

ASSEMBLY BILL NO. 685—COMMITTEE ON WAYS AND MEANS

MAY 12, 1999

Referred to Committee on Ways and Means

SUMMARY—Revises provisions governing conversion of nonprofit hospital, medical or dental service corporations to for-profit corporations or entities. (BDR 57-1743)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Contains Appropriation not included in Executive Budget.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to nonprofit corporations; prohibiting the commissioner of insurance from granting or continuing authority to transact insurance in this state to certain insurers; requiring the attorney general to make certain determinations concerning certain nonprofit hospital, medical or dental service corporations that have converted or are proposing to convert to for-profit corporations; revising the provisions governing the conversion of nonprofit hospital, medical or dental service corporations to for-profit corporations or entities; making an appropriation; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** The legislature hereby finds and declares that:
2 1. Nonprofit hospital, medical and dental service corporations have
3 historically filled a unique position of community trust as indicated by the
4 special consideration that these nonprofit corporations receive in federal
5 and state laws. These laws have allowed such nonprofit corporations to
6 hold and accumulate assets and real property in order to perform their
7 special responsibilities to the residents of the State of Nevada.
8 2. When nonprofit hospital, medical or dental service corporations
9 which have received special consideration by law in this state convert to
10 for-profit corporations, it is in the public interest that assets of such
11 corporations remain in this state to be used for their intended purpose
12 through distribution to charitable organizations.

1 **Sec. 2.** NRS 679B.120 is hereby amended to read as follows:

2 679B.120 The commissioner shall:

3 1. Organize and manage the division, and direct and supervise all its
4 activities;

5 2. Execute the duties imposed upon him by this code;

6 3. ~~[Enforce]~~ *Except as otherwise provided by specific statute, enforce*
7 the provisions of this code;

8 4. Have the powers and authority expressly conferred upon him by or
9 reasonably implied from the provisions of this code;

10 5. Conduct such examinations and investigations of insurance matters,
11 in addition to examinations and investigations expressly authorized, as he
12 may deem proper upon reasonable and probable cause to determine
13 whether any person has violated any provision of this code or to secure
14 information useful in the lawful enforcement or administration of any such
15 provision; and

16 6. Have such additional powers and duties as may be provided by other
17 laws of this state.

18 **Sec. 3.** Chapter 680A of NRS is hereby amended by adding thereto the
19 provisions set forth as sections 4 to 11, inclusive, of this act.

20 **Sec. 4.** *As used in sections 4 to 11, inclusive, of this act, unless the*
21 *context otherwise requires, the words and terms defined in sections 5 and*
22 *6 have the meanings ascribed to them in those sections.*

23 **Sec. 5.** *“Convert” or any variant thereof means to transfer*
24 *ownership, control, responsibility or governance of assets, operations or*
25 *business of a nonprofit hospital, medical or dental service corporation to*
26 *a for-profit corporation or entity, including, without limitation, selling*
27 *assets, transferring assets, leasing assets, exchanging assets, providing*
28 *an option on assets, conveying assets, giving assets, restructuring the*
29 *nonprofit hospital, medical or dental service corporation, merging the*
30 *nonprofit hospital, medical or dental service corporation, entering into a*
31 *joint venture or otherwise disposing of assets of the nonprofit hospital,*
32 *medical or dental service corporation when:*

33 1. *Five percent or more of the admitted assets, operations or business*
34 *of the nonprofit hospital, medical or dental service corporation, or 25*
35 *percent of the surplus to policyholders as of December 31 next preceding*
36 *the transfer are involved; or*

37 2. *The transfer will result in a change of governance, ownership or*
38 *operational control of 5 percent or more of the admitted assets,*
39 *operations or business of the nonprofit hospital, medical or dental service*
40 *corporation, or 25 percent of the surplus to policyholders to a for-profit*
41 *corporation or entity, when combined with one or more transactions that*
42 *occurred or occur within 5 years before or after the agreement or*
43 *transaction is closed.*

1 **Sec. 6.** *“For-profit corporation or entity” has the meaning ascribed*
2 *to it in section 15 of this act.*

3 **Sec. 7.** *The provisions of sections 4 to 11, inclusive, of this act apply*
4 *only to a nonprofit hospital, medical or dental service corporation that is*
5 *described in section 16 of this act.*

6 **Sec. 8.** 1. *Except as otherwise provided in this section, the*
7 *commissioner shall not grant or continue authority to transact insurance*
8 *in this state to any insurer that:*

9 (i) *Converted from a nonprofit hospital, medical or dental service*
10 *corporation to a for-profit corporation or entity after the effective date of*
11 *this act; and*

