

CHAPTER 34
NONPROFIT HEALTH SERVICE CORPORATIONS
[Prior to 10/22/86, Insurance Department[510]]

191—34.1(514) Purpose. The purpose of this chapter is to specify those requirements imposed upon health service corporations under Iowa Code chapter 514 and delineate standards for the commissioner's implementation of these requirements.

191—34.2(514) Definitions. For purposes of this chapter, the following definitions shall apply:

"Commissioner" means the commissioner of insurance for the state of Iowa.

"Competitor" means a corporation, business entity, or person engaged in the business of contracting to provide health care services to others, pay indemnity for health care services provided to others, or provide administrative services relevant thereto in the state of Iowa.

"Division" means the insurance division of Iowa.

"Employee" is as defined by Iowa Code section 85.61.

"Health care services" means services included in the furnishing to any individual of medical or dental care, or hospitalization, or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of all other services for the purposes of preventing, alleviating, curing or healing human illness, injury, or physical disability.

"Immediate family member" means an individual within the first degree of consanguinity or affinity who resides in the same household. With respect to determining the immediate family or spouse of a provider, only those providers licensed and practicing in Iowa on a regular basis shall be considered.

"Material financial interest" means a vested interest of at least 10 percent of the fair market value of the property or an interest from which at least 10 percent of individual's gross income is derived.

"Provider" means any physician, hospital, or person as defined in Iowa Code chapter 4 which is licensed or otherwise authorized in the state of Iowa to furnish health care services.

"Related industry" means a commercial enterprise whose goods or services are by design or function primarily for use in the health care services industry. Related industry does not include commercial enterprises whose goods and services are generic to business in general, such as, but not limited to, utilities, food, cleaning, financial, or legal services.

"Subscriber" means an individual who enters into a contract for hospital services, medical or surgical services, dental services, pharmaceutical services, or optometric services with a corporation subject to Iowa Code chapter 514. With respect to contracts providing benefits to more than one individual, subscriber shall include each individual entitled to receive benefits who has reached the legal age of majority. Subscriber also includes all individuals entitled to receive services or payment for services from a corporation subject to Iowa Code chapter 514 pursuant to the terms of a contract or certificate issued by the corporation to an employer or group. Subscriber also includes any individual eligible for medical assistance or additional medical assistance as defined by Iowa Code chapter 249A and with respect to whom the department of human services has entered into a contract with the corporation subject to Iowa Code chapter 514.

"Subscriber director" means a subscriber who is a member of the board of directors of a corporation subject to Iowa Code chapter 514 and who is not a provider, the spouse or an immediate family member of a provider. Subscriber director includes only those individuals nominated pursuant to subrule 34.7(2). Subscriber director does not include any individual who has a material financial interest or fiduciary interest in the delivery of health care services or a related industry, an employee of an institution which provides health care services, or the spouse or an immediate family member of such an individual. A subscriber director of a hospital or medical service corporation shall be a subscriber of the services of that corporation. Proof of compliance with the requirements of this paragraph shall be by affidavit.

191—34.3(514) Annual report requirements. Each corporation subject to Iowa Code chapter 514 shall file an annual statement on the National Association of Insurance Commissioner's annual statement blank.

This rule is intended to implement Iowa Code section 514.9.

191—34.4(514) Arbitration. Parties defined in Iowa Code section 514.13 may submit covered disputes to the commissioner. The following procedures shall be followed when covered disputes are submitted to the commissioner.

34.4(1) The party seeking arbitration shall file a petition for arbitration requesting arbitration by the commissioner and setting forth the facts which are the basis for the dispute, together with a statement of the factual or legal issue(s), and the party's position on the issue(s), and serve a copy of the petition by certified mail upon the other party(ies) to the dispute. Proof of service shall be promptly filed with the commissioner.

34.4(2) The other party(ies) shall file within 20 days an answer to the petition for arbitration, admitting or denying the facts alleged in the petition and indicating whether there is agreement with the statement of the issue(s) in the petition and setting forth the other party's position on the issue(s). All papers other than the petition shall be served in accordance with Iowa Rule of Civil Procedure 82 with proof of service to be made in conformance therewith.

34.4(3) The commissioner shall conduct a prehearing conference in accordance with rule 191—3.5(17A,502,505) at which the commissioner may set a schedule for the submission of briefs by the parties, and, if necessary, shall provide for the holding of an evidentiary hearing. The parties are encouraged to stipulate to the facts and agree as to the legal issue(s).

