
HOUSE BILL 1651

State of Washington 57th Legislature 2001 Regular Session

By Representatives Campbell, Cody, Schual-Berke, Ruderman and Edwards

Read first time 01/31/2001. Referred to Committee on Health Care.

1 AN ACT Relating to the protection of charitable trusts that are
2 health care service contractors and health maintenance organizations;
3 amending RCW 48.43.005; and adding new sections to chapter 48.43 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW
6 to read as follows:

7 The legislature recognizes the state's interest in protecting
8 charitable trusts. Charitable trusts are distinct from private trusts.
9 Charitable trusts primarily benefit the general public or a segment of
10 the public, rather than specific persons. The promotion of health is
11 a commonly recognized charitable purpose. Certain health care service
12 contractors and health maintenance organizations have established
13 charitable trusts using state nonprofit incorporation statutes. Market
14 pressures have forced nonprofit health care service contractors and
15 health maintenance organizations to consider various corporate
16 structures, including for-profit structures, that would permit issuance
17 of stock to shareholders. Reconfiguring corporate structure from
18 nonprofit to for-profit compromises the value of the charitable trust

1 because the for-profit structure introduces a fiduciary duty to
2 shareholders, which can conflict with the original charitable purpose.

3 The attorney general represents the public interest in securing
4 enforcement of charitable trusts. However, statutory provisions are
5 needed to clarify the role of the attorney general and provide
6 regulatory authority to the insurance commissioner to assure
7 preservation of the fair market value of the charitable trust when the
8 corporate structure is altered.

9 **Sec. 2.** RCW 48.43.005 and 2000 c 79 s 18 are each amended to read
10 as follows:

11 (~~Unless otherwise specifically provided,~~) The definitions in this
12 section apply throughout this chapter unless the context clearly
13 requires otherwise.

14 (1) "Adjusted community rate" means the rating method used to
15 establish the premium for health plans adjusted to reflect actuarially
16 demonstrated differences in utilization or cost attributable to
17 geographic region, age, family size, and use of wellness activities.

18 (2) "Basic health plan" means the plan described under chapter
19 70.47 RCW, as revised from time to time.

20 (3) "Basic health plan services" means that schedule of covered
21 health services, including the description of how those benefits are to
22 be administered, that are required to be delivered to an enrollee under
23 the basic health plan, as revised from time to time.

24 (4) "Catastrophic health plan" means:

25 (a) In the case of a contract, agreement, or policy covering a
26 single enrollee, a health benefit plan requiring a calendar year
27 deductible of, at a minimum, one thousand five hundred dollars and an
28 annual out-of-pocket expense required to be paid under the plan (other
29 than for premiums) for covered benefits of at least three thousand
30 dollars; and

31 (b) In the case of a contract, agreement, or policy covering more
32 than one enrollee, a health benefit plan requiring a calendar year
33 deductible of, at a minimum, three thousand dollars and an annual out-
34 of-pocket expense required to be paid under the plan (other than for
35 premiums) for covered benefits of at least five thousand five hundred
36 dollars; or

37 (c) Any health benefit plan that provides benefits for hospital
38 inpatient and outpatient services, professional and prescription drugs

1 provided in conjunction with such hospital inpatient and outpatient
2 services, and excludes or substantially limits outpatient physician
3 services and those services usually provided in an office setting.

4 (5) "Certification" means a determination by a review organization
5 that an admission, extension of stay, or other health care service or
6 procedure has been reviewed and, based on the information provided,
7 meets the clinical requirements for medical necessity, appropriateness,
8 level of care, or effectiveness under the auspices of the applicable
9 health benefit plan.