12 (i) *Has transacted insurance in this state as a nonprofit hospital,*
13 *medical or dental service corporation.*

14 2. *If an insurer described in subsection 1 is a domestic insurer, the*
15 *commissioner may grant or continue authority to transact insurance in*
16 *this state to the insurer only if the insurer has complied with the*
17 *provisions of sections 15 to 28, inclusive, of this act.*

18 3. *If an insurer described in subsection 1 is a foreign insurer, the*
19 *commissioner may grant or continue authority to transact insurance in*
20 *this state to the insurer only:*

21 (i) *If the commissioner is notified by the attorney general pursuant to*
22 *section 9 of this act that a charitable trust has been established in the*
23 *State of Nevada to serve the health care needs of individuals in this state*
24 *in the manner set forth in sections 23, 24 and 25 of this act with assets*
25 *equal to the full fair market value of the nonprofit hospital, medical or*
26 *dental service corporation attributable to the business it has conducted in*
27 *the State of Nevada at the time of the conversion, as determined in the*
28 *manner set forth in section 23 of this act; or*

29 (i) *For a specified time until the attorney general makes the*
30 *determination pursuant to subsection 2 of section 9 of this act.*

31 **Sec. 9.** 1. *The commissioner shall notify the attorney general*
32 *when:*

33 (i) *A foreign insurer that has conducted business in this state as a*
34 *nonprofit hospital, medical or dental service corporation and has*
35 *converted to a for-profit corporation or entity after the effective date of*
36 *this act applies for an original certificate of authority;*

37 (i) *A foreign insurer that has transacted insurance in this state as a*
38 *nonprofit hospital, medical or dental service corporation and has*
39 *converted to a for-profit corporation or entity after the effective date of*
40 *this act files with the commissioner an annual statement required*
41 *pursuant to NRS 680A.270; or*

42 (i) *The commissioner otherwise becomes aware that a foreign insurer*
43 *that is authorized to transact insurance in this state and has transacted*

1 insurance in this state as a nonprofit hospital, medical or dental service
2 corporation has converted to a for-profit corporation or entity after the
3 effective date of this act.

4 2. Except as otherwise provided in subsection 3, not later than 90
5 days after receiving notification from the commissioner pursuant to
6 subsection 1 or otherwise becoming aware that a foreign insurer that has
7 conducted business in this state as a nonprofit hospital, medical or dental
8 service corporation has initiated the process for converting to a for-profit
9 corporation or entity in another state, the attorney general shall
10 determine:

11 (a) Whether, at the time of conversion, the foreign insurer possesses
12 assets which are:

13 (1) Attributable to business that the foreign insurer has conducted
14 as a nonprofit hospital, medical or dental service corporation in the State
15 of Nevada; and

16 (2) Lawfully subject to this chapter or any other applicable
17 provision of NRS;

18 (b) In the manner set forth in section 23 of this act, whether or not a
19 charitable trust has been established in the manner set forth in section 23
20 of this act with assets equal to the full fair market value of the nonprofit
21 hospital, medical or dental service corporation attributable to business it
22 has conducted in the State of Nevada at the time of the conversion; and

23 (c) Whether or not the charitable assets of the charitable trust are
24 being held and distributed in the manner set forth in sections 24 and 25
25 of this act.

26 3. If the attorney general cannot make a determination pursuant to
27 subsection 2 within 90 days, he may extend the period for not more than
28 60 days by giving notice to the commissioner and the foreign insurer.

29 4. The attorney general shall immediately notify the commissioner of
30 his determinations made pursuant to subsection 3.

31 **Sec. 10. 1. The attorney general may:**

32 (a) Advise, receive advice from, consult and cooperate with other
33 agencies of this state, the Federal Government, agencies of other states,
34 interstate agencies and with other persons to carry out the provisions of
35 sections 4 to 11, inclusive, of this act;

36 (b) Adopt such regulations as are necessary to carry out the provisions
37 of sections 4 to 11, inclusive, of this act;

38 (c) Contract with an agency of this state to assist the attorney general
39 in carrying out the provisions of sections 4 to 11, inclusive, of this act;
40 and

41 (d) Contract with one or more consultants or experts to assist with a
42 determination to be made pursuant to subsection 2 of section 9 of this
43 act, including, without limitation, establishing the full fair market value

1 *of the nonprofit hospital, medical or dental service corporation*
2 *attributable to business it has conducted in the State of Nevada at the*
3 *time of the conversion.*

4 2. *The total costs incurred by the attorney general through contracts*
5 *entered into for obtaining assistance in making the determination*
6 *pursuant to subsection 2 of section 9 of this act must be reasonable and*
7 *necessary.*

