



House Insurance Reported Substitute for HB391

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A BILL
TO BE ENTITLED
AN ACT

Relating to health care service corporations; to add Section 10A-20-6.17 to the Code of Alabama 1975; to authorize the formation of a nonprofit holding corporation by a health care service corporation by means of a reorganization; to provide for the reorganization process; to require notice of the reorganization to the Department of Insurance; and to specify the status and authority of the health care service corporation and the nonprofit holding corporation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 10A-20-6.17 is added to the Code of Alabama 1975, to read as follows:

§10A-20-6.17

(a) For the purposes of this section, the following terms have the following meaning:

(1) AFFILIATE. As defined in Section 27-29-1.

(2) CONTROL. As defined in Section 27-29-1.

(3) DEPARTMENT. The Department of Insurance of the State of Alabama.

(4) INSURER. Any person that meets the definition of insurer in either Section 27-1-2 or Section 27-29-1.



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29 (5) MEMBER. As defined in Section 10A-3A-1.02.

30 (6) MEMBERSHIP INTERESTS. As defined in Section
31 10A-3A-1.02.

32 (7) NONPROFIT HOLDING CORPORATION. A domestic nonprofit
33 corporation formed in connection with a reorganization that
34 operates under Chapter 3A and that, directly or indirectly
35 through another domestic nonprofit corporation that operates
36 under Chapter 3A, holds all the membership interests in a
37 health care service corporation organized under this article.

38 (8) PERSON. As defined in Section 10A-1-1.03.

39 (9) REORGANIZATION. A transaction or series of
40 transactions in which a nonprofit holding corporation is
41 created by or on behalf of a health care service corporation
42 to hold, directly or indirectly through another domestic
43 nonprofit corporation operating under Chapter 3A, a membership
44 interest in the health care service corporation.

45 (10) SUBSIDIARY. As defined in Section 27-29-1.

46 (11) ULTIMATE CONTROLLING PERSON. A person that is not
47 under the control of any other person.

48 (b) (1) Notwithstanding any other provision of this
49 article, a health care service corporation, including a
50 subsidiary of a health care service corporation, by means of a
51 reorganization, may have a nonprofit holding corporation as
52 the ultimate controlling person.

53 (2) A reorganization shall:

54 a. Be deemed an internal restructuring that does not
55 result in a change of control of a health care service
56 corporation or any subsidiary of a health care service



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57 corporation, including an insurer;

58 b. Not be deemed an acquisition or change of control of
59 a health care service corporation or any subsidiary of a
60 health care service corporation, including an insurer;

61 c. Not be subject to Section 27-29-3 or Section
62 27-29-3.1.

63 (3) Notwithstanding any other provision of law,
64 including this title or Chapter 29 of Title 27, as part of a
65 reorganization, a health care service corporation may make an
66 initial transfer of any combination of cash, investments, or
67 equity ownership interests in an affiliate or a subsidiary to
68 the nonprofit holding corporation or its subsidiary by
69 dividend, distribution, or other means, subject to both of the
70 following conditions:

71 a. The total statutory value of cash, investments, and
72 ownership interests in an affiliate or a subsidiary, net of
73 liabilities, shall not exceed 25 percent of the health care
74 service corporation's admitted assets as of its most current
75 annual statement filed with the department.

76 b. The transfer shall be subject to any risk-based
77 capital requirements imposed by the department which the
78 health care service corporation is operating under at the time
79 of the reorganization.

80 (4) A director, officer, or employee of the health care
81 service corporation shall not receive any fee, commission,
82 additional compensation, or other valuable consideration for
83 aiding, promoting, or assisting in a reorganization.

84 (5) Compliance with this subsection and subsections (c)



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85 and (d) shall be the exclusive means of effecting a
86 reorganization. Notwithstanding any other provision of law,
87 including Chapter 29 of Title 27, no filings, notices,
88 applications, or approvals, other than those filings and
89 notices required in subsection (d), shall be required in
90 connection with a reorganization, including a transfer
91 pursuant to subdivision (b) (3).

92 (c) (1) Notwithstanding any law of this state, or
93 provision to the contrary in the certificate of formation or
94 governing bylaws, a health care service corporation, by action
95 of its board of directors, may authorize a reorganization and
96 undertake the actions provided in this subsection.

97 (2) Take all steps necessary under Chapter 3A to create
98 a nonprofit holding corporation.

99 (3) Adopt amendments to the health care service
100 corporation's certificate of formation and bylaws to provide
101 for, but not be limited to, any of the following:

102 a. A class of members.

103 b. Characteristics, qualifications, limitations,
104 obligations, and rights of class members, including final
105 distributions.

106 c. Conditions for admission of members and issuance of
107 membership interests.

108 (d) Upon completion of the reorganization, a health
109 care service corporation shall submit a notice of completion
110 to the department, to which shall be attached all of the
111 following:

112 (1) A description of the transactions that effect the



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113 reorganization.

114 (2) A copy of the amendments to the health care service
115 corporation's certificate of formation and bylaws.

116 (3) A copy of the nonprofit holding corporation's
117 certificate of incorporation.

118 (4) A pro forma balance sheet and income statement for
119 the health care service corporation which demonstrates the
120 financial position of the health care service corporation on
121 the effective date of the reorganization.

122 (5) A pro forma balance sheet and income statement for
123 the nonprofit holding corporation that demonstrates the
124 financial position of the nonprofit holding corporation on the
125 effective date of the reorganization.