10 (6) "Charitable trust" means a nonprofit health carrier that has
11 dedicated all or any portion of its assets to benefit the general
12 public or a segment of the public. Such dedication may be evidenced by
13 its articles of incorporation, bylaws, other organic documents,
14 business transactions, or any other means sufficient to establish a
15 charitable trust at common law. Charitable trusts include but are not
16 limited to a nonprofit health carrier operating at any time as a
17 501(c)(3) organization for federal tax purposes, a 501(m) organization
18 for federal tax purposes, or a 501(c)(4) organization for federal tax
19 purposes. A nonprofit health carrier that is a public benefit
20 corporation under chapter 24.03 RCW is a charitable trust. A nonprofit
21 health carrier does not have to meet the filing and other requirements
22 of chapter 11.110 RCW in order to be considered a charitable trust for
23 this act.

24 (7) "Charitable trust assets" means a charitable trust that is less
25 than the entire health care service contractor's or health maintenance
26 organization's business.

27 (8) "Concurrent review" means utilization review conducted during
28 a patient's hospital stay or course of treatment.

29 ~~((+7))~~ (9) "Conversion transaction" means the transfer of control
30 or governance of a charitable trust or material charitable trust
31 assets.

32 (10) "Covered person" or "enrollee" means a person covered by a
33 health plan including an enrollee, subscriber, policyholder,
34 beneficiary of a group plan, or individual covered by any other health
35 plan.

36 ~~((+8))~~ (11) "Dependent" means, at a minimum, the enrollee's legal
37 spouse and unmarried dependent children who qualify for coverage under
38 the enrollee's health benefit plan.

1 (~~(9)~~) (12) "Eligible employee" means an employee who works on a
2 full-time basis with a normal work week of thirty or more hours. The
3 term includes a self-employed individual, including a sole proprietor,
4 a partner of a partnership, and may include an independent contractor,
5 if the self-employed individual, sole proprietor, partner, or
6 independent contractor is included as an employee under a health
7 benefit plan of a small employer, but does not work less than thirty
8 hours per week and derives at least seventy-five percent of his or her
9 income from a trade or business through which he or she has attempted
10 to earn taxable income and for which he or she has filed the
11 appropriate internal revenue service form. Persons covered under a
12 health benefit plan pursuant to the consolidated omnibus budget
13 reconciliation act of 1986 shall not be considered eligible employees
14 for purposes of minimum participation requirements of chapter 265, Laws
15 of 1995.

16 (~~(10)~~) (13) "Emergency medical condition" means the emergent and
17 acute onset of a symptom or symptoms, including severe pain, that would
18 lead a prudent layperson acting reasonably to believe that a health
19 condition exists that requires immediate medical attention, if failure
20 to provide medical attention would result in serious impairment to
21 bodily functions or serious dysfunction of a bodily organ or part, or
22 would place the person's health in serious jeopardy.

23 (~~(11)~~) (14) "Emergency services" means otherwise covered health
24 care services medically necessary to evaluate and treat an emergency
25 medical condition, provided in a hospital emergency department.

26 (~~(12)~~) (15) "Enrollee point-of-service cost-sharing" means
27 amounts paid to health carriers directly providing services, health
28 care providers, or health care facilities by enrollees and may include
29 copayments, coinsurance, or deductibles.

30 (~~(13)~~) (16) "Grievance" means a written complaint submitted by or
31 on behalf of a covered person regarding: (a) Denial of payment for
32 medical services or nonprovision of medical services included in the
33 covered person's health benefit plan, or (b) service delivery issues
34 other than denial of payment for medical services or nonprovision of
35 medical services, including dissatisfaction with medical care, waiting
36 time for medical services, provider or staff attitude or demeanor, or
37 dissatisfaction with service provided by the health carrier.

38 (~~(14)~~) (17) "Health care facility" or "facility" means hospices
39 licensed under chapter 70.127 RCW, hospitals licensed under chapter

1 70.41 RCW, rural health care facilities as defined in RCW 70.175.020,
2 psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes
3 licensed under chapter 18.51 RCW, community mental health centers
4 licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment
5 centers licensed under chapter 70.41 RCW, ambulatory diagnostic,
6 treatment, or surgical facilities licensed under chapter 70.41 RCW,
7 drug and alcohol treatment facilities licensed under chapter 70.96A
8 RCW, and home health agencies licensed under chapter 70.127 RCW, and
9 includes such facilities if owned and operated by a political
10 subdivision or instrumentality of the state and such other facilities
11 as required by federal law and implementing regulations.