8 3. *The attorney general may require the parties involved in the*
9 *conversion to enter into an agreement, on terms established by the*
10 *attorney general, to pay for any costs incurred by the attorney general*
11 *pursuant to paragraph (d) of subsection 1 and for all reasonable costs*
12 *incurred by the attorney general in executing his duties pursuant to this*
13 *section, including, without limitation, attorney's fees. Such an agreement*
14 *may include, without limitation:*

15 (a) *Requiring the parties involved in the conversion to make a cash*
16 *deposit with an escrow agent in a manner approved by the attorney*
17 *general, and authorizing the attorney general to withdraw money from*
18 *the escrow account to cover any costs incurred pursuant to paragraph (d)*
19 *of subsection 1;*

20 (b) *Requiring the parties to pay the attorney general an amount of*
21 *money in advance to cover the expected costs that will be incurred*
22 *pursuant to paragraph (d) of subsection 1;*

23 (c) *Requiring the parties to make monthly payments to the attorney*
24 *general for the costs incurred by the attorney general pursuant to*
25 *paragraph (d) of subsection 1; or*

26 (d) *Any combination thereof.*

27 **Sec. 11.** *In carrying out the duties set forth in sections 4 to 11,*
28 *inclusive, of this act, the attorney general may:*

29 1. *Issue subpoenas requiring the attendance and testimony of*
30 *witnesses and the production of reports, papers, documents and other*
31 *evidence which he deems necessary;*

32 2. *Administer oaths; and*

33 3. *Compel a person to subscribe to his testimony after it has been*
34 *correctly reduced to writing.*

35 **Sec. 12.** *NRS 680A.095 is hereby amended to read as follows:*

36 680A.095 1. *Except as otherwise provided in subsection 3, an insurer*
37 *which is not authorized to transact insurance in this state may not transact*
38 *reinsurance with a domestic insurer in this state, by mail or otherwise,*
39 *unless he holds a certificate of authority as a reinsurer in accordance with*
40 *the provisions of NRS 680A.010 to 680A.150, inclusive, 680A.160 to*
41 *680A.290, inclusive, 680A.320 and 680A.330 ~~to~~ and sections 4 to 11,*
42 *inclusive, of this act.*

2. To qualify for authority only to transact reinsurance, an insurer must meet the same requirements for capital and surplus as are imposed on an insurer which is authorized to transact insurance in this state.

3. This section does not apply to the joint reinsurance of title insurance risks or to reciprocal insurance authorized pursuant to chapter 694B of NRS.

Sec. 13. NRS 680A.175 is hereby amended to read as follows:

680A.175 1. If a domestic insurer transfers its domicile to another state, it ceases to be a domestic insurer.

2. ~~[The]~~ *Except as otherwise provided in section 8 of this act, the commissioner shall issue to such an insurer a certificate of authority to transact insurance as a foreign insurer if:*

(a) The insurer qualifies as a foreign insurer; and

(b) Such certification is in the best interest of the policyholders of this state.

Sec. 14. Chapter 695B of NRS is hereby amended by adding thereto the provisions set forth as sections 15 to 29, inclusive, of this act.

Sec. 15. *As used in sections 15 to 29, inclusive, of this act, unless the context otherwise requires, "for-profit corporation or entity" means a corporation, partnership, proprietorship, business association, stock insurer, mutual insurer and any other similar organization that conducts an activity for profit.*

Sec. 16. *The provisions of sections 15 to 29, inclusive, of this act apply only to a nonprofit hospital, medical or dental service corporation that is recognized as exempt pursuant to section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986 or is subject to the provisions of section 833 of the Internal Revenue Code of 1986, future amendments to those sections and the corresponding provisions of future internal revenue laws and is:*

1. *Incorporated pursuant to chapter 82 of NRS;*

2. *Subject to the provisions of chapter 695B of NRS;*

3. *Exempt from state franchise, property and sales taxes; or*

4. *Organized and operated for the promotion of public good or to benefit the public and which normally receives more than one-third of its support each year from private or public gifts, grants, contributions or membership fees.*

Sec. 17. 1. *A nonprofit hospital, medical or dental service corporation shall not enter into an agreement or transaction to:*

(a) *Sell its assets to;*

(b) *Transfer its assets to;*

(c) *Lease its assets to;*

(d) *Exchange its assets with the assets of;*

(e) *Provide an option with respect to;*

1 (f) Convey its assets to;
2 (g) Give its assets to;
3 (h) Restructure itself as;
4 (i) Convert to;
5 (j) Merge with;
6 (k) Enter into a joint venture with;
7 (l) Enter into any other agreement or transaction to transfer control,
8 responsibility or governance of its assets, operations or business to; or
9 (m) Otherwise dispose of its assets to,
10 a for-profit corporation or entity, if 5 percent or more of the admitted
11 assets, operations or business of the nonprofit hospital, medical or dental
12 service corporation, or 25 percent of the surplus to policyholders as of
13 December 31 next preceding the transaction, are involved in the
14 agreement or transaction, unless it obtains written approval or written
15 conditional approval from the attorney general.

