

TITLE 41
INSURANCE

CHAPTER 34
HOSPITAL AND PROFESSIONAL SERVICE CORPORATIONS

41-3401. SCOPE OF CHAPTER. (1) This chapter shall apply to every individual, person, firm, corporation, association, or organization of any kind hereafter engaging or purporting to engage in the provision of all or part of any health care service, as hereinafter defined, for its subscribers in exchange for periodic prepayments in identifiable amount by or as to such subscribers.

(2) This chapter does not apply as to:

(a) Insurers or fraternal benefit societies authorized to transact the kind of insurance involved pursuant to other chapters of this code.

(b) Fraternal and other organizations exempted under section [41-3237](#), Idaho Code, from the provisions of [chapter 32, title 41](#), Idaho Code.

(c) Health care services provided by an employer to his employees and their dependents, with or without contribution to the costs thereof by such employees, through health care service facilities owned, employed, or controlled by the employers.

(d) Contracts between employers and physicians or hospitals, relative to the care and treatment of employees of such employers, which contracts are subject to the jurisdiction of the industrial commission of Idaho.

(e) Infrequent instances of prepayment by or for the patient direct to the licensee or hospital for specific services thereafter rendered to such patient by such licensee or hospital.

[41-3401, added 1961, ch. 330, sec. 759, p. 645; am. 1971, ch. 252, sec. 1, p. 1008; am. 2021, ch. 321, sec. 30, p. 970.]

41-3402. PURPOSE AND INTERPRETATION. (1) It is the purpose of this chapter to regulate in the public interest the formation and operation of prepaid health care service organizations, in order that such services may be made available upon a basis of fair and equitable contracts through state-licensed nonprofit organizations meeting reasonable standards as to administration, reserves, and financial soundness.

(2) The provisions of this chapter shall be liberally interpreted to effectuate the purpose hereinabove declared.

[41-3402, added 1961, ch. 330, sec. 760, p. 645.]

41-3403. DEFINITIONS. For the purposes of this chapter:

(1) "Health care service" means any service rendered to an individual for diagnosis, relief, or treatment of any injury, ailment or bodily condition.

(2) "Service corporation" means a corporation providing all or part of one or more health care services for subscribers thereto in exchange for periodic prepayments in identifiable amount by or as to such subscribers.

(3) A "professional service corporation" is one so providing principally health care services by one or more categories of participant licensees, as defined in subsection (9) of this section. Such a service cor-

poration may also provide for materials customarily dispensed or furnished in connection with the services of the licensee.

(4) A "hospital service corporation" is one so providing principally hospital services.

(5) "Service agreement" is a contract between a service corporation and a licensee or hospital under which the licensee or hospital agrees to render all or part of one or more health care services to subscribers of the service corporation.

(6) "Subscriber's contract" is that between the service corporation and its subscriber under which all or part of one or more health care services is to be rendered to or on behalf of the subscriber by a licensee or hospital that has entered into a service agreement with such corporation covering such services.

(7) "Participant hospital" is one which has entered into a service agreement with a service corporation.

(8) "Participant licensee" is one who has entered into a service agreement with a service corporation.

(9) "Licensee" is an individual while duly licensed by the state of Idaho to practice in any one or more of the following categories of health care service professions:

- (a) Chiropractor;
- (b) Dentist;
- (c) Optometrist;
- (d) Osteopath;
- (e) Pharmacist;
- (f) Physician and surgeon, of either medicine and surgery or of osteopathic medicine and surgery; and
- (g) Podiatrist.

[41-3403, added 1961, ch. 330, sec. 761, p. 645; am. 1965, ch. 46, sec. 1, p. 70; am. 1967, ch. 91, sec. 1, p. 194; am. 1967, ch. 399, sec. 1, p. 1194; am. 1969, ch. 36, sec. 1, p. 86; am. 1971, ch. 252, sec. 2, p. 1008.]

41-3404. PROVISIONS EXCLUSIVE. No provision of this code shall apply to any such health care service corporation unless contained or referred to in this chapter.

[41-3404, added 1961, ch. 330, sec. 762, p. 645.]

41-3405. INCORPORATION -- CERTIFICATE OF AUTHORITY REQUIRED. No person otherwise subject to this chapter shall engage or purport to engage in the provision of any part or all of any health care service for its subscribers in exchange for periodic prepayments in identifiable amount unless it is a service corporation heretofore or hereafter incorporated under the laws of Idaho, and currently authorized as such a service corporation under a certificate of authority issued by the director pursuant to the provisions of this chapter.

[41-3405, added 1961, ch. 330, sec. 763, p. 645.]

41-3406. INCORPORATION -- LAWS APPLICABLE -- APPROVAL OF ARTICLES OF INCORPORATION -- AMENDMENT. (1) A service corporation shall be formed as a nonprofit, nonstock professional service corporation consistent with the

applicable requirements of this chapter under the statutes of Idaho governing the formation of nonprofit, nonstock corporations in general. The articles of incorporation shall specify the category or categories of participant licensee services to be provided by a professional service corporation; provided however, after December 31, 1994, no service corporation, whether a professional service corporation or a combined hospital and professional service corporation, shall be formed that provides in its articles of incorporation for physicians or surgeons as participant licensees, nor shall any existing service corporation of any kind thereafter amend its articles to provide for physicians or surgeons as participant licensees.

(2) Before the articles of incorporation of any such proposed corporation hereafter formed are filed with the secretary of state, they shall be submitted to the director, and the secretary of state shall not file the articles unless the director's approval is indorsed thereon. The director shall so approve the articles unless he finds, after reference of such articles to the attorney general, that they do not comply with law. If not so approved, the director shall return the proposed articles of incorporation to the incorporators together with his written statement of the particulars of the reasons for nonapproval.

(3) No amendment of the articles of incorporation of any service corporation shall be filed with the secretary of state unless it is first submitted to and approved by the director, and bears the director's approval indorsed thereon. The director shall so approve the amendment unless he finds, after reference of such amendment to the attorney general, that it was not lawfully adopted or that the articles of incorporation as so amended would be unlawful. If not so approved, the director shall return the proposed amendment to the corporation together with his written statement of the particulars of the reasons for nonapproval.

(4) Such a service corporation heretofore or hereafter formed or converted to a nonprofit mutual insurer pursuant to statute, if within its corporate powers as stated in its articles of incorporation, may also operate as a health maintenance organization and exercise all of the powers and fulfill all applicable requirements under house bill 394, second regular session, forty-second Idaho legislature. If the corporation is to operate concurrently as both a service corporation and a health maintenance organization, its health maintenance organization operations may be conducted through a separate division or department, which division or department shall operate and be treated as a separate entity for the purpose of such laws.

[41-3406, added 1961, ch. 330, sec. 764, p. 645; am. 1967, ch. 399, sec. 3, p. 1194; am. 1969, ch. 36, sec. 3, p. 86; am. 1971, ch. 252, sec. 3, p. 1008; am. 1974, ch. 177, sec. 32, p. 1444; am. 1994, ch. 78, sec. 3, p. 178.]

