

**AMENDED AND RESTATED
ARTICLES OF AGREEMENT
OF
NEW HAMPSHIRE INDIVIDUAL HEALTH PLAN BENEFIT ASSOCIATION

A NEW HAMPSHIRE NONPROFIT CORPORATION**

Chapter 295 of the 2001 New Hampshire Session Laws, effective July 1, 2001, amended Chapter 404-G of the New Hampshire Revised Statutes Annotated ("RSA"). RSA 404-G originally became effective August 25, 1998. In order to implement the amendments to RSA 404-G made by 2001 N.H. Laws 295:4-14 and in accordance with N.H. Rev. Stat. Anno. ("RSA") 292:7, the Board of Directors (the "Board") of New Hampshire Individual Health Plan Benefit Association, a New Hampshire nonprofit corporation (the "Corporation"), at a duly authorized meeting of the Board held on October 4, 2001 in Omaha, Nebraska, with a quorum present, unanimously voted to amend and restate the Articles of Agreement of the Corporation, as set forth in the following certificate of vote.

We, the undersigned Chairperson of the Board of Directors and Secretary of the Corporation, hereby certify that the following votes to amend and restate the Articles of Agreement of the Corporation, as previously amended and restated, were duly adopted as aforesaid.

VOTED: To amend and restate the Articles of Agreement of the Corporation, originally effective as of December 31, 1997, and previously amended and restated effective as of (i) August 25, 1998, and (ii) July 1, 2001, by striking said Amended and Restated Articles of Agreement and replacing the same, effective as of April 15, 2003, with the following:

ARTICLE I. NAME

The name of the corporation is the New Hampshire Individual Health Plan Benefit Association (the "Corporation").

ARTICLE II. ADDRESS

The address at which the business of the Corporation is to be carried on in the State of New Hampshire is 169 Manchester Street, Concord, New Hampshire 03301.

ARTICLE III. PERIOD OF DURATION

The period of duration of the Corporation is perpetual.

ARTICLE IV. NONPROFIT STATUS

The corporation is a nonprofit corporation.

ARTICLE V. PURPOSES AND POWERS

A. Pursuant to (i) the Order of the New Hampshire Insurance Commissioner (the "Commissioner") dated November 26, 1997 (the "Order"), under the authority granted him by RSA 404-C, and (ii) RSA 404-G, as enacted effective August 25, 1998 by 1998 N.H. Laws 340:6, and as amended effective July 1, 2001, by 2001 N.H. Laws 295:4-14, the Corporation is established for the following purposes:

- I. To facilitate a risk sharing plan in accordance with a plan of operation approved by the Commissioner, as amended by the Board of Directors with the approval of the Commissioner from time to time (the "Risk Sharing Plan of Operation"), and to operate a mechanism for risk adjustment and subsidization whereby the risk of catastrophic claims experienced by writers of health insurance for individual policy holders is offset to a predetermined, limited extent by a financial subsidy furnished by licensed writers of all health insurance, on an equitable and proportional basis.
- II. To establish a high risk pool (the "High Risk Pool") that will provide access to health insurance to all residents of the State of New Hampshire who are denied health insurance for medical or health reasons, with premiums charged for coverage in the High Risk Pool to be affordable and the coverage provided reasonably comprehensive and comparable to coverage available outside of the High Risk Pool. The High Risk Pool shall be funded through an annual, and if necessary, a special assessment mechanism. The High Risk Pool shall utilize cost containment measures, including, but not limited to, providing network based coverage, and that measures shall be taken to avoid inappropriate shifting of costs and risk to the High Risk Pool; and
- III. The High Risk Pool shall be operated in accordance with a plan of operation implementing RSA 404:G:5-a through 5-f and approved by the Commissioner, as amended by the Board of Directors with the approval of the Commissioner from time to time (the "Pool Plan of Operation").

The Risk Sharing Plan of Operation and the Pool Plan of Operation are referred to hereinafter collectively as the "Plans of Operation." Health insurance, for purposes of these Articles of Agreement, shall be defined as in RSA 404-G:1, VII ("Health Insurance").

B. References to RSA 404-G. All references herein to RSA 404-G or portions thereof shall be to that statute as it may be amended from time to time, unless the context clearly requires otherwise.