16 2. A nonprofit hospital, medical or dental service corporation shall
17 not enter into an agreement or transaction set forth in subsection 1 that,
18 when combined with one or more transactions that occurred or occur
19 within 5 years before or after the agreement or transaction is closed, will
20 result in a change of governance, ownership or operational control of 5
21 percent or more of the admitted assets, operations or business of the
22 nonprofit hospital, medical or dental service corporation, or 25 percent
23 of the surplus to policyholders to a for-profit corporation or entity, unless
24 it obtains written approval or conditional approval from the attorney
25 general.

26 **Sec. 18. 1.** To obtain approval of a proposed agreement or
27 transaction set forth in section 17 of this act, a nonprofit hospital,
28 medical or dental service corporation shall provide the attorney general
29 with a written request for approval. The written request must include:

30 (a) Proof that a majority of the board of directors of the nonprofit
31 hospital, medical or dental service corporation voted in favor of the
32 agreement or transaction;

33 (b) Proof that each member of the board of directors of the nonprofit
34 hospital, medical or dental service corporation received a copy of the
35 provisions of sections 15 to 29, inclusive, of this act and the complete
36 written request for approval to be provided to the attorney general
37 pursuant to this subsection before voting on whether to approve the
38 agreement or transaction; and

39 (c) Any other information requested by the attorney general.

40 2. After receiving all necessary information, the attorney general
41 shall notify the nonprofit hospital, medical or dental service corporation
42 that its written request for approval of an agreement or transaction is
43 complete.

1 3. Except as otherwise provided in this subsection, not later than 90
2 days after notifying a nonprofit hospital, medical or dental service
3 corporation that its request for approval of an agreement or transaction
4 is complete, the attorney general shall notify the nonprofit hospital,
5 medical or dental service corporation in writing whether or not the
6 request for approval has been granted. If the attorney general cannot
7 make a determination concerning an agreement or transaction within 90
8 days, he may extend the period for not more than 60 days by giving
9 notice to the nonprofit hospital, medical or dental service corporation.

10 4. Except as otherwise provided in subsection 5, the attorney general
11 shall approve an agreement or transaction if he determines that the
12 provisions of sections 15 to 28, inclusive, of this act have been satisfied.
13 If the attorney general determines that the provisions of sections 15 to 28,
14 inclusive, of this act have not been satisfied, he shall:

15 (a) Notify the nonprofit hospital, medical or dental service corporation
16 that the request for approval has been denied and provide the reasons for
17 not approving the agreement or transaction; or

18 (b) Notify the nonprofit hospital, medical or dental service corporation
19 that the request for approval has been conditionally approved, the
20 conditions that must be satisfied for the agreement or transaction to be
21 fully approved and the date by which such conditions must be satisfied.

22 5. The attorney general may deny a request for approval if any party
23 to the agreement or transaction fails to provide information in a timely
24 manner to the attorney general after being requested to provide such
25 information.

26 6. If the terms or conditions of a proposed agreement or transaction
27 for which a written request for approval has been provided to the
28 attorney general pursuant to subsection 1 are materially changed, the
29 nonprofit hospital, medical or dental service corporation must provide a
30 new written request for approval in the manner set forth in subsection 1.

31 7. Any person who is aggrieved by a final decision of the attorney
32 general made pursuant to this section, including, without limitation, a
33 consumer of health care or community group that represents the citizens
34 of this state, may petition for judicial review in the manner provided in
35 chapter 233B of NRS.

36 **Sec. 19. 1.** Any agreement or transaction entered into in violation
37 of section 17 of this act is void.

38 2. Each member of the governing board or the chief financial officer
39 of a party to an agreement or transaction entered into in violation of
40 section 17 of this act is liable for a civil penalty not to exceed \$1,000,000
41 for each violation, which may be recovered in a civil action brought in
42 the name of the State of Nevada by the attorney general in a court of
43 competent jurisdiction.

1 3. Each member of the governing board or the chief financial officer
2 of a party to an agreement or transaction set forth in section 17 of this
3 act who intentionally manipulates the full fair market value of the
4 nonprofit hospital, medical or dental service corporation in a manner
5 that causes the full fair market value of the nonprofit hospital, medical
6 or dental service corporation to decrease is personally liable for a civil
7 penalty not to exceed \$1,000,000 for each violation, which may be
8 recovered in a civil action brought in the name of the State of Nevada by
9 the attorney general in a court of competent jurisdiction.