41-3407. NAME OF CORPORATION. No service corporation shall have or use a corporate or business name which includes the words "insurance", "casualty", "surety", "health and accident", "mutual", or other terms descriptive of an insurer or insurance business. No service corporation shall have or use a name so similar to that of any other corporation transacting business in this state when such service corporation was formed as would tend to confuse or mislead the public.

[41-3407, added 1961, ch. 330, sec. 765, p. 645.]

41-3408. QUALIFICATIONS FOR CERTIFICATE OF AUTHORITY. The director shall not issue or permit to exist a certificate of authority to be or act as a service corporation, as to any corporation not fulfilling the following qualifications:

(1) Must be incorporated as provided in section [41-3406](#), Idaho Code, as a professional service corporation.

(2) Must intend to and actually conduct its business in good faith as a nonprofit corporation.

(3) Must have in force service agreements with participant licensees located in the areas of the subscribers' residences convenient as to location and sufficient in numbers, capacity and facilities reasonably to furnish respective categories of health care services then provided or proposed to be provided by the corporation to its subscribers. Said professional service corporation shall be ready and willing at all times to enter into service agreements with all licensees of the category or categories specified in its articles of incorporation who are qualified under the laws of the state of Idaho and who desire to become participant licensees of said corporation and who practice within the general area served by said professional service corporation.

(4) If a newly formed corporation, it must possess sufficient available working funds to pay all reasonably anticipated cost of acquisition of new business and operating expenses, other than payment for professional services, for a period of not less than the six (6) months next following the date of issuance of the certificate of authority, if issued.

(5) Nothing in this section shall preclude a service corporation from refusing to contract with a health care licensee who is unqualified or who does not meet the terms and conditions of the participating licensee contract of the service corporation or from terminating or refusing to renew the contract of a participating health care licensee who is unqualified or who does not comply with, or who refuses to comply with, the terms and conditions of the participating health care licensee contract including, but not limited to, practice standards and quality requirements. The contract shall provide for written notice to the participating health care licensee setting forth any breach of contract for which the service corporation proposes that the contract be terminated or not renewed and shall provide for a reasonable period of time for the participating health care licensee to cure such breach prior to termination or nonrenewal. If the breach has not been cured within such period of time the contract may be terminated or not renewed. Provided however, that if the breach of contract for which the service corporation proposes that the contract be terminated or not renewed is a willful breach, fraud or a breach which poses an immediate danger to the public health or safety, the contract may be terminated or not renewed immediately.

(6) Every service corporation issuing benefits pursuant to this chapter shall establish a grievance system for licensees. Such grievance system shall provide for arbitration according to [chapter 9, title 7](#), Idaho Code, or for such other system which provides reasonable due process provisions for the resolution of grievances and the protection of the rights of the parties.

(7) Must fulfill all other applicable requirements of this chapter.

[41-3408, added 1961, ch. 330, sec. 766, p. 645; am. 1965, ch. 46, sec. 2, p. 70; am. 1967, ch. 91, sec. 2, p. 194; am. 1967, ch. 399, sec. 4, p. 1194; am. 1969, ch. 36, sec. 4, p. 86; am. 1971, ch. 252, sec. 4, p.

1008; am. 1994, ch. 78, sec. 4, p. 179; am. 1994, ch. 275, sec. 2, p. 854; am. 2007, ch. 90, sec. 22, p. 259.]

41-3409. APPLICATION FOR CERTIFICATE OF AUTHORITY. (1) Application for a certificate of authority to transact business as a service corporation shall be made to the director, on forms as prepared and furnished by the director and requiring such information relative to the applicant, its directors, officers, and affairs as the director may reasonably require consistent with this chapter.

(2) The application shall be accompanied by such of the following documents as may not already be on file with the director:

(a) One (1) copy of the applicant's articles of incorporation and of all amendments thereto, certified by the secretary of state;

(b) One (1) copy of the applicant's bylaws, certified by its corporate secretary;

(c) One (1) copy of each form of service agreement entered into or proposed to be entered into with participant licensees, together with a list showing the name, residence and office addresses, and date of execution of the service agreement by each such licensee;

(d) A copy of each form of subscriber's contract proposed to be offered;

(e) A schedule of the rates proposed to be charged subscribers;

(f) A financial statement of the applicant as of a date not more than thirty (30) days before the filing of the application, showing among other things the amount of working funds available to the applicant, the source of such funds, and accompanied by a copy of the agreement under which any such funds were contributed to or provided for the applicant; and

(g) A copy of any other relevant document reasonably requested by the director.

(3) At time of filing the application the applicant shall pay to the director the application fee and the fee for issuance of the certificate of authority as specified in section [41-3433](#), Idaho Code, (fee schedule).

[41-3409, added 1961, ch. 330, sec. 767, p. 645; am. 1967, ch. 399, sec. 5, p. 1194; am. 1971, ch. 252, sec. 5, p. 1008; am. 1994, ch. 78, sec. 5, p. 180.]

41-3410. ISSUANCE OR REFUSAL OF CERTIFICATE OF AUTHORITY. (1) If after the application for certificate of authority is completed the director finds that the applicant is fully qualified for a certificate of authority in accordance with the provisions of this chapter, and that the service agreements, subscriber's contracts, and schedule of rates are in compliance with the applicable provisions of this chapter, he shall issue to the applicant a certificate of authority as a professional service corporation.

(2) If the director does not so find, he shall refuse to issue a certificate of authority and shall give the applicant written notice thereof setting forth the particulars of the reasons for such refusal.

(3) The director shall either issue or refuse to issue the certificate of authority within a reasonable time after the filing and completion of application therefor.

[41-3410, added 1961, ch. 330, sec. 768, p. 645; am. 1967, ch. 399, sec. 6, p. 1194; am. 1971, ch. 252, sec. 6, p. 1008; am. 1994, ch. 78, sec. 6, p. 180; am. 2001, ch. 85, sec. 9, p. 218.]

41-3411. CONTINUANCE OR EXPIRATION OF CERTIFICATE OF AUTHORITY. (1) A certificate of authority issued to a service corporation shall continue in force as long as the corporation is entitled thereto under this chapter, and until suspended or revoked by the director or terminated at the request of the corporation; subject, however, to continuance of the certificate by the corporation each year by:

(a) Payment prior to March 1 of the continuation fee provided in section [41-3433](#), Idaho Code, (fee schedule); and

(b) Due filing by the service corporation of its annual statement for the calendar year preceding as required under section [41-3425](#), Idaho Code.

(2) If not so continued by the service corporation, its certificate of authority shall expire as at midnight on the May 31 next following such failure of the service corporation to continue it in force. The director shall promptly notify the service corporation of the occurrence of any failure resulting in impending expiration of its certificate of authority.

[41-3411, added 1961, ch. 330, sec. 769, p. 645; am. 1971, ch. 252, sec. 7, p. 1008.]

41-3412. SUSPENSION OR REVOCATION OF CERTIFICATE OF AUTHORITY. (1) The director shall suspend or revoke the certificate of authority of any service corporation which he finds, after a hearing thereon, is no longer qualified therefor under the provisions of this chapter.