12 ~~((15))~~ (18) "Health care provider" or "provider" means:

13 (a) A person regulated under Title 18 or chapter 70.127 RCW, to
14 practice health or health-related services or otherwise practicing
15 health care services in this state consistent with state law; or

16 (b) An employee or agent of a person described in (a) of this
17 subsection, acting in the course and scope of his or her employment.

18 ~~((16))~~ (19) "Health care service" means that service offered or
19 provided by health care facilities and health care providers relating
20 to the prevention, cure, or treatment of illness, injury, or disease.

21 ~~((17))~~ (20) "Health carrier" or "carrier" means a disability
22 insurer regulated under chapter 48.20 or 48.21 RCW, a health care
23 service contractor as defined in RCW 48.44.010, or a health maintenance
24 organization as defined in RCW 48.46.020.

25 ~~((18))~~ (21) "Health plan" or "health benefit plan" means any
26 policy, contract, or agreement offered by a health carrier to provide,
27 arrange, reimburse, or pay for health care services except the
28 following:

29 (a) Long-term care insurance governed by chapter 48.84 RCW;

30 (b) Medicare supplemental health insurance governed by chapter
31 48.66 RCW;

32 (c) Limited health care services offered by limited health care
33 service contractors in accordance with RCW 48.44.035;

34 (d) Disability income;

35 (e) Coverage incidental to a property/casualty liability insurance
36 policy such as automobile personal injury protection coverage and
37 homeowner guest medical;

38 (f) Workers' compensation coverage;

39 (g) Accident only coverage;

1 (h) Specified disease and hospital confinement indemnity when
2 marketed solely as a supplement to a health plan;

3 (i) Employer-sponsored self-funded health plans;

4 (j) Dental only and vision only coverage; and

5 (k) Plans deemed by the insurance commissioner to have a short-term
6 limited purpose or duration, or to be a student-only plan that is
7 guaranteed renewable while the covered person is enrolled as a regular
8 full-time undergraduate or graduate student at an accredited higher
9 education institution, after a written request for such classification
10 by the carrier and subsequent written approval by the insurance
11 commissioner.

12 (~~((19))~~) (22) "Material modification" means a change in the
13 actuarial value of the health plan as modified of more than five
14 percent but less than fifteen percent.

15 (~~((20))~~) (23) "Nonprofit health carrier" means a nonprofit
16 corporation formed under Title 24 RCW doing business as a disability
17 insurer regulated under chapter 48.20 or 48.21 RCW, health care service
18 contractor as defined in RCW 48.44.010, or a health maintenance
19 organization as defined in RCW 48.46.020.

20 (24) "Preexisting condition" means any medical condition, illness,
21 or injury that existed any time prior to the effective date of
22 coverage.

23 (~~((21))~~) (25) "Premium" means all sums charged, received, or
24 deposited by a health carrier as consideration for a health plan or the
25 continuance of a health plan. Any assessment or any "membership,"
26 "policy," "contract," "service," or similar fee or charge made by a
27 health carrier in consideration for a health plan is deemed part of the
28 premium. "Premium" shall not include amounts paid as enrollee point-
29 of-service cost-sharing.

30 (~~((22))~~) (26) "Review organization" means a disability insurer
31 regulated under chapter 48.20 or 48.21 RCW, health care service
32 contractor as defined in RCW 48.44.010, or health maintenance
33 organization as defined in RCW 48.46.020, and entities affiliated with,
34 under contract with, or acting on behalf of a health carrier to perform
35 a utilization review.