10 4. A civil penalty imposed pursuant to this section is in addition to,
11 and not exclusive of, any other available remedy or penalty for a
12 violation of this section.

13 **Sec. 20.** 1. Not later than 5 working days after receiving
14 notification from the attorney general pursuant to section 18 of this act
15 that a written request for approval of an agreement or transaction is
16 complete, a nonprofit hospital, medical or dental service corporation
17 shall:

18 (a) Provide public notice of the proposed agreement or transaction in
19 a form approved by the attorney general by publication once each week
20 for 3 consecutive weeks in at least one newspaper of general circulation
21 in each area of this state where the nonprofit hospital, medical or dental
22 service corporation provides services; and

23 (b) Provide notice of the proposed agreement or transaction by
24 mailing notice in a form approved by the attorney general to all
25 interested persons of whom the nonprofit hospital, medical or dental
26 service corporation is aware, including, without limitation, its subscribers
27 and insureds.

28 2. Not later than 10 working days after receiving a completed written
29 request from a nonprofit hospital, medical or dental service corporation
30 pursuant to section 18 of this act, the attorney general shall mail written
31 notice of the proposed agreement or transaction to all persons who have
32 requested in writing to receive notice of all written requests for approval
33 filed pursuant to section 18 of this act.

34 3. The attorney general may charge any party to the proposed
35 agreement or transaction for any costs incurred in complying with the
36 provisions of this section concerning providing notice, holding public
37 hearings and providing records to the public.

38 **Sec. 21.** 1. Not later than 45 days after receiving a completed
39 written request for approval from a nonprofit hospital, medical or dental
40 service corporation pursuant to section 18 of this act, the attorney
41 general shall hold at least one public hearing in each area of this state
42 where the nonprofit hospital, medical or dental service corporation
43 provides services. To determine the number of public hearings to hold in

1 *each area, the attorney general shall consider the number of persons in*
2 *each area and the nature and value of the proposed agreement or*
3 *transaction to ensure that the persons who will be affected by the*
4 *agreement or transaction have an opportunity to provide information to*
5 *the attorney general concerning the agreement or transaction.*

6 *2. At each public hearing held pursuant to this section, the attorney*
7 *general shall obtain comments from persons who will be affected by the*
8 *agreement or transaction concerning the potential risks and benefits of*
9 *the agreement or transaction. Any person may file a written comment or*
10 *exhibit to be distributed at or appear and make comments at a public*
11 *hearing held pursuant to this section. Each party to the proposed*
12 *agreement or transaction must have at least one representative present at*
13 *each public hearing held pursuant to this section.*

14 *3. At least 21 days before each public hearing, the attorney general*
15 *shall provide notice of the time and place of the hearing:*

16 *(a) By publication in at least one newspaper of general circulation in*
17 *the area where the hearing will be held;*

18 *(b) By mailing written notice to the board of county commissioners of*
19 *the county where the hearing will be held; and*

20 *(c) By mailing notice to all other interested persons of whom the*
21 *attorney general is aware, including, without limitation, other nonprofit*
22 *hospital, medical or dental service corporations and the subscribers and*
23 *insureds of the nonprofit hospital, medical or dental service corporation.*

24 *4. The attorney general shall:*

25 *(a) Prepare and maintain a written summary of all written and oral*
26 *comments made in preparation for each public hearing and made at*
27 *each public hearing held pursuant to this section, including, without*
28 *limitation, all questions asked by persons at the hearing;*

29 *(b) Require a response to each question asked at such a hearing from*
30 *an appropriate party to the proposed agreement or transaction and*
31 *include such responses in the summary prepared pursuant to this*
32 *subsection;*

33 *(c) Maintain the summary prepared pursuant to this subsection in the*
34 *office of the attorney general and file the summary with the governing*
35 *authority of each public library in each area of this state where the*
36 *nonprofit hospital, medical or dental service corporation provides*
37 *services; and*

38 *(d) Make copies of the summary prepared pursuant to this subsection*
39 *available free of charge to any person who provides a written request to*
40 *the attorney general.*

41 *5. Records in the possession of the attorney general concerning a*
42 *proposed agreement or transaction are public records and must be open*
43 *to public inspection free of charge at the office of the attorney general*

1 *and the office of the nonprofit hospital, medical or dental service*
2 *corporation that is proposing the agreement or transaction during*
3 *regular business hours.*