(2) The director may, in his discretion, after a hearing thereon suspend or revoke the certificate of authority for any violation by the service corporation of any provision of this chapter for which mandatory suspension or revocation is not required under subsection (1) above, or on any applicable ground set forth in section [41-327](#) (suspension, revocation of certificate of authority, discretionary and special grounds).

(3) No service corporation shall, while its certificate of authority is suspended or revoked, transact any business as a service corporation other than that necessary and incidental to the discharge of its contracts and agreements outstanding on the day such suspension or revocation became effective. The corporation shall not, after the revocation of its certificate of authority solicit or issue any new subscriber's contracts.

[41-3412, added 1961, ch. 330, sec. 770, p. 645.]

41-3413. SERVICES AND BENEFITS WHICH MAY BE PROVIDED PROFESSIONAL SERVICE CORPORATIONS. (1) A professional service corporation shall have the right to provide to its subscribers part or all of the following services and benefits only:

(a) Professional services furnished to the subscriber by one (1) or more specified categories of participant licensees, as such categories are referred to in section [41-3403](#)(9), Idaho Code, and subject to the requirements of section [41-3408](#)(3), Idaho Code, (qualifications for authority) as to each such category;

(b) Indemnity in reasonable amounts with respect to professional services and drugs (under subscribers' contracts providing for services of participant licensee pharmacists) furnished to the subscriber by

nonparticipant licensees of the same category or categories as participant licensees of the service corporation, but subject to section [41-3408](#) (3), Idaho Code, (qualifications for authority);

(c) Indemnity in reasonable amounts with respect to hospital services furnished the subscriber while under the care and treatment of a licensee entitled to practice in such hospital;

(d) Indemnity in reasonable amounts with respect to appliances, prosthetics and similar devices and replacements, and ambulance, x-ray, physiotherapy, and similar services; and

(e) Indemnity in reasonable amounts with respect to services rendered to the subscriber by licensees of a category or categories specified in the subscriber's contract including any category of licensee defined in section [41-3403](#) (9), Idaho Code, or rendered by other persons specified in the subscriber's contract, duly licensed by the state to engage in any health care profession or practice. The portion of the total charges to subscribers for such coverage as is authorized by this paragraph shall not exceed one-third (1/3) of the total charges to all subscribers made by the service corporation for all services and benefits rendered in any calendar year.

(2) This section shall not be deemed to prohibit such a corporation from acting as compensated servicing agent as to health care services to be provided by any public agency or under agreements between other parties not solicited by such corporation.

[41-3413, added 1961, ch. 330, sec. 771, p. 645; am. 1971, ch. 252, sec. 8, p. 1008; am. 2021, ch. 321, sec. 31, p. 971.]

41-3414. SERVICES AND BENEFITS WHICH MAY BE PROVIDED -- HOSPITAL SERVICE CORPORATIONS. (1) A hospital service corporation shall have the right to provide to its subscribers part or all of the following services and benefits only:

(a) Hospital services furnished to the subscriber by participant hospitals;

(b) Indemnity in reasonable amount with respect to hospital services furnished to the subscriber by nonparticipant hospitals, but subject to section [41-3408](#) (3) (qualifications for authority); and

(c) Indemnity in reasonable amount for other health care services, as defined in section [41-3403](#) (1), but in no event shall such indemnity benefits be provided of a value in excess of seventy-five percent (75%) of the premium charged for hospital service and hospital indemnity benefits.

(2) This section shall not be deemed to prohibit such a corporation from acting as compensated servicing agent as to health care services to be provided by any public agency, or under agreements between other parties not solicited by such corporation.

[41-3414, added 1961, ch. 330, sec. 772, p. 645.]

41-3415. PROFESSIONAL SERVICE AGREEMENTS. (1) A professional service corporation shall enter into service agreements with only licensees duly licensed by the state of Idaho.

(2) Each such service agreement shall require the participant licensees to furnish to subscribers of the service corporation the professional services which are, under the subscriber's contract, to be furnished by participant licensees; and this obligation so to furnish such service,

as provided for in the subscriber's contract, shall be a direct obligation of the participant licensees to the subscribers as well as to the service corporation.

(3) Each such service agreement shall further effectively provide in substance that:

(a) The participant licensee shall be compensated for services rendered to a subscriber in accordance with a prescribed formula or a schedule of fees contained in the agreement or attached to and made a part of the agreement, and that the licensee shall not request or receive from the service corporation any compensation for such services which is not in accord with such formula or schedule.

(b) Compensation for services may be prorated and settled under the circumstances and in the manner referred to in section [41-3431](#), Idaho Code.

(c) If the participant licensee withdraws from the service agreement, such withdrawal shall not be effective as to any subscriber's contract in force on the date of such withdrawal until the termination of such subscriber's contract or the next following anniversary of such subscriber's contract, whichever date is the earlier.

(4) The proposed form of any such service agreement shall be filed with the director and be subject to his approval, as provided in section [41-3419](#), Idaho Code.

(5) This section shall not apply as to participant pharmacists.

[41-3415, added 1961, ch. 330, sec. 773, p. 645; am. 1971, ch. 252, sec. 9, p. 1008.]

41-3415A. PHARMACISTS' SERVICE AGREEMENTS. (1) With respect to services of participant licensee pharmacists, the service agreement shall require the participant pharmacist to furnish to subscribers the pharmaceutical services and drugs which are, under the subscriber's contract, to be furnished by participant pharmacists; and his obligation so to furnish such services and drugs as provided for in the subscriber's contract, shall be a direct obligation of the participant pharmacist to the subscribers as well as to the service corporation.

(2) Each such service agreement shall further effectively provide in substance that:

(a) The participant pharmacist shall be compensated for services rendered and drugs furnished to a subscriber in accordance with a schedule of fees contained in the agreement or attached to and made a part of the agreement, and the pharmacist shall not request or receive from the service corporation or the subscriber any compensation for such services and drugs which is not in accord with such schedule. The subscriber may be required by the subscriber's contract to pay a fixed fee to the participant pharmacist for each prescription as a prerequisite to receiving drugs or services from the participant pharmacist.

(b) Compensation for services may be prorated and settled under the circumstances and in the manner referred to in section [41-3431](#), Idaho Code.

(c) If the participant pharmacist withdraws from the agreement, such withdrawal shall not be effective as to any subscriber's contract in force on the date of such withdrawal until the termination of such subscriber's contract or the next following anniversary of such subscriber's contract, whichever date is the earlier.

(3) The proposed form of any such service agreement shall be filed with the director and be subject to his approval, as provided in section [41-3419](#), Idaho Code.

[I.C., sec. 41-3415A, as added by 1967, ch. 399, sec. 8, p. 1194; am. 1971, ch. 252, sec. 10, p. 1008.]

41-3416. HOSPITAL SERVICE AGREEMENTS. (1) A hospital service corporation shall enter into service agreements with only hospitals duly approved or licensed by the state of Idaho.

(2) Each such service agreement shall require the participant hospital to furnish to subscribers of the service corporation the hospital services which are, under the subscriber's contract, to be furnished by participant hospitals; and this obligation so to furnish such service, as provided for in the subscriber's contract, shall be a direct obligation of the participant hospitals to the subscribers as well as to the service corporation.