36 (~~((23))~~) (27) "Small employer" or "small group" means any person,
37 firm, corporation, partnership, association, political subdivision
38 except school districts, or self-employed individual that is actively
39 engaged in business that, on at least fifty percent of its working days

1 during the preceding calendar quarter, employed no more than fifty
2 eligible employees, with a normal work week of thirty or more hours,
3 the majority of whom were employed within this state, and is not formed
4 primarily for purposes of buying health insurance and in which a bona
5 fide employer-employee relationship exists. In determining the number
6 of eligible employees, companies that are affiliated companies, or that
7 are eligible to file a combined tax return for purposes of taxation by
8 this state, shall be considered an employer. Subsequent to the
9 issuance of a health plan to a small employer and for the purpose of
10 determining eligibility, the size of a small employer shall be
11 determined annually. Except as otherwise specifically provided, a
12 small employer shall continue to be considered a small employer until
13 the plan anniversary following the date the small employer no longer
14 meets the requirements of this definition. The term "small employer"
15 includes a self-employed individual or sole proprietor. The term
16 "small employer" also includes a self-employed individual or sole
17 proprietor who derives at least seventy-five percent of his or her
18 income from a trade or business through which the individual or sole
19 proprietor has attempted to earn taxable income and for which he or she
20 has filed the appropriate internal revenue service form 1040, schedule
21 C or F, for the previous taxable year.

22 ~~((+24))~~ (28) "Utilization review" means the prospective,
23 concurrent, or retrospective assessment of the necessity and
24 appropriateness of the allocation of health care resources and services
25 of a provider or facility, given or proposed to be given to an enrollee
26 or group of enrollees.

27 ~~((+25))~~ (29) "Wellness activity" means an explicit program of an
28 activity consistent with department of health guidelines, such as,
29 smoking cessation, injury and accident prevention, reduction of alcohol
30 misuse, appropriate weight reduction, exercise, automobile and
31 motorcycle safety, blood cholesterol reduction, and nutrition education
32 for the purpose of improving enrollee health status and reducing health
33 service costs.

34 NEW SECTION. Sec. 3. A new section is added to chapter 48.43 RCW
35 to read as follows:

36 (1) A nonprofit health carrier must not enter any conversion
37 transaction without notifying the attorney general in writing prior to
38 entering any conversion transaction and obtaining approval from the

1 office of the insurance commissioner for any conversion transaction
2 referred to the office of the insurance commissioner by the attorney
3 general. The office of the insurance commissioner may notify and refer
4 to the attorney general nonprofit health carrier transactions it
5 believes may include conversion transactions.

6 (a) Notice shall include the health carrier's articles of
7 incorporation, including all historical versions, bylaws, and contracts
8 governing the proposal necessary for the attorney general to make its
9 determination. The health carrier has a duty to respond to attorney
10 general requests for information.

11 (b) Notice is not effective until the attorney general acknowledges
12 receipt of a complete notice in accordance with the rules adopted by
13 the attorney general under section 6 of this act.

14 (c) The nonprofit health carrier shall provide the attorney general
15 with written certification that a copy of sections 1 and 3 through 9 of
16 this act and RCW 48.43.005 have been given in their entirety to each
17 member of the board of trustees of the nonprofit health carrier at the
18 time the notice is submitted.

19 (2) The attorney general shall determine whether the proposed
20 transaction is a conversion transaction that requires review by the
21 office of the insurance commissioner.

22 (3) If the nonprofit health carrier is a charitable trust and the
23 proposed transaction is a conversion transaction, the attorney general
24 must require administrative regulation of the conversion transaction by
25 the office of the insurance commissioner. If the nonprofit health
26 carrier is not a charitable trust in its entirety, but has material
27 charitable assets that are included within the conversion transaction,
28 the attorney general must require administrative regulation of the
29 conversion transaction by the office of the insurance commissioner.

30 (4) A decision by the attorney general for administrative
31 regulation of the conversion transaction by the office of the insurance
32 commissioner is not subject to the review provisions under chapter
33 34.05 RCW until the office of the insurance commissioner has taken
34 final action.

