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MEDICAL AND DENTAL SERVICE PLAN CORPORATIONS 159.03

CHAPTER 159

VOLUNTARY NONPROFIT MEDICAL AND DENTAL SERVICE PLAN CORPORATIONS

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MEDICAL SERVICE PLAN CORPORATIONS

159.01 PURPOSE. It is the purpose and intent of sections 159.01 to 159.18, and the policy of the Legislature, to make possible a wider and more timely availability of medical care, thereby advancing the public health and the science and art of medicine in this state.

[1945 c. 255 s. 1]

159.02 INCORPORATION AND ORGANIZATION. Nonprofit medical service plan corporations hereinafter incorporated may be organized under and in accordance with the provisions of sections 159.01 to 159.18 by not less than 21 persons, all of whom shall be legal residents of this state and duly licensed and registered doctors of medicine under the laws of this state.

Such nonprofit medical service plan corporation shall have the right to establish, maintain, and operate a voluntary nonprofit medical service plan, whereby the services of duly licensed and registered doctors of medicine, dentistry, podiatry and duly licensed and registered doctors of osteopathy authorized to practice medicine in the state are provided in the manner hereinafter specified at the expense of such corporation to persons who become subscribers to said plan under contracts which entitle such subscribers to specified medical, surgical, dental, and podiatric care, appliances and supplies, by such duly licensed and registered doctors of medicine, dentistry, podiatry and duly licensed and registered doctors of osteopathy authorized to practice medicine in the state. Such medical, surgical, dental, and podiatric care, appliances and supplies may be provided in their entirety or in part as such corporation may determine and as set forth in such contracts. The term "subscribers" shall include all persons covered under such contracts.

All such nonprofit medical service plan corporations shall be subject to and governed by the provisions of sections 159.01 to 159.18, and shall not be subject to the laws of this state relating to insurance and insurance companies, except as hereinafter specifically provided.

No such medical service contract by or on behalf of any such nonprofit medical service plan corporation shall provide for the payment of any cash indemnification by the corporation to the subscriber or his estate on account of death, illness or other injury.

[1945 c 255 s 2; 1953 c 89 s 1; 1965 c 265 s 1]

159.03 CONTENTS OF ARTICLES. Articles of incorporation shall be signed and acknowledged by each of the incorporators and shall state the following:

(a) The name of the corporation, such name not to include the words "in-

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surance," "casualty," "surety," "mutual," or any other words descriptive of the insurance, casualty or surety business.

The corporate name shall not be the same as, nor deceptively similar to the name of any other domestic corporation.

(b) Its purposes, which shall be in strict conformity with the provisions of sections 159.01 to 159.18, and which shall clearly set forth that all medical, surgical, dental, and podiatric care provided a subscriber under such contract, shall be rendered by a duly licensed and registered doctor of medicine, dentistry, podiatry, or duly licensed and registered doctors of osteopathy authorized to practice medicine in the state, as the case may be, of the subscriber's own choice.

(c) The name and post office address of each of the incorporators.

(d) The duration of the corporation, which may be limited or perpetual.

(e) The location and post office address of its principal office for the transaction of its affairs in this state.

(f) Such provisions as may be desired, if any, defining the terms and conditions of membership therein which the incorporators may have agreed upon and which they desire to have set forth in such articles.

(g) The amount of stated capital with which the corporation will begin business, which shall not be less than \$25,000, all of which shall be paid in in cash before the corporation commences business.

Articles of incorporation may contain any other provisions, consistent with the laws of this state, for regulating the corporation's affairs, which said articles of incorporation and any bylaws adopted thereunder or any amendments thereto, as well as the contract to be sold to the subscribers, shall be submitted to the attorney general for examination and approval, so as to carry out the intent and purpose of sections 159.01 to 159.18.

[1945 c 255 s 3; 1953 c 89 s 2; 1965 c 265 s 2]

159.04 RECORDING; CERTIFICATE; PUBLICATION. (1) The articles of incorporation shall be filed for record with the secretary of state. If the articles conform to law he shall, when all fees and charges have been paid as required by law, record the same and issue and record a certificate of incorporation which shall state the name of the corporation and the fact and date of incorporation.