(3) Each such service agreement shall further effectively in substance provide that:

(a) The participant hospital shall be compensated for services rendered to a subscriber in accordance with a schedule of charges contained in the agreement or attached to and made a part of the agreement, and that the hospital shall not request or receive from the service corporation any compensation for such services which is not in accord with such schedule.

(b) Compensation for services may be prorated and settled under the circumstances and in the manner referred to in section [41-3431](#).

(c) If the participant hospital withdraws from the agreement, such withdrawal shall not be effective as to any subscriber's contract in force on the date of such withdrawal until the termination of the subscriber's contract or the next following anniversary of the subscriber's contract, whichever date is the earlier.

(4) The service corporation shall terminate the service agreement as to a particular participant hospital, in addition to other bases of termination provided for in the agreement, if it is determined that the hospital has knowingly charged or attempted to charge the service corporation for any service not actually rendered, or has knowingly violated any material provision of the service agreement.

(5) The proposed form of any such service agreement and of any standard riders and endorsements thereto shall be filed with the director and be subject to his approval, as provided in section [41-3419](#).

[41-3416, added 1961, ch. 330, sec. 774, p. 645.]

41-3417. SUBSCRIBER'S CONTRACTS. (1) Each subscriber's contract hereafter issued by a service corporation shall constitute a direct obligation of the participant licensees and/or participant hospitals to render the professional or hospital services, as the case may be, as agreed to be rendered by such participants in the subscriber's contract.

(2) Each such subscriber's contract or certificate shall in adequate detail set forth provisions from which can be readily determined:

(a) The services to which the subscriber is entitled from participant licensees and/or participant hospitals, as the case may be;

(b) The benefits, if any, to which the subscriber is entitled on an indemnity basis, consistent with sections [41-3413](#) and [41-3414](#), Idaho Code, and with this chapter;

(c) The periodic subscription charge, rate or fee payable by or as to the subscriber; or, if not so expressed and such charge, rate or fee is subject to change, the subscriber's contract shall require that not less than thirty (30) days' written notice of the new charge, rate or fee shall be given to the subscriber and/or his remitting agent before the change is effective;

(d) The date when the respective services and benefits become available to the subscriber, date of expiration of the contract, and the terms, if any, under which the contract may be continued or renewed;

(e) All other terms and conditions of the agreement between the parties consistent with the provisions of this chapter; and

(f) That the subscriber's contract and riders and indorsements thereon or thereto, together with application therefor, if any, signed by the subscriber, and identification issued to the subscriber, shall constitute the entire contract between the parties.

(3) No such contract shall restrict the subscriber's right to free choice of hospital or licensee, within the category or categories provided for in the contract. Such contract may provide lesser benefits for services rendered by nonparticipant licensees and/or nonparticipant hospitals than those provided by participant licensees and/or participant hospitals. Provided however, such contract shall permit a subscriber to direct that the payment of dental care benefits to which the subscriber is entitled, pursuant to the contract, be made in the name of the nonparticipant licensee providing covered dental care services authorized by the subscriber's contract.

(4) All exceptions and exclusions in the contract shall be printed and otherwise set forth as prominently as the services or benefits to which they apply.

(5) No provision in this code shall be construed to prohibit a service corporation from issuing contracts to groups of persons under a master contract. In this event, however, each subscriber covered under the master contract shall be issued an individual certificate which shall set forth in adequate detail the provisions itemized in subsection (2) above.

(6) All proposed forms of subscriber's contracts shall be filed with the director and be subject to his approval, as provided in section [41-3419](#), Idaho Code.

[41-3417, added 1961, ch. 330, sec. 775, p. 645; am. 1967, ch. 399, sec. 9, p. 1194; am. 1971, ch. 252, sec. 11, p. 1008; am. 1992, ch. 185, sec. 1, p. 576.]

41-3418. SERVICE AGREEMENTS AND SUBSCRIBER'S CONTRACTS MUST PROVIDE SUBSTANTIAL SERVICE BENEFITS. (1) Service agreements and subscriber's contracts entered into or issued by a service corporation on a service basis shall provide for health care services of a substantial and broad character to be rendered to subscribers on a service basis by participant licensees or participant hospitals, as the case may be and, as to participant licensees, within the scope of health care services which may otherwise lawfully be provided by the respective categories of participant licensees under the laws of Idaho.

(2) The director may, after a hearing thereon, by rules and regulations establish certain reasonable minimums of service benefits to be so provided consistent with subsection (1) above.

(3) If any group for whom a master contract is to be issued desires to enter into such contract providing either greater or lesser benefits either by way of indemnity or service to the members of such group than the issuing service corporation usually issues to similar groups, the service corporation may enter into such contract, providing, however, (a) that the request of such deviation from usual benefits and/or rates be in writing signed by the proper person representing such group setting forth the benefits desired and (b) that the master contract shall, as clearly as possible, describe in detail the benefits and rates charged, and (c) that the provisions of section [41-3417](#) (5), Idaho Code, shall apply to such transaction. Should such group desire benefits less than those that may have been established under subsection (2) of this section a true copy of the executed request therefor and the master contract issued shall be filed with the director.

[41-3418, added 1961, ch. 330, sec. 776, p. 645; am. 1967, ch. 399, sec. 10, p. 1194; am. 1971, ch. 252, sec. 12, p. 1008.]

41-3419. FILING AND APPROVAL OF AGREEMENTS AND CONTRACTS. (1) No service corporation shall issue or use any basic form of service agreement or subscriber's contract, or application, identification, supplement, or endorsement to be connected with any such agreement or contract, until such form has been filed with the director and approved by him. This provision shall not apply to agreements, contracts, applications, identification, supplements, endorsements or other forms of unique character designed for and used with relation to a particular set of circumstances.

(2) The director shall approve any such form unless disapproved by him on one or more of the grounds set forth in subsection (3) below. If not so approved or disapproved by order transmitted to the filing service corporation within sixty (60) days after the date filed, the form shall be deemed to have been approved, provided, however, that the director may extend by not more than an additional sixty (60) days the period within which he may so affirmatively approve or disapprove any such form, by giving notice to the service corporation of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The director may at any time, after notice and for cause shown, withdraw any such approval.

(3) The director shall disapprove any proposed form referred to in subsection (1) above which:

- (a) Is in any respect not in compliance with or in violation of law; or
- (b) Contains any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the services or benefits purported to be provided for in the general terms of the agreement or contract; or
- (c) Has any indication of its provisions which is misleading; or
- (d) Is printed or otherwise reproduced in such manner as to render any provision of the form substantially illegible.

(4) In any order of disapproval the director shall state the particulars of the grounds for disapproval.

[41-3419, added 1961, ch. 330, sec. 777, p. 645; am. 1989, ch. 141, sec. 1, p. 331.]

41-3420. CHARGES AND RATES. (1) Subscription rates, fees, and payments to be charged by a service corporation to or on account of its subscribers shall not be excessive, inadequate, or unfairly discriminatory; and rates of payments to be made to participant physicians, participant hospitals, and participant pharmacists for services rendered under a subscriber's contract, shall be fair and reasonable.

(2) The service corporation shall, before use, file with the director a schedule of subscription rates, fees, or payments of any kind to be charged subscribers; and shall likewise so file before use every proposed change or modification in such rates, fees, or payments.