C. Corporate Powers. The Corporation shall possess all powers and be entitled to take all actions permitted a non-profit, voluntary corporation organized under the RSA 292, any additional powers approved by the Commissioner under RSA 404-G:3,I, and, acting through its Board of Directors, the powers set forth in RSA 404-G:3,II, to wit:

- (i) To enter into contracts as necessary or proper to administer the Plans of Operation.
- (ii) To sue or be sued, including taking any legal action necessary or proper for the recovery of any assessments for, on behalf of, or against members of the corporation or other participating person.
- (iii) To take legal action as necessary to avoid the payment of improper claims against either Plans of Operation or to defend the coverage provided by or through the High Risk Pool.
- (iv) To issue policies of insurance and certificates or evidences of coverage.
- (v) To retain appropriate legal, actuarial, and other persons as necessary to provide technical assistance in the operation of the policy development, and other contract design and in any other function within the authority of the Plans of Operation.
- (vi) To borrow money to carry out the Plans of Operation.
- (vii) To provide for reinsurance of risks incurred.
- (viii) To perform any other functions within the authority of the association as may be necessary or proper to carry out the Plans of Operation.

Nothing herein contained shall be deemed to authorize or permit the Corporation to carry on any business for profit, to exercise any power, or to do any act that a corporation formed under RSA 292, or any amendment thereto or substitute therefor, may not at that time lawfully carry on or do.

D. In addition, the Corporation shall exercise all powers granted by law necessary and proper to carry out the above-stated purposes, including but not limited to the power to amend the Plans of Operation from time to time (with the approval of any such amendment(s) by the Commissioner).

ARTICLE VI. MEMBERS

The Corporation shall have neither capital stock nor membership certificates, but shall have members who shall have such rights as are provided for in RSA 292 and RSA 404-G, in these Articles of Agreement and by the Bylaws of the Corporation. Membership in the Corporation shall be comprised of writers of health insurance (as health insurance is defined in RSA 404-G from time to time).

ARTICLE VII. VOTE OF MEMBERS

Each member shall be entitled to vote on all questions presented for vote to the members of the Corporation. Each member entitled to vote shall be entitled to cast a number of votes equal to the member's exposure units in the immediately preceding calendar year. For purposes of these Articles of Agreement, exposure units shall mean each covered life or other equivalent exposure for which assessments are made against a member under the Plans of Operation.

ARTICLE VIII. LIMITATIONS

No part of the net earnings or the assets of the Corporation shall inure to the benefit of, or be distributable to, its directors or officers, or to other private persons except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article V hereof.

ARTICLE IX. BOARD OF DIRECTORS

A. The affairs of the Corporation shall be managed by a Board of Directors of nine individuals, subject to increase by one or two as provided in this Article IX. Four directors shall be appointed by the Commissioner as follows:

- (i) one director representative of health care providers in New Hampshire;
- (ii) one director representative of consumers covered by the High Risk Pool;
- (iii) one director representative of brokers of health insurance, and
- (iv) one director representative of small employers in New Hampshire.

Directors appointed by the Commissioner shall serve until their resignation, replacement or the expiration of their term of appointment. The remaining directors shall be elected annually in the manner provided in paragraph D below of this Article IX and in the Bylaws of the Corporation.

B. The remaining directors shall consist of five (5) individuals, which may increase to six (6) or seven (7) as provided in paragraph D below of this Article IX. Three directors shall be representative of and elected by members who are licensed to write group Health Insurance in New Hampshire and who cover at least 500 lives or 5% of the total group health insurance market in New Hampshire. Two directors shall be representative of and elected by members who are licensed to write individual Health Insurance in New Hampshire and who cover at least 500 lives or 5% of the total individual health insurance market in New Hampshire. A member's votes in elections for such directors may be cast cumulatively and may be cast only for directors representing the member's voting class, except a member qualified to vote in each voting class may vote in each class. No member (together with its affiliates as defined by RSA 401-B:1), may have more than one representative on the Board of Directors at one time.