(2) Upon the issuance of the certificate of incorporation the corporate existence shall begin. Such certificate of incorporation issued by the secretary of state shall be conclusive evidence of the fact of incorporation.

(3) Within 14 days after the issuance of the certificate of incorporation, the corporation shall cause to be published once in a qualified newspaper in the county wherein it has its registered office, a notice stating the name of the corporation, the date of its incorporation, the general nature of the business being, or about to be conducted by it, the address of its registered office, and the names and addresses of the incorporators and of the first board of directors. Proof of the publication of such notice shall be filed with the secretary of state within ten days after its publication. If a corporation shall fail to comply with the provisions of this subdivision it shall forfeit to the state \$50.

[1945 c. 255 s. 4]

159.05 FILING. The secretary of state, after recording in his office the articles of incorporation, shall file a copy of such articles duly certified by him, for record in the office of the register of deeds of the county in which the principal office of the corporation is situated and shall also file a like copy so certified by him, with the commissioner of insurance. There shall also be paid to the secretary of state, for transmission by him to such register of deeds, and to such commissioner of insurance, a sum sufficient under existing laws to pay the proper fees of the register of deeds and the commissioner of insurance for recording such instruments.

[1945 c. 255 s. 5]

159.06 WORKING CAPITAL; CONTRACTS FILED WITH INSURANCE COMMISSIONER. No such nonprofit medical service plan corporation shall enter into any contracts with any subscribers for medical, surgical or dental care, appliances and supplies, nor secure any applications therefor, unless there is actually available, in the corporation, for working capital, the sum of not less than \$25,000, and not less than three copies of each type of contract proposed to be issued by said corporation shall have first been filed with the commissioner of insurance; the sum contributed as the working capital of such corporation shall be repayable

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only out of surplus earnings of such corporation, after reserves for incurred claims, unearned subscribers' payments and a reasonable amount for contingencies have been provided and approved by the commissioner of insurance.

[1945 c 255 s 6; 1953 c 89 s 3]

159.07 CONTRACTS; SUBSCRIBER TO RECEIVE COPY; CONTENTS; SUBSCRIBER'S RIGHT TO CHOOSE DOCTOR. Every subscriber under such nonprofit medical service plan shall receive a copy of the contract and such contract shall clearly state the medical, surgical and dental care, appliances and supplies to be provided under such contract and the rate charged such subscriber. Every subscriber shall have, at all times, free choice of the doctor of medicine or dentistry who is to treat him and such right shall be prominently printed in such contract. The personal and direct relationship between patient and physician or dentist shall not be restricted in any manner. No employee, agent, officer, or member of the board of directors of any such corporation shall directly or indirectly influence or attempt to influence any subscriber in the choosing and selecting of the doctor of medicine or dentistry who is to treat him. The names of the doctors of medicine or dentistry belonging to said corporation or enrolled as members therein, shall not be printed or listed upon any contracts furnished to subscribers.

[1945 c 255 s 7; 1953 c 89 s 4]

159.08 CONTRACT BETWEEN SUBSCRIBER AND PRACTITIONER. No nonprofit medical service plan corporation shall enter into any contract, agreement or understanding, directly or indirectly, with any physician and surgeon, dentist, podiatrist or duly licensed and registered doctors of osteopathy authorized to practice medicine in the state whereby such physician and surgeon, dentist, podiatrist or duly licensed and registered doctors of osteopathy authorized to practice medicine in the state shall render any services to any subscriber, but all such matters shall be a matter of agreement directly between the patient and the doctor of medicine, dentistry, podiatry or such doctor of osteopathy duly licensed and registered and authorized to practice medicine in the state selected by the patient to treat him.

[1945 c 255 s 8; 1953 c 89 s 5; 1965 c 265 s 3]

159.09 EMERGENCY SERVICE. In case of emergency or expediency, and subject to the approval of the governing body of such nonprofit medical service plan corporation, the benefits to which a subscriber is entitled under his contract, may be rendered in another state or country, provided such services are rendered by a duly licensed doctor of medicine, dentistry, podiatry, or osteopathy when such doctor of osteopathy is duly licensed and registered and authorized to practice medicine in the state as the case may be, in such other state or country.