(3) If the subscriber's contracts to be issued by the service corporation provide for indemnity benefits, where permitted under this chapter, the service corporation shall include in the rate, fee, or payment required of the subscriber an adequate additional charge for such indemnity benefit, and shall separately set forth the amount of such additional charge in the schedule filed with the director.

[41-3420, added 1961, ch. 330, sec. 778, p. 645; am. 1967, ch. 399, sec. 11, p. 1194.]

41-3421. RESERVES. (1) In addition to the surplus fund provided for in section [41-3422](#), every service corporation shall establish and maintain unimpaired reserves as follows:

(a) Due obligations. A reserve in an amount not less than all legal obligations of the corporation, other than claims originating under subscriber's contracts, due but unpaid;

(b) Incurred losses. A reserve equal to not less than the amount necessary by reasonable estimate to pay all claims incurred under subscriber's contracts but currently unpaid, and including a reasonable additional amount to cover claims incurred but not reported to the corporation at the time of determination of the corporation's financial condition; but subject, as to amounts payable to participant physicians, participant hospitals, or participant pharmacists, to the right of the service corporation to prorate such amounts in accordance with the provisions of the service agreement;

(c) Unearned indemnity charges. A reserve equal to fifty percent of all sums charged and received by the corporation during the calendar period covered by the financial statement, on account of indemnity benefits provided in subscriber's contracts for terms for which premium was last paid and unexpired at the date of the financial statement; and

(d) Deferred service benefits. A reserve in an amount reasonably adequate to offset the additional cost thereafter to be incurred on account of deferred maternity benefits and similar deferred service benefits, such reserve to be set aside out of charges currently received on account of subscriber's contracts providing for such deferred benefits.

(2) The reserves required under subsection (1) above, shall constitute a liability of the corporation in any determination of its financial condition.

[41-3421, added 1961, ch. 330, sec. 779, p. 645; am. 1967, ch. 399, sec. 12, p. 1194.]

41-3422. SURPLUS FUND. (1) Every service corporation shall set aside into a "surplus fund" an amount of money equal to not less than two per

cent (2%) of all sums hereafter received by it on account of subscriber's contracts, until such surplus fund amounts to not less than fifty thousand dollars (\$50,000) if a professional service corporation or hospital service corporation or one hundred thousand dollars (\$100,000) if a combination professional-hospital service corporation.

(2) After such minimum surplus fund is established the service corporation may in like manner increase it to an amount not to exceed the total gross collections from subscribers during the seven (7) months next preceding.

(3) That portion of the surplus fund referred to in subsection (1) above, may be used by the service corporation, by express appropriation therefrom by action of its board of directors, solely if necessary to pay the additional health care costs and expenses under its contracts, resulting from disease, epidemic or catastrophic occurrences in which numerous persons were injured in the same such occurrence.

(4) If at any time depleted below the minimum amount required under subsection (1) above, the service corporation shall replenish the fund by a resumption or continuance of allocations thereto from subscribers' payments, as provided for original accumulation of the fund under subsection (1), or by such other reasonable means as may be approved by the director.

[41-3422, added 1961, ch. 330, sec. 780, p. 645; am. 1967, ch. 399, sec. 13, p. 1194; am. 1971, ch. 252, sec. 13, p. 1008.]

41-3423. INVESTMENTS. The investable funds of a service corporation may be invested in securities and other investments permitted by and pursuant to the provisions of [chapter 7, title 41](#), Idaho Code, and for the purposes of [chapter 7, title 41](#), Idaho Code, a service corporation shall be deemed to be an "insurer."

[41-3423, added 1961, ch. 330, sec. 781, p. 645; am. 1980, ch. 215, sec. 1, p. 487; am. 1984, ch. 98, sec. 1, p. 226; am. 1997, ch. 369, sec. 1, p. 1175; am. 2021, ch. 42, sec. 5, p. 126.]

41-3424. RECORDS AND ACCOUNTS. (1) Every service corporation shall establish and maintain complete and accurate records and accounts covering its transactions and affairs, in accordance with common and accepted principles and practices of insurance accounting and recordkeeping as applied to the business of the corporation.

(2) Among other records, the corporation shall establish a separate record of each claim received for benefits under a subscriber's contract, whether such claim is for service or for indemnity. Such claim record shall contain such information as is reasonably necessary for determination of:

- (a) The identity of the claimant;
- (b) The nature of the claim;
- (c) The probable amount to be paid by the corporation on account of the claim;
- (d) Amounts actually paid by the corporation on account of the claim.

[41-3424, added 1961, ch. 330, sec. 782, p. 645.]

41-3425. ANNUAL STATEMENT. (1) Each service corporation shall annually on or before the first day of March file with the director a statement of its financial condition as at the December 31 next preceding. The statement shall be in form, and provide for such information relative to the corpora-

tion's affairs, as the director shall prescribe consistent with this chapter. The statement shall be verified under oath by at least two (2) of the corporation's principal administrative officers.

(2) At time of filing the statement, the corporation shall pay the fee therefor as specified in section [41-3433](#) (fee schedule).

[41-3425, added 1961, ch. 330, sec. 783, p. 645.]

41-3426. EXAMINATION. Every service corporation shall be subject to examination by the director, with the same rights and powers and in the same manner as is provided in this code for the examination of insurers; and for the purposes thereof the following sections of this code shall, to the extent so applicable, apply as to such a corporation, which, for the purpose of such application shall be deemed to be an "insurer":

- (1) Section [41-219](#) (examination of insurers);
- (2) Section [41-220](#) (examination of agents, managers, adjusters, promoters);
- (3) Section [41-221](#) (place of examination);
- (4) Section [41-223](#) (conduct of examination--access to records--correction of accounts--removal of records);
- (5) Section [41-224](#) (examination--appraisal of assets);
- (6) Section [41-225](#) (obstruction of examination--penalty);
- (7) Section [41-226](#) (examiners--qualifications);
- (8) Section [41-227](#) (examination report);
- (9) Section [41-228](#) (examination expense);
- (10) Section [41-229](#) (witnesses and evidence); and
- (11) Section [41-230](#) (testimony compelled--immunity from prosecution).

[41-3426, added 1961, ch. 330, sec. 784, p. 645.]

41-3427. TAXATION AND ANNUAL REPORT. (1) Each service corporation shall annually on or before the first day of March, file with the director a report in addition to the statement required under section [41-3425](#), Idaho Code, (on forms as approved by the director) under oath, showing the number of subscribers' contracts, as defined under section [41-3403](#)(6), Idaho Code, in effect during the preceding year. A tax is hereby imposed upon each such subscriber's contract, at the rate of four cents (\$.04) per subscriber's contract, per month, such amount to be computed each month. The tax imposed hereby shall be due and payable by each service corporation to the director annually on or before the first day of March of the succeeding year.

The tax imposed hereby shall be in lieu of and in place of the premium tax provided in section [41-402](#), Idaho Code, and except as to the tax imposed hereby, and as to the fees provided for in section [41-3433](#), Idaho Code, the subscription income, funds and assets of every service corporation are exempt from all state, county and municipal taxes, other than payroll taxes and taxes on real estate and office furniture and equipment.