4 *6. The attorney general may charge any party to the proposed*
5 *agreement or transaction for any costs incurred in complying with the*
6 *provisions of subsections 1, 2, 3 and 5 concerning providing notice,*
7 *holding public hearings and providing records to the public.*

8 **Sec. 22. 1.** *The terms and conditions of an agreement or*
9 *transaction set forth in section 17 of this act must be fair and reasonable*
10 *to residents of this state, including, without limitation, recipients of*
11 *health care services, subscribers or policyholders of the nonprofit*
12 *hospital, medical or dental service corporation that is proposing the*
13 *agreement or transaction and the nonprofit hospital, medical or dental*
14 *service corporation that is proposing the agreement or transaction.*

15 *2. An agreement or transaction set forth in section 17 of this act*
16 *must be in the public interest. An agreement or transaction will be*
17 *deemed to be in the public interest only if the nonprofit hospital, medical*
18 *or dental service corporation that is proposing the agreement or*
19 *transaction has taken the appropriate steps to safeguard the value of its*
20 *assets that are required to be placed in a charitable trust pursuant to*
21 *section 23 of this act and to ensure that any proceeds from the agreement*
22 *or transaction are irrevocably dedicated to charitable health care*
23 *purposes.*

24 *3. An agreement or transaction set forth in section 17 of this act*
25 *must not:*

26 *(a) Result in any benefit to a private person, including, without*
27 *limitation, a stock option, an agreement not to compete or any other*
28 *private benefit; or*

29 *(b) Have an adverse effect on the affordability of health care services*
30 *to persons who reside in each area where the nonprofit hospital, medical*
31 *or dental service corporation that is proposing the agreement or*
32 *transaction provides services or be likely to have such an adverse effect.*

33 *4. A nonprofit hospital, medical or dental service corporation that is*
34 *proposing an agreement or transaction set forth in section 17 of this act*
35 *shall use due diligence in selecting the other persons involved in the*
36 *proposed agreement or transaction, and in negotiating the terms and*
37 *conditions of the agreement or transaction.*

38 **Sec. 23. 1.** *Except as otherwise provided in subsection 6, the*
39 *parties that are proposing to enter into an agreement or transaction set*
40 *forth in section 17 of this act shall, as part of the agreement or*
41 *transaction, establish a charitable trust which must receive assets in an*
42 *amount equal to the full fair market value of the nonprofit hospital,*

1 *medical or dental service corporation as determined by the attorney*
2 *general pursuant to subsection 2.*

3 *2. Except as otherwise provided in subsection 7, the attorney general*
4 *shall use an independent expert to determine the full fair market value of*
5 *the nonprofit hospital, medical or dental service corporation at the time*
6 *when the agreement or transaction is carried out, as if the nonprofit*
7 *hospital, medical or dental service corporation had outstanding voting*
8 *stock and as if 100 percent of its stock was freely transferable and*
9 *available for purchase without restriction. In determining the full fair*
10 *market value of the nonprofit hospital, medical or dental service*
11 *corporation, the attorney general shall consider all relevant factors,*
12 *including, without limitation, its market value, investment or earnings*
13 *value, value of the net assets, value of the goodwill, value of the trade*
14 *name and a control premium, if any.*

15 *3. The nonprofit hospital, medical or dental service corporation shall*
16 *conduct an independent valuation of its full fair market value. The*
17 *attorney general may use an independent expert to review the valuation*
18 *conducted by the nonprofit hospital, medical or dental service*
19 *corporation.*

20 *4. A party to the proposed agreement or transaction shall not*
21 *manipulate the full fair market value of the nonprofit hospital, medical*
22 *or dental service corporation in a manner that causes the full fair market*
23 *value of the nonprofit hospital, medical or dental service corporation to*
24 *decrease.*

25 *5. All or a portion of the consideration conveyed to the charitable*
26 *trust may consist of stock in the for-profit corporation or entity.*

27 *6. Except as otherwise provided in subsection 7, if the nonprofit*
28 *hospital, medical or dental service corporation continues to conduct*
29 *business or has conducted business in another state, the attorney general*
30 *shall determine the full fair market value of the nonprofit hospital,*
31 *medical or dental service corporation that is attributable to the business*
32 *conducted in the State of Nevada separate from the full fair market value*
33 *of the nonprofit hospital, medical or dental service corporation*
34 *attributable to business conducted by the nonprofit hospital, medical or*
35 *dental service corporation in other states. The charitable trust required to*
36 *be established in this state pursuant to this section must have assets in an*
37 *amount equal to the full fair market value of the nonprofit hospital,*
38 *medical or dental service corporation attributable to business it has*
39 *conducted in the State of Nevada at the time the agreement or*
40 *transaction is entered into, as determined by the attorney general in the*
41 *manner set forth in this section.*

42 *7. The attorney general may rely on an independent valuation of the*
43 *full fair market value of the nonprofit hospital, medical or dental service*

1 corporation or an independent valuation of the full fair market value of
2 the nonprofit hospital, medical or dental service corporation that is
3 attributable to the business conducted in the State of Nevada that was
4 performed by an agency or officer of another state if the attorney general
5 determines that the valuation was conducted in a reliable manner.