34.4(4) The commissioner may submit the dispute to a person selected by the commissioner, who may or may not be employed by the division, who shall make proposed findings and recommendations to the commissioner for a decision by the commissioner.

191—34.5(514) Filing requirements. All matters subject to the division's approval under Iowa Code chapter 514 shall be submitted pursuant to rule 191—20.1(505,509,514A,515,515A,515F) prior to the intended effective date.

191—34.6(514) Participating hospital contracts.

34.6(1) The following standards shall be applied to all participating hospital contracts subject to approval under Iowa Code section 514.8 and shall be relied upon by the commissioner in deciding whether approval is granted:

- a.* Contracts shall be fair to the subscribers of the hospital service corporation.
- b.* Contracts shall be fair to the hospital service corporation.
- c.* Contracts shall be fair, reasonable, and in the public interest.
- d.* The subscribers' rights to service under participating hospital contracts shall be adequately specified and protected.
- e.* The contract shall not be unfairly discriminatory with respect to the provision of services to subscribers.
- f.* Contracts shall not be detrimental to the financial condition of the hospital service corporation.
- g.* The payment of consideration required of the hospital service corporation by the provisions of the contract shall not be excessive, inadequate or unfair.

34.6(2) The prototype contract used by hospital service corporations with participating hospitals for hospital service shall be subject to the prior approval of the division. The individual contracts between hospital service corporations and individual participating hospitals are not subject to prior approval, so long as they substantially conform to the prototype contract approved by the commissioner. An informational filing shall be required upon execution of an individual hospital contract. An individual hospital contract shall be deemed to be in substantial conformity with the prototype contract if it is not disapproved within 30 days of filing.

34.6(3) In order to ensure fair and equitable charges to and premiums paid by subscribers of hospital service corporations, any method for paying hospitals which is contained in contracts between hospital service corporations and participating hospitals shall contain the following:

- a. Incentives for high productivity and disincentives that encourage efficiency in hospital operation and effectiveness in use;
 - b. Provisions for economic trends;
 - c. Adjustments for variations in capacity among large hospitals and small hospitals;
 - d. Control mechanisms on unnecessary utilization and inappropriate setting for care;
 - e. Payment levels to hospitals which are equitable and meet reasonable financial requirements;
 - f. An internal appeal mechanism for disputes relating to budget review.
- This rule is intended to implement Iowa Code chapter 514.

191—34.7(514) Composition, nomination, and election of board of directors.

34.7(1) *Composition of board of directors.* The composition of the board of directors of each corporation subject to Iowa Code chapter 514 shall be as follows:

- a. On and after August 1, 1984, a majority of the members of the board of directors of each corporation subject to Iowa Code chapter 514 shall be subscriber directors.
- b. On and after August 1, 1985, at least two-thirds of the members of the board of directors of each corporation subject to Iowa Code chapter 514 shall be subscriber directors.

34.7(2) *Nomination of subscriber directors.*

a. Until the board composition requirements of subrule 34.7(1), paragraph “b,” are met, a ballot containing nominees for subscriber director positions shall be prepared by an independent subscriber nominating committee pursuant to subrule 34.7(3). Nominations for subscriber director positions may also be made by petition signed by at least 50 subscribers. The independent subscriber nominating committee shall consider the petitions to determine which persons, if any, nominated by those petitions shall be placed on the ballot.

b. Once the board composition requirements of subrule 34.7(1), paragraph “b,” are met, a ballot containing nominees for subscriber director position shall be prepared by the subscriber directors under procedures established by the board of directors. These procedures shall also permit nomination by a petition of at least 50 subscribers. The board shall determine which persons, if any, nominated by these petitions shall be placed on the ballot.

34.7(3) *Independent subscriber nominating committee.*

a. *Generally.* An independent subscriber nominating committee shall be appointed for each corporation subject to Iowa Code chapter 514. Each independent subscriber nominating committee shall consist of at least five to seven members. Commonality of membership among the independent subscriber nominating committees shall be permissible. The independent subscriber nominating committee for each corporation shall, as a whole, be broadly representative of the subscribers of the corporation. The independent subscriber nominating committee for each corporation shall serve only until the composition of the board of directors for the corporation meets the requirements of subrule 34.7(1), paragraph “b.”

b. *Standards for independent subscriber nominating committee membership.* Each individual appointed to the independent subscriber nominating committee shall meet the following criteria:

(1) Each member of an independent subscriber nominating committee shall be a subscriber of a corporation subject to Iowa Code chapter 514. Each member of the independent subscriber nominating committee of a hospital or medical service corporation shall be a subscriber of the services of that corporation.