35 (5) A nonprofit health carrier shall disclose all documents to the
36 attorney general that are relevant to determine whether the nonprofit
37 health carrier is a charitable trust or has charitable trust assets and
38 that are relevant to determine whether the proposal is a conversion

1 transaction. The disclosure of records by the attorney general is
2 governed by chapter 42.17 RCW.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.43 RCW
4 to read as follows:

5 (1) In making a decision whether to approve or disapprove a
6 proposed nonprofit health carrier conversion transaction the office of
7 the insurance commissioner shall consider:

8 (a) Whether the nonprofit health carrier will receive full and fair
9 market value for its charitable trust assets;

10 (b) Whether the fair market value of the nonprofit health carrier's
11 charitable trust assets to be transferred has been manipulated by the
12 actions of the parties in a manner that causes the fair market value of
13 the charitable trust to decrease;

14 (c) Whether the proceeds of the proposed nonprofit health care
15 conversion transaction will be used consistent with the trust under
16 which the assets are held by the nonprofit health carrier and whether
17 the proceeds will be controlled as funds independently of the acquiring
18 or related entities;

19 (d) Whether the board members of the nonprofit federal tax-exempt
20 foundation or foundations receiving the proceeds of the conversion
21 transaction were nominated by a public community-based selection
22 process;

23 (e) Whether the proposed nonprofit health care conversion
24 transaction will result in a breach of fiduciary duty, as determined by
25 the office of the insurance commissioner, including conflicts of
26 interest related to payments or benefits to officers, directors, board
27 members, executives, and experts employed or retained by the parties;

28 (f) Whether the governing body of the nonprofit health carrier
29 exercised due diligence in deciding to dispose of the nonprofit health
30 carrier's charitable trust assets, selecting the acquiring entity, and
31 negotiating the terms and conditions of the disposition;

32 (g) Whether the nonprofit health care conversion transaction will
33 result in private inurement to any person;

34 (h) Whether health care providers will be offered the opportunity
35 to invest or own an interest in the acquiring entity or a related
36 party, and whether procedures or safeguards are in place to avoid
37 conflict of interest in patient referrals;

1 (i) Whether the terms of any management or services contract
2 negotiated in conjunction with the proposed nonprofit health care
3 conversion transaction are reasonable;

4 (j) Whether the office of the insurance commissioner has been
5 provided with sufficient information and data by the nonprofit health
6 carrier to evaluate adequately the proposed nonprofit health care
7 conversion transaction or the effects thereof on the public, provided
8 the office of the insurance commissioner has notified the nonprofit
9 health carrier or the acquiring entity of any inadequacy of the
10 information or data and has provided a reasonable opportunity to remedy
11 such inadequacy; and

12 (k) Any other criteria the office of the insurance commissioner
13 considers necessary to determine whether the nonprofit health carrier
14 will receive full and fair market value for its charitable trust assets
15 to be transferred as required in rules adopted by the office of the
16 insurance commissioner under section 6 of this act.

17 (2) The insurance commissioner may exempt from conversion
18 transaction review any of the following transactions:

19 (a) Any sales or purchases undertaken in the normal and ordinary
20 course of health carrier business. The insurance commissioner may
21 request information from the health carrier to verify that transactions
22 qualify as occurring in the normal and ordinary course of health
23 carrier business.

24 (b) Investments in a wholly owned subsidiary of the nonprofit
25 health carrier in which all of the following occur:

26 (i) Any profit from the investment will not inure to the benefit of
27 any individual;

28 (ii) The investment is fundamentally consistent with and advances
29 the nonprofit health purpose of the entity;

30 (iii) The investment does not adversely impact the carrier's
31 ability to fulfill its nonprofit health purposes;

32 (iv) No officer or director of the plan has any financial interest
33 constituting a conflict of interest in the investments;

34 (v) The investment results in the provision of services, goods, or
35 insurance to or for the benefit of the health carrier or its members,
36 enrollees, or groups; and

37 (vi) The investment protects the charitable trust or charitable
38 trust assets, does not diminish their value, and continues their

1 dedication to serving the health care needs of the people of the state
2 of Washington.