The director shall transmit and account for all taxes received by him hereunder as provided in section [41-3433](#), Idaho Code.

(2) Any service corporation failing to render the annual statement or pay the fee required by section [41-3425](#), Idaho Code, or to render the report or pay the tax required under subsection (1) of this section on or before the date due or within any extension of time thereof, not to exceed thirty (30) days, which the director for good cause may have granted, shall be liable to a fine of twenty-five dollars (\$25.00) for each additional day of delinquency;

and the taxes shall be collected by distraint and recovered by an action to be instituted by the attorney general in the name of the state in any court of competent jurisdiction. The director shall suspend or revoke the certificate of authority of the delinquent service corporation until the statement is filed and the taxes and fine, if any, are fully paid.

[41-3427, added 1961, ch. 330, sec. 785, p. 645; am. 1973, ch. 283, sec. 1, p. 599; am. 1978, ch. 9, sec. 1, p. 16; am. 1982, ch. 252, sec. 1, p. 643.]

41-3428. JOINT OPERATIONS. (1) A hospital service corporation and a professional service corporation may operate under joint management for the purpose of reducing operating costs.

(2) Separate records and accounts shall be kept for each such corporation, and the funds and assets of one shall not be commingled with those of the other; except that funds received from a joint billing to subscribers may be deposited in a common bank account for purposes of collection, if the records of each corporation at all times show the amount of such funds belonging to each and if final distribution of the funds is made to each corporation within thirty (30) days from receipt of payment of such joint billing.

[41-3428, added 1961, ch. 330, sec. 786, p. 645; am. 1971, ch. 252, sec. 14, p. 1008.]

41-3429. COMBINED CORPORATION. (1) A service corporation may be formed as, or may by suitable amendment of its articles of incorporation become, a combined professional service and hospital service corporation. As to its professional services each such combined service corporation shall fully comply with those provisions of this chapter especially applicable as to professional service corporations; and as to its hospital services the corporation shall fully comply with those provisions of this chapter especially applicable as to hospital service corporations.

(2) Subject to subsection (1) above, nothing in this chapter shall be deemed to prohibit such a combined service corporation from issuing subscriber's contracts providing for both professional services and hospital services.

[41-3429, added 1961, ch. 330, sec. 787, p. 645; am. 1971, ch. 252, sec. 15, p. 1008.]

41-3430. CONTRACTS COVERING WORKMEN'S COMPENSATION RISKS. (1) No service corporation shall issue any subscriber's contract covering, or otherwise insure, any industrial injury or illness with respect to which health care service or indemnity benefits are provided by either federal or state law, or covered under the provisions of the Idaho workmen's compensation act.

(2) The restriction set forth in subsection (1) above, shall not be construed as prohibiting hospitals or licensees, either as individuals, partnerships, or as a separate corporation, from contracting directly with employers, in their own right, with respect to such health care services as are provided for in the Idaho workmen's compensation act.

(3) A service corporation may act as agent for such hospitals or licensees as may so contract, as referred to in subsection (2) above, for the purpose and to the extent only of the collection of moneys from the employ-

ers, the payment of claims therefrom to the hospitals or licensees, the keeping of such records as may be necessarily related thereto, and the rendering of reports to the hospitals or licensees and the Idaho industrial commission. The service corporation shall charge and receive payment of reasonable compensation for such services.

(4) The service corporation acting as agent as provided in subsection (3) above, shall not at any time be liable as to any claim arising against any employer, except to disburse on behalf of the contracting hospitals or licensees responsible as to such liability, such sums, out of the funds available, as may be awarded or payable under the workmen's compensation act. The service corporation shall keep all such funds in separate accounts in the names of the respective hospitals or licensees, and shall not commingle them with the funds of the service corporation.

[41-3430, added 1961, ch. 330, sec. 788, p. 645; am. 1971, ch. 252, sec. 16, p. 1008.]

41-3431. ANNUAL ADJUSTMENT OF SERVICE PAYMENTS -- DISPOSITION OF EXCESS FUNDS. (1) Annually on or before March 1 every service corporation shall make a special accounting, at which time any prorated settlements for any bills submitted by participant licensees or hospitals, for services rendered during the preceding calendar year shall be adjusted, and any deficits thereon made up on a uniform basis as to all such participants to the extent of funds available therefor.

(2) Any funds of the service corporation remaining after such annual accounting, and after adequate provision for all its liabilities and reserves, and for the surplus fund required under section [41-3422](#), Idaho Code, may be used by the corporation, upon express authorization by its board of directors, for any of the following purposes:

(a) To liquidate on a uniform and prorata basis any charges for services by participant licensees or participant hospitals not paid in full upon the settlement of bills in previous years;

(b) To pay off any part or the whole of any outstanding contribution of working capital to the corporation, any such payment to be prorated on a uniform basis among all such outstanding contributions; or

(c) To reduce the rates thereafter to be charged subscribers, or to expand the services or benefits thereafter to be provided under subscription contracts.

[41-3431, added 1961, ch. 330, sec. 789, p. 645; am. 1967, ch. 399, sec. 14, p. 1194; am. 1971, ch. 252, sec. 17, p. 1008.]

41-3432. FIDELITY BOND. Every service corporation shall procure and maintain in force a fidelity bond or bonds, with authorized corporate surety, covering every officer or employee entrusted with the handling of its funds, in such amount, but not less than five thousand dollars (\$5,000), as may be fixed by its board of directors.

[41-3432, added 1961, ch. 330, sec. 790, p. 645.]

41-3433. SERVICE CORPORATION FEES. (1) Every service corporation shall pay to the director fees in advance as provided for by regulation.

(2) The director shall transmit and account for all fees received by him hereunder, as provided in section [41-406](#), Idaho Code[.]

[41-3433, added 1984, ch. 23, sec. 7, p. 41.]

41-3434. OTHER PROVISIONS APPLICABLE. In addition to those contained or referred to heretofore in this chapter, the following chapters and provisions of [title 41](#), Idaho Code, shall also apply with respect to service corporations to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of such express provisions and, for the purposes of such application, such corporations shall be deemed to be mutual "insurers":