6 **Sec. 24. 1.** The charitable assets of a charitable trust established
7 pursuant to section 23 of this act must be distributed to a tax-exempt
8 charitable organization that:

9 (a) Is recognized as exempt pursuant to section 501(c)(3) or 501(c)(4)
10 of the Internal Revenue Code of 1986, future amendments to that section
11 and the corresponding provisions of future internal revenue laws; and

12 (b) Complies with the provisions of sections 4941 to 4945, inclusive, of
13 the Internal Revenue Code of 1986, future amendments to those sections
14 and the corresponding provisions of future internal revenue laws.

15 2. The charitable mission of and grants awarded by a charitable
16 organization that receives charitable assets pursuant to this section must
17 primarily serve the necessary health care needs of this state which are
18 not currently being met, including, without limitation, serving the
19 medically uninsured and underserved individuals in this state and
20 focusing on promoting access to health care services, improving the
21 quality of health care services provided to individuals in this state and
22 improving the quality and availability of preventative health care services
23 to individuals in this state.

24 3. A charitable organization that receives charitable assets pursuant
25 to this section must provide assistance to persons in the areas of this state
26 where the nonprofit hospital, medical or dental service corporation
27 previously provided services and its governing board must reflect the
28 diversity of the communities in which it is providing assistance.

29 4. A charitable organization that receives charitable assets pursuant
30 to this section shall place the assets in a trust fund and shall not expend
31 more than 90 percent of the earnings on the corpus in a calendar year.

32 5. A charitable organization that receives charitable assets pursuant
33 to this section must have a board of directors consisting of 11 members
34 who are appointed by the governor from a list of 20 names submitted by
35 the department of human resources. The term of six of the initial
36 members of the board of directors must be 2 years, and the term of five of
37 the initial members of the board of directors must be 4 years. After the
38 initial terms, the term of each member of the board of directors is 4
39 years. After the initial appointments, the board of directors shall fill all
40 vacancies occurring on the board in a timely manner. The membership
41 of a board of directors must be diverse and may include, without
42 limitation:

1 (a) *Providers of health care from community, rural or institutional*
2 *settings;*

3 (b) *Disabled persons;*

4 (c) *Representatives of the private sector;*

5 (d) *Interested residents; and*

6 (e) *Consumers of health care.*

7 **Sec. 25. 1.** *A charitable organization that receives charitable assets*
8 *pursuant to section 24 of this act shall provide the attorney general with*
9 *an annual report concerning its administration of the charitable assets it*
10 *receives, including, without limitation, its grant-making and other*
11 *charitable activities. The charitable organization shall cause an audit to*
12 *be performed annually by a certified public accounting firm that is*
13 *independent of the charitable organization. The annual report and audit*
14 *report are public records and must be open to public inspection free of*
15 *charge at the office of the attorney general and the office of the*
16 *charitable organization during regular business hours.*

17 **2.** *A charitable organization that receives charitable assets pursuant*
18 *to section 24 of this act, and all of its directors, officers and members of*
19 *its staff must be independent of the for-profit corporation or entity and its*
20 *affiliates with whom the nonprofit hospital, medical or dental service*
21 *corporation is proposing to enter into an agreement or transaction.*

22 **3.** *A director, officer or member of the staff of the nonprofit hospital,*
23 *medical or dental service corporation that is proposing the agreement or*
24 *transaction must not be a director, officer or member of the staff of a*
25 *charitable organization that receives charitable assets pursuant to section*
26 *24 of this act.*

27 **4.** *No director, officer or member of the staff of the nonprofit*
28 *hospital, medical or dental service corporation that is proposing the*
29 *agreement or transaction, or director, officer or member of the staff of a*
30 *charitable organization that receives charitable assets pursuant to section*
31 *24 of this act may benefit directly or indirectly from the proposed*
32 *agreement or transaction.*

33 **5.** *A charitable organization that receives charitable assets pursuant*
34 *to section 24 of this act shall establish a procedure for avoiding conflicts*
35 *of interest and for ensuring that the charitable assets are not distributed*
36 *in a manner which will benefit the for-profit corporation or entity with*
37 *whom the nonprofit hospital, medical or dental service corporation is*
38 *proposing to enter into the agreement or transaction, or the board of*
39 *directors or other management of the for-profit corporation or entity.*