3 (c) Sales or purchases of health carrier assets, including
4 interests in wholly owned subsidiaries and in joint ventures,
5 partnerships, and other investments in for-profit entities, in which
6 all of the following occur:

7 (i) Any profit from the sale will not inure to the benefit of any
8 individual;

9 (ii) The sale or purchase is fundamentally consistent with and
10 advances the nonprofit health purposes of the health carrier;

11 (iii) The health carrier receives all proceeds from the sale;

12 (iv) No officer or director of the plan has any financial interest
13 constituting a conflict of interest in the sale or purchase;

14 (v) The transaction is conducted at arm's length and for fair
15 market value;

16 (vi) The sale or purchase does not adversely impact the health
17 carrier's ability to fulfill its nonprofit health purposes; and

18 (vii) The sale or purchase protects the charitable trust or
19 charitable trust assets, does not diminish their value, and continues
20 their dedication to serving the health care needs of the people of the
21 state of Washington.

22 (d) Investments in or joint ventures and partnerships with a for-
23 profit entity in which all of the following occur:

24 (i) Any profit will not inure to the benefit of any individual;

25 (ii) The mission or purpose of the investment, joint venture, or
26 partnership is fundamentally consistent with the nonprofit health
27 purposes of the health carrier;

28 (iii) No officer or director of the health carrier has any
29 financial interest constituting a conflict of interest in the
30 investment, joint venture, or partnership;

31 (iv) The transaction is conducted at arm's length and for fair
32 market value; and

33 (v) The investment, joint venture, or partnership protects the
34 charitable trust or charitable trust assets, does not diminish their
35 value, and continues their dedication to serving the health care needs
36 of the people of the state of Washington.

37 (3) The office of the insurance commissioner has ninety days to
38 approve or disapprove, in writing, the proposed nonprofit health care
39 conversion transaction. The time may be extended for an additional

1 sixty-day period, if the extension is necessary to obtain information
2 requested under this act.

3 (4) All documents submitted to the office of the insurance
4 commissioner under this section and sections 3 and 8 of this act are
5 subject to chapter 42.17 RCW.

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.43 RCW
7 to read as follows:

8 (1) Any proceeds from regulation of conversion transactions shall
9 be dedicated to serving the unmet health care needs of the people of
10 the state of Washington. The charitable health care assets shall be
11 used to endow a nonprofit federally tax-exempt foundation or
12 foundations that will fund and support health care and health-related
13 activities that serve the unmet health care needs of the people of the
14 state of Washington.

15 (2) The insurance commissioner shall appoint a consumer advisory
16 committee to oversee the foundation. The consumer advisory committee
17 must consist of a broad cross section of the views and interests of the
18 people of the state of Washington, including but not limited to
19 consumer advocates, health care providers, academics, labor unions, and
20 health carrier administrators.

21 (3) The consumer advisory committee shall, at a minimum:

22 (a) Function as the permanent nominating committee of the
23 foundation board of directors. The consumer advisory committee must
24 ensure that the foundation board of directors represents and reflects
25 the diversity of the people of the state of Washington; and

26 (b) Assess and advise the foundation board of directors on how
27 effectively the foundation represents community interests, particularly
28 those who are underserved by the health care system.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 48.43 RCW
30 to read as follows:

31 The insurance commissioner and the attorney general are each
32 authorized to establish rules to implement this act.

33 NEW SECTION. **Sec. 7.** A new section is added to chapter 48.43 RCW
34 to read as follows:

35 Before issuing any written decision under section 4 of this act,
36 the office of the insurance commissioner shall conduct one or more

1 public meetings hearing public testimony regarding the proposed
2 nonprofit health care conversion transaction. Notice shall be provided
3 in a manner reasonably calculated to notify interested persons. The
4 meeting shall be held in a location accessible to persons interested in
5 participating.