- (1) Chapter 1, Idaho Code (scope of insurance code);
- (2) Chapter 2, Idaho Code (the department of insurance);
- (3) Section [41-308](#)(2), Idaho Code (general eligibility for certificate of authority -- competence, affiliations of management);
- (4) Sections [41-345](#) through [41-347](#), Idaho Code (disclosure of material transactions);
- (5) Section [41-601](#), Idaho Code ("assets" defined);
- (6) Section [41-603](#), Idaho Code (assets not allowed);
- (7) Section [41-604](#), Idaho Code (disallowance of "wash" transactions);
- (8) Section [41-613](#), Idaho Code (valuation of bonds);
- (9) Section [41-731](#), Idaho Code (prohibited investments and investment underwriting);
- (10) Chapter 13, Idaho Code (trade practices and frauds);
- (11) Section [41-2840](#), Idaho Code (vouchers for expenditures);
- (12) Section [41-2841](#), Idaho Code (borrowed surplus);
- (13) Sections [41-2857](#), Idaho Code (mergers and consolidations of mutual insurers), [41-2858](#), Idaho Code (bulk reinsurance, mutual insurers), and [41-2859](#), Idaho Code (mutual member's share of assets on liquidation);
- (14) Chapter 33, Idaho Code (supervision, rehabilitation and liquidation);
- (15) Sections 799 through 809, chapter 330, laws of 1961 (transitory provisions);
- (16) Section [41-2106](#)(3), Idaho Code (health history application for disability insurance);
- (17) Section [41-2141](#), Idaho Code (coordination of benefits -- coordination with social security benefits);
- (18) Section [41-1839](#), Idaho Code (attorney's fees);
- (19) Chapter 46, Idaho Code (long-term care insurance act);
- (20) Section [41-1844](#), Idaho Code (prescription drug benefit restrictions prohibited);
- (21) Section [41-2216](#), Idaho Code (coordination of benefits -- coordination with social security benefits);
- (22) Chapter 54, Idaho Code (risk-based capital);
- (23) Chapter 64, Idaho Code (corporate governance); and
- (24) Chapter 63, Idaho Code (own risk and solvency assessment).

[41-3434, added 1961, ch. 330, sec. 792, p. 645; am. 1976, ch. 135, sec. 2, p. 508; am. 1978, ch. 10, sec. 4, p. 21; am. 1988, ch. 8, sec. 1, p. 10; am. 1990, ch. 285, sec. 4, p. 802; am. 1991, ch. 123, sec. 2, p. 268; am. 1994, ch. 404, sec. 3, p. 1271; am. 1995, ch. 68, sec. 4, p. 177; am. 1997, ch. 319, sec. 3, p. 943; am. 2003, ch. 304, sec. 13, p. 838; am. 2014, ch. 319, sec. 8, p. 792; am. 2017, ch. 75, sec. 2, p. 192; am. 2017, ch. 77, sec. 2, p. 213; am. 2018, ch. 169, sec. 11, p. 359.]

41-3435. PRODUCER LICENSING. (1) Producers or persons representing a service corporation in the solicitation and negotiation of subscriber's contracts shall qualify for and be licensed as producers of the service corporation in the same manner and in compliance with the same applicable qualifications, licensing procedures and fees as apply under this code as to producers of disability insurers except that:

(a) Any such person who holds a valid license as a producer for a disability insurer issued under [chapter 10, title 41](#), Idaho Code, may be appointed as the agent for such service corporation without further examination or other compliance with [chapter 10, title 41](#), Idaho Code; and

(b) Nothing in this section shall prevent such person from being licensed as a producer and appointed as an agent for a life insurer or insurers under [chapter 10, title 41](#), Idaho Code, and concurrently being licensed as a producer for such a service corporation.

(2) Service corporations may file appointment of agents or representatives in the same manner as provided in section [41-1018](#), Idaho Code, with respect to producers of insurers.

(3) The exceptions to license requirements set forth in [chapter 10, title 41](#), Idaho Code, shall also apply as to service corporations.

[I.C., sec. 41-3435, as added by 1969, ch. 214, sec. 71, p. 625; am. 1977, ch. 142, sec. 14, p. 314; am. 2001, ch. 296, sec. 7, p. 1064.]

41-3436. DEPENDENT'S COVERAGE -- DEPENDENT'S TERMINATION OF COVERAGE, DISABILITY AND DEPENDENCY PROOF AND APPLICATION. (1) Any new or renewing subscriber contract delivered or issued for delivery in this state shall provide that an unmarried child under the age of twenty-five (25) years and who receives more than one-half (1/2) of his financial support from the parent shall be permitted to remain on the parent's or parents' contract. Further, any unmarried child of any age who is medically certified as disabled and financially dependent upon the parent is permitted to remain on the parent's or parents' contract.

(2) There shall be a provision that a subscriber's contract delivered or issued for delivery in this state more than one hundred twenty (120) days after the effective date of this act under which coverage of a dependent of a subscriber terminates at a specified age shall, with respect to an unmarried child who is incapable of self-sustaining employment by reason of intellectual disability or physical disability and who became so incapable prior to attainment of the limiting age and who is chiefly dependent upon such member for support and maintenance, not to terminate while the contract remains in force and the dependent remains in such condition, if the member has within thirty-one (31) days of such dependent's attainment of the limiting age submitted proof of such dependent's incapacity as described herein. The service corporation may require at reasonable intervals during the two (2) years following the child's attainment of the limiting age subsequent proof of the child's disability and dependency. After the two (2) year period, such subsequent proof may not be required more than once each year.

[41-3436, added 1972, ch. 348, sec. 4, p. 1030; am. 2008, ch. 296, sec. 3, p. 828; am. 2009, ch. 125, sec. 4, p. 394; am. 2010, ch. 235, sec. 34, p. 569.]

41-3437. REQUIRED PROVISIONS -- INFANTS. (a) A subscriber's contract, delivered or issued for delivery in this state which provides coverage for

injury or sickness for newborn dependent children of subscribers or other members of the covered group, shall provide coverage for such newborn children, including adopted newborn children that are placed with the adoptive subscriber or other member of the covered group within sixty (60) days of the adopted child's date of birth, from and after the moment of birth. Coverage under the contract for an adopted newborn child placed with the adoptive subscriber or other member of the covered group more than sixty (60) days after the birth of the adopted child shall be from and after the date the child is so placed. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies. For the purposes of this section, "child" means an individual who has not attained age eighteen (18) years as of the date of the adoption or placement for adoption. For the purposes of this section, "placed" shall mean physical placement in the care of the adoptive subscriber or other member of the covered group, or in those circumstances in which such physical placement is prevented due to the medical needs of the child requiring placement in a medical facility, it shall mean when the adoptive subscriber or other member of the covered group signs an agreement for adoption of such child and signs an agreement assuming financial responsibility for such child. Prior to legal finalization of adoption, the coverage required under the provisions of this subsection as to a child placed for adoption with a subscriber or other member of the covered group continues in the same manner as it would with respect to a naturally born child of the subscriber or other member of the covered group until the first to occur of the following events:

- (1) Date the child is removed permanently from that placement and the legal obligation terminates; or
- (2) The date the subscriber or other member of the covered group rescinds, in writing, the agreement of adoption or agreement assuming financial responsibility.

(b) A service corporation shall not restrict coverage under a subscriber's contract of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of the child at the time the child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.

[I.C., sec. 41-3437, as added by 1974, ch. 66, sec. 4, p. 1146; am. 1993, ch. 305, sec. 3, p. 1132; am. 1994, ch. 365, sec. 6, p. 1156.]