[1945 c 255 s 9; 1953 c 89 s 6; 1965 c 265 s 4]

159.10 CLASSES OF SERVICE. Every nonprofit medical service plan corporation may, as determined by its board of directors, or as provided in its articles of incorporation or bylaws, limit the benefits that it will provide, and may divide such benefits as it determines to provide, into various classifications, including general and special medical, surgical and dental care benefits and such services and supplies as may be incidental to such medical, surgical and dental care.

[1945 c 255 s 10; 1953 c 89 s 7]

159.11 INVESTMENT SECURITIES. The funds of every nonprofit medical service plan corporation shall be invested only in those securities and property designated by the laws of this state for the investment of the capital, surplus, and other funds of domestic life insurance companies.

[1945 c. 255 s. 11]

159.12 SERVICE IN ACCORDANCE WITH PREVAILING PRACTICE. All medical, surgical, dental, and podiatric care rendered to a subscriber under his contract shall be in accordance with the accepted standards of medical, dental, podiatric or osteopathic practice prevailing in the community in which such service is rendered.

All such medical, surgical, dental, and podiatric services shall be rendered by doctors of medicine, dentistry, and podiatry, respectively, duly licensed and registered to practice their profession in the state, and by duly licensed and registered doctors of osteopathy authorized to practice medicine in the state, except as otherwise provided in section 159.09.

[1945 c 255 s 12; 1953 c 89 s 8; 1965 c 265 s 5]

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159.13 ANNUAL REPORT. Every such corporation shall annually, on or before the last day of March, file with the commissioner of insurance a statement in such form as he shall prescribe, duly verified by not less than two of its principal officers, showing the financial condition of such corporation as of the 31st day of December next preceding.

[1945 c. 255 s. 13]

159.14 EXAMINATION BY COMMISSIONER; DUTIES OF ATTORNEY GENERAL. The commissioner of insurance, or any deputy or examiner designated by him, shall have the right, at all reasonable times, to free access to all books and records of such corporation in all matters pertaining to its financial condition, and may summon and examine, under oath, the officers and employees of such corporation in all such matters. The expense of any such examination of its books and financial condition shall be borne by such corporation. The commissioner of insurance may, in the event such corporation has acted in a manner detrimental and unjust to persons who become subscribers to said plan, or contrary to or in violation of the articles and by-laws of said corporation, request the attorney general to bring an action against such corporation to terminate its corporate existence, provided that such action shall not be instituted unless the commissioner of insurance or the attorney general shall have given such corporation written notice of the action complained of, if correction can be made thereof, and the corporation shall fail to institute proceedings to correct the same within 30 days thereafter.

[1945 c. 255 s. 14]

159.15 DISSOLUTION. A nonprofit medical service plan corporation may be wound up and dissolved either voluntarily or involuntarily. If the proceedings are voluntary, they may be conducted either out of court or subject to the supervision of the district court. If involuntary, they shall be subject to the supervision of the district court. In either event the dissolution shall be in accord with the proceedings for dissolution under the Minnesota Business Corporation Act.

[1945 c. 255 s. 15]

159.16 MISDEMEANOR. Any person, or any officer or agent of such a corporation, who violates any of the provisions of sections 159.01 to 159.18, or who shall make any false statement with respect to any report or statement required by sections 159.01 to 159.18, shall be guilty of a misdemeanor.

[1945 c. 255 s. 16]

159.17 AMENDMENT. Every corporation subject to the provisions of sections 159.01 to 159.18 may, in the manner provided for in its articles of incorporation, amend its articles of incorporation in any manner not inconsistent with the provisions of sections 159.01 to 159.18.

[1945 c. 255 s. 17]

159.18 CORPORATION NOT TO PRACTICE. Nothing in sections 159.01 to 159.18 shall authorize any person, association, or corporation to engage, in any manner, directly or indirectly, in the practice of healing or the practice of medicine or dentistry as defined by law.