6 NEW SECTION. **Sec. 8.** A new section is added to chapter 48.43 RCW
7 to read as follows:

8 The attorney general and the office of the insurance commissioner
9 may demand that the nonprofit health carrier provide such information
10 as the attorney general or the office of the insurance commissioner
11 deems necessary to complete its review of any proposed nonprofit health
12 care conversion transaction. A failure to provide timely information
13 as required shall be sufficient ground for the attorney general or the
14 office of the insurance commissioner to disapprove the proposed
15 conversion transaction. The disclosure of records by the office of the
16 insurance commissioner is governed by chapter 42.17 RCW.

17 NEW SECTION. **Sec. 9.** A new section is added to chapter 48.43 RCW
18 to read as follows:

19 Nothing in sections 3 through 8 of this act shall be construed to
20 limit the authority of the attorney general under the common law or
21 other statutory authority to protect charitable interests in this
22 state. These penalties and remedies are in addition to, and not a
23 replacement for, any other civil or criminal actions that the attorney
24 general may take under either the common law or statutory law.

25 NEW SECTION. **Sec. 10.** A new section is added to chapter 48.43 RCW
26 to read as follows:

27 (1) The attorney general may commence an action against a nonprofit
28 health carrier that enters into a conversion transaction without notice
29 to the attorney general or approval by the insurance commissioner
30 pursuant to this chapter, and any other party to the conversion
31 transaction, to recover all charitable trust assets or to void the
32 transaction and return the parties to the situation existing before the
33 conversion transaction, or, if the conversion transaction has not yet
34 occurred, to enjoin such conversion transaction from occurring. Such
35 action may be brought in the superior court for the county where the

1 nonprofit health carrier has its principal place of business or in
2 Thurston county.

3 (2) Upon request by the attorney general, any nonprofit health
4 carrier that has entered into, or is proposing to enter into, a
5 transaction without making a filing with the attorney general pursuant
6 to section 3 of this act shall provide to the attorney general all
7 documents relevant to determine whether such transaction is or was a
8 conversion transaction and whether the nonprofit health carrier is or
9 was a charitable trust or has or had charitable trust assets.

10 NEW SECTION. **Sec. 11.** A new section is added to chapter 48.43 RCW
11 to read as follows:

12 (1) The office of the insurance commissioner may:

13 (a) Contract with, consult, and receive advice from any agency of
14 the state or the United States on such terms and conditions the office
15 of the insurance commissioner deems appropriate; or

16 (b) In the office of the insurance commissioner's sole discretion,
17 contract with such experts or consultants the insurance commissioner
18 deems appropriate to assist the insurance commissioner in reviewing the
19 proposed nonprofit health care conversion transaction.

20 (2) Any contract costs incurred by the insurance commissioner under
21 this section shall not exceed an amount that is reasonable and
22 necessary to conduct the review of the proposed nonprofit health care
23 conversion transaction. The insurance commissioner shall be exempt
24 from chapter 43.19 RCW for the purposes of entering into contracts
25 under this section. The nonprofit health carrier giving notice under
26 section 3 of this act, upon request, shall pay the office of the
27 insurance commissioner promptly for all costs of contracts entered into
28 by the office of the insurance commissioner under this section.

29 (3) The office of the insurance commissioner is entitled to
30 reimbursement from the nonprofit health carrier giving notice under
31 section 3 of this act for all reasonable and actual costs incurred by
32 the office of the insurance commissioner in reviewing any proposed
33 nonprofit health care conversion transaction under this act, including
34 attorneys' fees at the billing rate used by the office of the insurance
35 commissioner to bill state agencies for legal services. The nonprofit
36 health carrier giving notice under section 3 of this act, upon request,
37 shall pay the office of the insurance commissioner promptly for all
38 such costs.

1 (4) The failure by the nonprofit health carrier giving notice under
2 section 3 of this act to promptly reimburse the office of the insurance
3 commissioner for all costs under subsection (2) or (3) of this section
4 is sufficient ground for the office of the insurance commissioner to
5 disapprove the proposed nonprofit health care conversion transaction.

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