40 **6.** *The attorney general may oversee and monitor the activities*
41 *carried out by a charitable organization that receives charitable assets*
42 *pursuant to section 24 of this act.*

1 **Sec. 26. 1. The attorney general may:**

2 **(a) Advise, receive advice from, consult and cooperate with other**
3 **agencies of this state, the Federal Government, agencies of other states,**
4 **interstate agencies and with other persons to carry out the provisions of**
5 **sections 15 to 28, inclusive, of this act;**

6 **(b) Adopt such regulations as are necessary to carry out the provisions**
7 **of sections 15 to 28, inclusive, of this act;**

8 **(c) Contract with an agency of this state to assist the attorney general**
9 **in carrying out the provisions of sections 15 to 28, inclusive, of this act;**
10 **and**

11 **(d) Contract with one or more consultants or experts to assist in the**
12 **review of a proposed agreement or transaction pursuant to the provisions**
13 **of sections 15 to 28, inclusive, of this act, including, without limitation,**
14 **establishing the full fair market value of the nonprofit hospital, medical**
15 **or dental service corporation that is proposing the agreement or**
16 **transaction.**

17 **2. The total costs incurred by the attorney general through contracts**
18 **entered into for obtaining assistance in reviewing the proposed**
19 **agreement or transaction must be reasonable and necessary.**

20 **3. The attorney general may require the parties involved in the**
21 **conversion to enter into an agreement, on terms established by the**
22 **attorney general, to pay for any costs incurred by the attorney general**
23 **pursuant to paragraph (d) of subsection 1 and for all reasonable costs**
24 **incurred by the attorney general in executing his duties pursuant to this**
25 **section, including, without limitation, attorney's fees. Such an agreement**
26 **may include, without limitation:**

27 **(a) Requiring the parties involved in the conversion to make a cash**
28 **deposit with an escrow agent in a manner approved by the attorney**
29 **general, and authorizing the attorney general to withdraw money from**
30 **the escrow account to cover any costs incurred pursuant to paragraph (d)**
31 **of subsection 1;**

32 **(b) Requiring the parties to pay the attorney general an amount of**
33 **money in advance to cover the expected costs that will be incurred**
34 **pursuant to paragraph (d) of subsection 1;**

35 **(c) Requiring the parties to make monthly payments to the attorney**
36 **general for the costs incurred by the attorney general pursuant to**
37 **paragraph (d) of subsection 1; or**

38 **(d) Any combination thereof.**

39 **Sec. 27. In carrying out the duties set forth in sections 15 to 28,**
40 **inclusive, of this act, the attorney general may:**

41 **1. Issue subpoenas requiring the attendance and testimony of**
42 **witnesses and the production of reports, papers, documents and other**
43 **evidence which he deems necessary;**

13 **Sec. 29. The commissioner shall not issue or renew a certificate of**
14 **authority to any corporation proposing to establish, maintain or operate**
15 **a nonprofit hospital, medical or dental service plan if the corporation has**
16 **entered into an agreement or transaction in violation of section 17 of this**
17 **act.**

28 **Sec. 31.** NRS 695F.090 is hereby amended to read as follows:
29 695F.090 Prepaid limited health service organizations are subject to
30 the provisions of this chapter and to the following provisions, to the extent
31 reasonably applicable:

41 7. Chapter 683A of NRS.

1 8. To the extent applicable, the provisions of NRS 689B.340 to
2 689B.600, inclusive, and chapter 689C of NRS relating to the portability
3 and availability of health insurance.

4 9. NRS 689A.413.

5 10. NRS 680B.025 to 680B.039, inclusive, concerning premium tax,
6 premium tax rate, annual report and estimated quarterly tax payments. For
7 the purposes of this subsection, unless the context otherwise requires that a
8 section apply only to insurers, any reference in those sections to "insurer"
9 must be replaced by a reference to "prepaid limited health service
10 organization."

11 11. Chapter 692C of NRS, concerning holding companies.

12 **12. Sections 4 to 11, inclusive, of this act.**

13 **Sec. 32.** 1. There is hereby appropriated from the state general fund
14 to the office of the attorney general the sum of \$5,000 for initial costs
15 related to carrying out additional duties pursuant to the provisions of this
16 act.

17 2. Any remaining balance of the appropriation made by subsection 1
18 must not be committed for expenditure after June 30, 2001, and reverts to
19 the state general fund as soon as all payments of money committed have
20 been made.

21 **Sec. 33.** This act becomes effective upon passage and approval.