[1945 c. 255 s. 18; 1958 c. 89 s. 9]

DENTAL SERVICE PLAN CORPORATIONS

159.21 PURPOSE. It is the purpose and intent of sections 159.21 to 159.40, and the policy of the Legislature, to make possible and facilitate a wider and more timely availability of dental care, thereby advancing the public health and the science and art of dentistry in this state.

[1963 c. 283 s. 1]

159.22 INCORPORATION AND ORGANIZATION. Nonprofit dental service plan corporations hereinafter incorporated may be organized under and in accordance with the provisions of sections 159.21 to 159.40 by not less than 21 persons, all of whom shall be legal residents of this state and duly licensed and registered doctors of dentistry under the laws of this state. Each of the following districts shall be represented by at least three residents:

District one is composed of the counties of Koochiching, Itasca, Aitkin, Pine, Carlton, St. Louis, Lake, and Cook.

District two is composed of the counties of Wright, Hennepin, Anoka, Renville, McLeod, Carver, and Scott.

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District three is composed of the counties of Kittson, Roseau, Lake of the Woods, Marshall, Beltrami, Pennington, Red Lake, Polk, Norman, Mahnomen, Clear Water, Clay, Becker, Hubbard, and Cass.

District four is composed of the counties of Dakota, Rice, Ramsey, Chisago, and Washington.

District five is composed of the counties of Goodhue, Wabasha, Steele, Dodge, Olmsted, Winona, Freeborn, Mower, Fillmore, and Houston.

District six is composed of the counties of Yellow Medicine, Lincoln, Lyon, Redwood, Brown, Sibley, Nicollet, LeSueur, Pipestone, Murray, Cottonwood, Watonwan, Blue Earth, Waseca, Rock, Nobles, Jackson, Martin and Faribault.

District seven is composed of the counties of Wilkin, Ottertail, Wadena, Todd, Morrison, Crow Wing, Mille Lacs, Kanabec, Benton, Sherburne, Stearns, Meeker, Kandiyohi, Chippewa, Lac qui Parle, Swift, Big Stone, Traverse, Grant, Douglas, Stevens and Pope.

Such nonprofit dental service plan corporation shall have the right to establish, maintain, and operate a voluntary nonprofit dental service plan, whereby the services of duly licensed and registered doctors of dentistry are provided in the manner hereinafter specified at the expense of such corporation to persons who become subscribers to said plan under contracts which entitle such subscribers to specified dental care, appliances and supplies, by such duly licensed and registered doctors of dentistry. Such dental care, appliances and supplies may be provided in their entirety or in part as such corporation may determine and as set forth in such contracts. The term "subscribers" shall include all persons covered under such contracts.

All such nonprofit dental service plan corporations shall be subject to and governed by the provisions of sections 159.21 to 159.40, and shall not be subject to the laws of this state relating to insurance and insurance companies, except as hereinafter specifically provided.

No such dental service contract by or on behalf of any such nonprofit dental service plan corporation shall provide for the payment of any cash indemnification by the corporation to the subscriber or his estate on account of death, illness or injury.

[1963 c 283 s 2]

159.23 CONTENTS OF ARTICLES. Articles of incorporation shall be signed and acknowledged by each of the incorporators and shall state the following:

(a) The name of the corporation, such name not to include the words "insurance," "casualty," "surety," "mutual," or any other words descriptive of the insurance, casualty or surety business.

The corporate name shall not be the same as, nor deceptively similar to the name of any other domestic corporation.

(b) Its purposes, which shall be in strict conformity with the provisions of sections 159.21 to 159.40, and which shall clearly set forth that all dental care provided a subscriber under such contract, shall be rendered by a duly licensed and registered doctor of dentistry, as the case may be, of the subscriber's own choice.

(c) The name and post office address of each of the incorporators.

(d) The duration of the corporation, which may be limited or perpetual.

(e) The location and post office address of its principal office for the transaction of its affairs in this state.

(f) Such provisions as may be desired, if any, defining the terms and conditions of membership therein which the incorporators may have agreed upon and which they desire to have set forth in such articles.

(g) The amount of stated capital with which the corporation will begin business, which shall not be less than \$25,000, all of which shall be in possession of the corporation before the corporation commences business.