126 (e) (1) As a result of being created pursuant to this
127 section, a nonprofit holding corporation is:

128 a. Not deemed to be an insurance company, insurer, or a
129 health care service corporation organized under this article;

130 b. Not otherwise subject to this article;

131 c. A nonprofit corporation that is subject to Chapter
132 3A and which has no members; and

133 d. The ultimate controlling person of the health care
134 service corporation.

135 (2) No subsidiary or affiliate of a nonprofit holding
136 corporation is subject to this article unless the subsidiary
137 or affiliate is organized under this article as a health care
138 service corporation.

139 (f) (1) Notwithstanding any other provision of law, in
140 addition to any transfer in connection with a reorganization



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141 under subdivision (b) (3), a nonprofit holding corporation may
142 at any time directly or indirectly:

143 **a.** Organize, acquire, hold, operate, manage, and invest
144 in any person, including any insurer, subsidiary, or
145 affiliate; and

146 **b.** Enter into or engage in any operation, business,
147 transfer, sale, purchase, exchange, loan, agreement,
148 transaction, or other activity subject to compliance with any
149 applicable provision of Chapter 3A or Chapter 29 of Title 27
150 and subdivision (2).

151 (2)a. For purposes of this subdivision, the following
152 terms have the following meanings:

153 1. HEALTH CARE PROVIDER. An entity for which the
154 primary purpose is directly providing health care to patients.

155 2. HOSPITALS. As defined in Section 22-21-20(1).

156 **b.** Subject to subsection (j), a nonprofit holding
157 corporation formed in connection with a reorganization shall
158 not acquire ownership of a majority of the voting securities,
159 ownership of controlling membership interests, or the right to
160 appoint any board members of a person engaged in the business
161 of operating one or more hospitals in the State of Alabama or
162 operating a health care provider in the State of Alabama.

163 **c.** As used in paragraph b., the term "person" shall not
164 include a health care service corporation or an entity that is
165 a subsidiary of a health care service corporation.

166 **d.** The prohibition in paragraph b. shall not apply to:

167 1. A nonprofit holding corporation's obtaining
168 membership interests in, becoming a member of, nor having the



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169 right to appoint any board member of, a health care service
170 corporation;

171 2. The acquisition of control or the right to appoint
172 any board members of a foreign corporation that is indirectly
173 engaged in the provision of health care to patients in the
174 State of Alabama so long as the revenue from the provision of
175 health care to patients in the State of Alabama for the
176 12-month period immediately preceding the acquisition is less
177 than 15 percent of the foreign corporation's aggregate
178 consolidated revenue for that same 12-month period.

179 (g) A nonprofit holding corporation, no later than June
180 1 of each year, shall file with the department a group capital
181 calculation for the preceding calendar year.

182 (h) The board of directors of a nonprofit holding
183 corporation shall be comprised solely of individuals who are
184 directors of the health care service corporation. No equity or
185 ownership interest in the nonprofit holding corporation or any
186 subsidiary thereof may be granted to any executive officer or
187 any member of the board of directors of the nonprofit holding
188 corporation or the health care service corporation.

189 (i) The department may exercise the authority provided
190 under Section 27-2-7 and Section 27-2-19 for purposes of
191 enforcing the nonprofit holding corporation's compliance with
192 this section.

193 (j) (1) A reorganization does not change the legal form
194 of a health care service corporation or the health care
195 service corporation's certificate of authority to do business.

196 (2) All subscriber contracts and certificates issued by



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197 the health care service corporation shall remain in full force
198 and effect.

199 (3) Upon reorganization, a health care service
200 corporation shall continue to be subject to this article,
201 except for all of the following:

202 a. Neither a reorganization nor any other transaction
203 permitted by this section shall constitute or require a
204 conversion of the health care service corporation pursuant to
205 any law of this state.

206 b. In addition to a transfer in connection with a
207 reorganization under subdivision (b)(3), the health care
208 service corporation may approve and pay any direct or indirect
209 dividend or distribution to the nonprofit holding corporation
210 if the dividend or distribution satisfies the applicable
211 standards for payment of a dividend or distribution pursuant
212 to Sections 10A-3A-6.40, 27-29-4(e), and 27-29-5.

213 c. To the extent not otherwise addressed in, and not
214 contrary to, the certificate of formation or bylaws of the
215 health care service corporation as amended, or this section,
216 all aspects of the membership relationship between the health
217 care service corporation and its member nonprofit holding
218 corporation resulting from a reorganization shall be governed
219 by the applicable provisions of Chapter 3A.

220 d. A health care service corporation that has completed
221 a reorganization is permitted, pursuant to Section 10A-1-8.02,
222 and subject to any required filings and approvals under
223 Chapter 29 of Title 27, to merge with any domestic or foreign
224 nonprofit corporation if the health care service corporation



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225 is the surviving corporation in the merger and the domestic or
226 foreign nonprofit corporation that merged with the health care
227 service corporation: (i) in the case of a domestic entity, is
228 not in any way involved in the business of providing,
229 managing, or paying for, health care items or services; or
230 (ii) in the case of a foreign entity, does not offer a health
231 insurance plan that is approved by the department or offered
232 to residents of the State of Alabama.

233 (4) Notwithstanding anything to the contrary in this
234 section, nothing in this section is intended to or shall
235 prevent, limit, or restrict in any way any direct or indirect
236 acquisition, ownership, transaction, business, investment, or
237 other activity that is made, held, or conducted by a health
238 care service corporation or a subsidiary of a health care
239 service corporation which is otherwise permissible for that
240 person under applicable law.

241 Section 2. This act shall become effective on October
242 1, 2026.