(2) No member of an independent subscriber nominating committee shall be a member of the board of directors of a corporation subject to Iowa Code chapter 514.

(3) No member, their spouse or an immediate family member, of an independent subscriber nominating committee shall have a material financial interest in, be a fiduciary to, or be an employee of a competitor. Proof of compliance with this requirement shall be by affidavit.

(4) Each member of an independent subscriber nominating committee shall have reasonable knowledge of the operation of and issues facing the corporation for which the independent subscriber nominating committee has been appointed.

c. Appointment. The commissioner shall appoint each committee from names suggested by individual subscribers, group subscribers, labor organizations, the Health Policy Corporation of Iowa, each corporation subject to Iowa Code chapter 514, and other interested persons. Interested persons shall submit the names of potential independent subscriber nominating committee members to the commissioner within 30 days of the effective date of these rules. The committee appointments will be within 7 days thereafter.

d. Work of the independent subscriber nominating committee. The independent subscriber nominating committee shall develop a ballot containing nominees for subscriber director positions to be filled. At least two and not more than three individuals shall be nominated for each subscriber director position to be filled.

The independent subscriber nominating committee shall also consider each individual currently serving as a subscriber representative on the board of directors of a corporation operating pursuant to Iowa Code chapter 514, and each individual nominated by subscriber petitions, for inclusion on the ballot containing nominees for subscriber directors. The independent subscriber nominating committee shall select nominees that represent a broad spectrum of subscriber interests including an appropriate balance of demographic and geographic characteristics for the corporation's service area.

e. Criteria for nominees. The independent subscriber nominating committee shall utilize the following criteria in developing nominations for subscriber directors:

(1) Each nominee shall be a subscriber of a corporation subject to Iowa Code chapter 514. Each nominee to the board of directors of a hospital or medical service corporation shall be a subscriber of the services of that corporation. The corporation shall verify a potential nominee's subscriber status upon inquiry by an independent subscriber nominating committee.

(2) A nominee, their spouse or an immediate family member, shall not have a material financial interest in, be a fiduciary to, or be an employee of a competitor or provider. Proof of compliance with this requirement shall be by affidavit.

(3) Each nominee shall have reasonable knowledge of the operation of and issues facing the corporation to whose board the nominee has been nominated.

34.7(4) Election of subscriber directors. Each subscriber director shall be elected from the subscriber nominees placed on a ballot prepared as provided by these rules. The ballot shall alphabetically list the subscriber nominees and indicate that each member shall vote only for the same number of candidates as there are positions to be filled. Election shall be by the corporate membership. Nominees receiving the most votes shall be considered elected to the positions.

The ballot for electing subscriber directors may also contain nominees to be elected to provider director positions.

34.7(5) Nomination of provider directors.

a. Until the board composition requirements of subrule 34.7(1), paragraph "b," are met, nominations for provider director positions may be made by petition signed by at least 50 providers. The independent subscriber nominating committee shall consider the petitions to determine which persons, if any, nominated by those petitions shall be placed on the ballot.

b. Once the board composition requirements of subrule 34.7(1), paragraph "b," are met, the board of directors shall establish procedures to permit nomination of provider directors by petition of at least 50 participating providers. The board of directors shall consider the petitions to determine which persons, if any, nominated by those petitions shall be placed on the ballot.

c. This subrule shall not be construed to preclude nominations for provider director positions by any alternate means provided by the corporation's articles or bylaws.

34.7(6) Construction. The articles or bylaws of a corporation operating pursuant to Iowa Code chapter 514 shall continue in existence to the extent that they do not conflict with this rule.

This rule is intended to implement Iowa Code section 514.4.

[Filed 5/6/83, Notice 3/30/83—published 5/25/83, effective 6/29/83]

[Filed emergency after Notice 6/24/83, Notice 5/11/83—published 7/20/83, effective 6/24/83]

[Filed emergency 8/26/83—published 9/14/83, effective 8/26/83]

[Filed emergency 3/23/84 after Notice 2/15/84—published 4/11/84, effective 3/23/84]

[Filed emergency 6/15/84—published 7/4/84, effective 6/15/84]

[Editorially transferred from [510] to [191], IAC Supp. 10/22/86; see IAB 7/30/86]

[Filed 3/9/07, Notice 1/31/07—published 3/28/07, effective 5/2/07]