Articles of incorporation may contain any other provisions, consistent with the laws of this state, for regulating the corporation's affairs, which said articles of incorporation and any bylaws adopted thereunder or any amendments thereto, as well as the contract to be sold to the subscribers, shall be submitted to the attorney general for examination and approval, so as to carry out the intent and purpose of sections 159.21 to 159.40.

[1963 c 283 s 3]

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159.24 RECORDING; CERTIFICATE; PUBLICATION. (1) The articles of incorporation shall be filed for record with the secretary of state. If the articles conform to law he shall, when all fees and charges have been paid as required by law, record the same and issue and record a certificate of incorporation which shall state the name of the corporation and the fact and date of incorporation.

(2) Upon the issuance of the certificate of incorporation the corporate existence shall begin. Such certificate of incorporation issued by the secretary of state shall be conclusive evidence of the fact of incorporation.

(3) Within 14 days after the issuance of the certificate of incorporation, the corporation shall cause to be published once in a qualified newspaper in the county wherein it has its registered office, a notice stating the name of the corporation, the date of its incorporation, the general nature of the business being, or about to be conducted by it, the address of its registered office, and the names and addresses of the incorporators and of the first board of directors. Proof of the publication of such notice shall be filed with the secretary of state within ten days after its publication. If a corporation shall fail to comply with the provisions of this clause it shall forfeit to the state \$50.

[1963 c 283 s 4]

159.25 FILING WITH REGISTER OF DEEDS; INSURANCE COMMISSIONER. The secretary of state, after recording in his office the articles of incorporation, shall file a copy of such articles duly certified by him, for record in the office of the register of deeds of the county in which the principal office of the corporation is situated and shall also file a like copy so certified by him, with the commissioner of insurance. There shall also be paid to the secretary of state, for transmission by him to such register of deeds, and to such commissioner of insurance, a sum sufficient under existing laws to pay the proper fees of the register of deeds and the commissioner of insurance for recording such instruments.

[1963 c 283 s 5]

159.26 WORKING CAPITAL; CONTRACTS FILED WITH INSURANCE COMMISSIONER. No such nonprofit dental service plan corporation shall enter into any contracts with any subscribers for dental care, appliances and supplies, nor secure any applications therefor, unless there is actually available, in the corporation, for working capital, the sum of not less than \$25,000 and not less than three copies of each type of contract proposed to be issued by said corporation shall have first been filed with the commissioner of insurance; the sum contributed as the working capital of such corporation shall be repayable only out of surplus earnings of such corporation, after reserves for incurred claims, unearned subscribers' payments and a reasonable amount for contingencies have been provided and approved by the commissioner of insurance.

[1963 c 283 s 6]

159.27 CONTRACTS; SUBSCRIBER TO RECEIVE COPY; CONTENTS; SUBSCRIBER'S RIGHT TO CHOOSE DENTIST. Every subscriber under such nonprofit dental service plan shall receive a copy of the contract and such contract shall clearly state the dental care appliances and supplies to be provided under such contract and the rate charged such subscriber. Every subscriber shall have at all times, free choice of the doctor of dentistry who is to treat him and such right shall be prominently printed in such contract. The personal and direct relationship between patient and dentist shall not be restricted in any manner. No employee, agent, officer, or member of the board of directors of any such corporation shall directly or indirectly influence or attempt to influence any subscriber in the choosing and selecting of the doctor of dentistry who is to treat him. The names of the doctors of dentistry belonging to said corporation or enrolled as members therein, shall not be printed or listed upon any contracts furnished to subscribers.

[1963 c 283 s 7]

159.28 CONTRACT BETWEEN SUBSCRIBER AND DENTIST. No nonprofit dental service plan corporation shall enter into any contract, agreement, or understanding, directly or indirectly, with any dentist whereby such dentist shall render any services to any subscriber, but all such matters shall be a matter of

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agreement directly between the patient and the doctor of dentistry selected by the patient to treat him.

[1963 c 283 s 8]

159.29 EMERGENCY SERVICE. In case of emergency and subject to the approval of the governing body of such nonprofit dental service plan corporation, the benefits to which a subscriber is entitled under his contract, may be rendered in another state or country, provided such services are rendered by a duly licensed doctor of dentistry, as the case may be, in such other state or country.

