the following information:

- (i) the purpose, goals, history, nature, activities, and achievements of the Association;
- (ii) that the membership is open to all residents of [insert State's name];
- (iii) that the Association is a not-for-profit corporation directed by its consumer members;
- (iv) the procedures for contributing to or becoming a member of the Association; and
- (v) the yearly membership fees.

(2) No health insurer is required to enclose a notice insert in its mailings more than four times per year.

(d) The [State] Consumer Healthcare Association is authorized to receive without charge any and all public State government documents that are reasonably related to its purpose.