41-3438. COMPLICATIONS OF PREGNANCY. No hospital or medical service corporation contract which provides maternity benefits for a person covered continuously from conception shall be issued, amended, delivered, or renewed in this state on or after January 1, 1977, if it contains any exclusion, reduction, or other limitations as to coverage, deductibles, or coinsurance provisions as to involuntary complications of pregnancy, unless such provisions apply generally to all benefits paid under the contract. If a fixed amount is specified in such contract for surgery, the fixed amounts for surgical procedures involving involuntary complications of pregnancy shall be commensurate with other fixed amounts payable for procedures of comparable difficulty and severity. In a case where a fixed amount is payable for maternity benefits, involuntary complications of pregnancy shall be deemed an illness and entitled to benefits otherwise provided by the contract. Where the contract contains a maternity deductible, the maternity

deductible shall apply only to expenses resulting from normal delivery and cesarean section delivery; however, expenses for cesarean section delivery in excess of the deductible shall be treated as expenses for any other illness under the contract. This section shall apply to all hospital or medical service corporation contracts except any group hospital or medical service corporation contract made subject to an applicable collective-bargaining agreement in effect before January 1, 1977.

For purposes of this section, involuntary complications of pregnancy shall include, but not be limited to, puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

All contracts subject to this section and issued, amended, delivered, or renewed in this state on or after January 1, 1977, shall be construed to be in compliance with this section, and any provision in any such contract which is in conflict with this section shall be of no force or effect.

[41-3438, added 1976, ch. 113, sec. 3, p. 445.]

41-3439. LIMITATION OF BENEFITS FOR ELECTIVE ABORTIONS. All individual nongroup or subscriber's policies, contracts, plans or certificates delivered, issued for delivery or renewed in this state after the effective date of this section shall exclude coverage for elective abortions except. Such exclusion may be waived by endorsement and the payment of a premium therefor. Availability of such coverage shall be at the option of the service corporation. For purposes of this section, an "elective abortion" means an abortion for any reason other than to preserve the life of the female upon whom the abortion is performed.

[41-3439, added 1983, ch. 94, sec. 3, p. 207.]

41-3440. SERVICES PROVIDED BY GOVERNMENTAL ENTITIES. (1) From and after July 1, 1990, no hospital or professional service corporation subscriber's contract shall be issued in Idaho which excludes from coverage services rendered the subscriber while a resident in an Idaho state institution, provided the services to the subscriber would be covered by the contract if rendered to him outside an Idaho state institution.

(2) From and after July 1, 1990, no hospital or professional service corporation subscriber's contract may contain any provision denying or reducing benefits otherwise provided under the policy for the reason that the person insured is receiving health or mental health care or developmental services provided by the department of health and welfare, whether or not the department of health and welfare bases its charges for such services on the recipient's ability to pay. Provided, nothing in this section shall prevent the issuance of a contract which excludes or reduces benefits where the charge level or amount of the charge levied by a governmental entity for such services would vary or be affected in any way by the existence of coverage under a hospital or professional service corporation subscriber contract.

[41-3440, added 1990, ch. 300, sec. 3, p. 829.]

41-3441. MAMMOGRAPHY COVERAGE. (1) From and after July 1, 1992, all group subscriber's contracts which provide coverage for the surgical procedure known as a mastectomy which are delivered, issued for delivery, continued or renewed in this state shall provide minimum mammography exami-

nation or equivalent examination coverage. Such coverage shall include at least the following benefits:

- (a) One (1) baseline mammogram for any woman who is thirty-five (35) through thirty-nine (39) years of age.
- (b) A mammogram every two (2) years for any woman who is forty (40) through forty-nine (49) years of age, or more frequently if recommended by the woman's physician.
- (c) A mammogram every year for any woman who is fifty (50) years of age or older.
- (d) A mammogram for any woman desiring a mammogram for medical cause.

Such coverage shall not exceed the cost of the examination.

(2) As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons as determined by a licensed physician.

(3) Nothing in this section shall apply to specified accident, specified disease, hospital indemnity, medicare supplement, long-term care or other limited benefit health insurance policies.

[41-3441, added 1992, ch. 132, sec. 3, p. 415; am. 1993, ch. 113, sec. 3, p. 289.]

41-3443. BEST PRICE -- MOST FAVORED NATIONS CLAUSE PROHIBITED. No service corporation may require, as an element of any service agreement, that any licensee or hospital agree:

(1) To the unnegotiated adjustment by the service corporation of the licensee's or hospital's contractual reimbursement rate to equal the lowest reimbursement rate the licensee or hospital has agreed to charge any other payor;

(2) To a requirement that the licensee or hospital adjust, or enter into negotiations to adjust, their charges to the service corporation if the licensee or hospital agrees to charge another payor lower rates; or

(3) To a requirement that the licensee or hospital disclose his, her or its contractual reimbursement rates from other payors.

[41-3443, added 1998, ch. 422, sec. 3, p. 1334.]

41-3444. CONTRACTS WITH PROVIDERS OF DENTAL SERVICES. (1) No person contracting with dentists to provide coverage or reimbursement for dental services may require, as an element of any dental care provider participation contract, that the provider agree to adopt fees set by the person for dental care services that are not covered services under the contract. "Covered services" as used in this section means dental care services and procedures under the applicable dental plan, dental plan contract, or plan benefits for which payment is available to the covered person or dentist under the covered person's plan or contract or for which payment to the covered person or to the dentist would be available but for the application of contractual limitations on reimbursement, such as deductibles, copayments, coinsurance, and waiting periods. All services or procedures are no longer covered services, and the plan can no longer impose, contractually or otherwise, a fee schedule or other limitation when the following criteria have been met:

- (a) When the third-party payer is no longer liable for paying for an individual service or a procedure, in part or in whole, due to calendar-year limitations or benefit-year limitations; and

(b) A patient has received dental services and procedures that equal an additional one hundred percent (100%) of the amount of the patient's capped annual maximum benefit for the calendar year or benefit year.

Once a patient's capped annual maximum benefit amount for a calendar year or benefit year has been exceeded by one hundred percent (100%), a dentist may choose to provide dental services or procedures according to a plan's fee schedule or to provide dental services or procedures at a fee agreed upon with the patient. The dentist must confer with and provide notice to the patient regarding the patient's change in fee status, and any agreed-upon fee shall not exceed the lowest fee available to the dentist's uninsured patients.

(2) A person contracting with dentists must provide one (1) or more methods of payment or reimbursement that:

(a) Provide the dentist one hundred percent (100%) of the contracted amount of the payment or reimbursement; and

(b) Do not require the dentist to incur a fee to access the payment or reimbursement.

(3) A person contracting with dentists may extend the provider network to other entities when:

(a) Full disclosure of the agreement has been provided to the dentist, including any variations in obligations and fee schedule from the original contract; and

(b) The dentist has been provided a timeframe of no less than two (2) weeks to decline participation.

This subsection shall not apply to a person operating in accordance with the same brand licensee program as the contracting person or to a person that is an affiliate, as long as the contractual terms, obligations, and fee schedule remain the same as the original agreement.

(4) Subsections (2) and (3) of this section shall apply to any contract with providers for dental services that is issued after December 31, 2021. Contracts that are in existence on December 31, 2021, shall be brought into compliance on the next anniversary date, renewal date, or the expiration date of the applicable collective bargaining contract, if any, whichever date is latest.

[41-3444, added 2010, ch. 126, sec. 2, p. 272; am. 2019, ch. 153, sec. 2, p. 506; am. 2021, ch. 184, sec. 2, p. 506.]

CHAPTER 35 INSURANCE OF PUBLIC PROPERTY AND RISKS