[1963 c 283 s 9]

159.30 CLASSES OF SERVICE. Every nonprofit dental service plan corporation may, as determined by its board of directors, or as provided in its articles of incorporation or bylaws limit the benefits that it will provide, and may divide such benefits as it determines to provide, into various classifications, including general and special dental care benefits and such services and supplies as may be incidental to such dental care.

[1963 c 283 s 10]

159.31 INVESTMENT SECURITIES. The funds of every nonprofit dental service plan corporation shall be invested only in those securities and property designated by the laws of this state for the investment of the capital, surplus, and other funds of domestic life insurance companies.

[1963 c 283 s 11]

159.32 SERVICE IN ACCORDANCE WITH PREVAILING PRACTICE. All dental care rendered to a subscriber under his contract shall be in accordance with the accepted standards of dental practice prevailing in the community in which such service is rendered.

All such dental services shall be rendered by doctors of dentistry, respectively, duly licensed and registered to practice their profession in the state, except as otherwise provided in section 159.29.

[1963 c 283 s 12]

159.33 ANNUAL REPORT. Every such corporation shall annually, on or before the last day of March, file with the commissioner of insurance a statement in such form as he shall prescribe, duly verified by not less than two of its principal officers, showing the financial condition of such corporation as of the 31st day of December next preceding.

[1963 c 283 s 13]

159.34 EXAMINATION BY COMMISSIONER; DUTIES OF ATTORNEY GENERAL. The commissioner of insurance, or any deputy or examiner designated by him, shall have the right, at all reasonable times, to free access to all books and records of such corporation in all matters pertaining to its financial condition, and may summon and examine, under oath, the officers and employees of such corporation in all such matters. The expense of any such examination of its books and financial condition shall be borne by such corporation. The commissioner of insurance may, in the event such corporation has acted in a manner detrimental and unjust to persons who become subscribers to said plan, or contrary to or in violation of the articles and bylaws of said corporation, request the attorney general to bring an action against such corporation to terminate its corporate existence, provided that such action shall not be instituted unless the commissioner of insurance or the attorney general shall have given such corporation written notice of the action complained of, if correction can be made thereof, and the corporation shall fail to institute proceedings to correct the same within 30 days thereafter.

[1963 c 283 s 14]

159.35 DISSOLUTION. A nonprofit dental service plan corporation may be wound up and dissolved either voluntarily or involuntarily. If the proceedings are voluntary, they may be conducted either out of court or subject to the supervision of the district court. If involuntary, they shall be subject to the supervision of the district court. In either event the dissolution shall be in accord with the proceedings for dissolution under the Minnesota business corporation act.

[1963 c 283 s 15]

159.36 MISDEMEANOR. Any person, or any officer or agent of such corporation, who violates any of the provisions of sections 159.21 to 159.40, or who

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shall make any false statement with respect to any report or statement required by sections 159.21 to 159.40, shall be guilty of a misdemeanor.

[1963 c 283 s 16]

159.37 AMENDMENT. Every corporation subject to the provisions of sections 159.21 to 159.40 may, in the manner provided for in its articles of incorporation, amend its articles of incorporation in any manner not inconsistent with the provisions of sections 159.21 to 159.40.

[1963 c 283 s 17]

159.38 CORPORATION NOT TO PRACTICE. Nothing in sections 159.21 to 159.40 shall authorize any person, association, or corporation to engage, in any manner, directly or indirectly, in the practice of dentistry as defined by law.

[1963 c 283 s 18]

159.39 PROVISIONS SEVERABLE. The various provisions of sections 159.21 to 159.40 shall be severable and if any part or provisions shall be held to be invalid, it shall not be held to invalidate any other part or provisions thereof.

[1963 c 283 s 19]

159.40 EFFECT OF ACT. Sections 159.21 to 159.40 is not to be construed as to repeal any existing law. Nothing contained herein shall deny the right of licensed dentists to provide dental care under any form of organization that is now or hereafter recognized under the laws of this state, or to contract to sell their services in any manner that is now or hereafter may become lawful under the laws of this state.

[1963 c 283 s 20]