C. The Commissioner shall at all times be a director ex-officio, without vote.

D. Adjustment of Elected Members of the Board of Directors. At each annual election of the elected members of the Board of Directors, the number of elected directors shall be adjusted as and if required by RSA 404-G:4,V. RSA 404-G:4,V requires adjustment of the number and composition of elected directors, and a possible increase in the total number of directors to ten (10) or eleven (11), if at any election, any "group" writer is represented by an elected, individual director and such "group" writer is also a "qualified" individual health insurance (or is deemed to be a "qualified" writer of individual health insurance as a consequence of an affiliate's activities in the individual health insurance market). Such adjustment shall be made as required by RSA 404-G:4,V, as implemented by the Bylaws of the Corporation.

E. Actions by the Board of Directors must be approved by the affirmative vote of a simple majority of the entire Board of Directors then appointed or elected.

F. The Board of Directors shall have the duties set forth in RSA 404-G:3,III, to wit:

- (i) To fulfill the Plans of Operation as approved by the Commissioner;
- (ii) To issue policies of insurance to persons eligible for the High Risk Pool;
- (iii) To prepare certificate of eligibility forms and enrollment instruction forms;
- (iv) To determine and collect assessments for the risk sharing mechanism and for the High Risk Pool;
- (v) To disburse assessment payments, as provided in the Plans of Operation;
- (vi) To establish appropriate rates, rate schedules, rate adjustments, expense allowances, agent referral fees, claim reserve formulas and any other actuarial functions appropriate to the Pool Plan of Operation;
- (vii) To provide for and employ cost-containment measures and requirements, which shall include but not be limited to, preadmission screening, second surgical opinion, concurrent utilization review, and individual case management for the purpose of making the benefit plan more cost effective;
- (viii) To develop a list of medical or health conditions the existence of history of which makes an individual eligible for participation in the High Risk Pool without first requiring application to a carrier for health coverage.
- (ix) In connection with the managed care or network based coverage options required pursuant to RSA 404-G:5-b,III, to design, utilize, contract or otherwise arrange for the delivery of cost-effective health care services, including establishing or contracting for administration and operation of the High Risk Pool with a carrier, a preferred provider organization, a health maintenance organization, or any other network provider arrangement.

ARTICLE X. DISTRIBUTIONS AT DISSOLUTION

In the event of termination, dissolution, or winding up of the Corporation in any manner or for any reason whatsoever, the directors shall, after paying or making provision for the payment of all of the proper liabilities of the Corporation, dispose of all of the remaining assets of the Corporation as determined by the Board of Directors and approved by the Commissioner exclusively to an entity or organization which is then exempt as an organization described in Sections 107(c)(2) and 501(c)(3) of the Code or to more than one such exempt entity or organization, or, in default of any such determination, to the State of New Hampshire for exclusively public purposes. No part of the net assets of the Corporation shall be distributable to any director or officer upon termination, dissolution or winding up of the Corporation.

ARTICLE XI. LIMITATION OF LIABILITY

A. Reference is hereby made to NH RSA 292:2 (Supp. 1994), or any corresponding provision of New Hampshire law, as in effect from time to time. No director or officer of the corporation shall be personally liable to the Corporation or any members (should it have members at any time) for money damages for the breach of such person's fiduciary duty as a director or officer or both, except to the extent that a judgment or other final adjudication adverse to such person is entered in a proceeding based on a finding in the proceeding that: (i) such person breached his or her duty of loyalty to the Corporation and/or its members; (ii) such person acted or failed to act in a way which was not in good faith or which involved intentional misconduct or a knowing violation of law, or (iii) such person participated in a transaction from which such person actually received an improper benefit or profit in money, property, or services. If NH RSA 292:2 is subsequently amended to further eliminate or limit the liability of a director or officer, then a director or officer of the Corporation, in addition to the circumstances in which a director or officer is not personally liable as set forth in the preceding sentence, shall not be liable, and shall be shielded from liability, to the fullest extent permitted by the amended law. Any amendment to or repeal of this Article shall not adversely effect any right or protection existing at the time of such amendment or repeal to which any person may be entitled under this Article.

B. In accordance with and as required by RSA 404-G:9, there shall be no liability on the part of and no cause of action of any nature shall arise against any member of the Corporation, any member's agents or employees, any Director of the Corporation, any officer or agent of the Corporation, or the Commissioner or any of the Commissioner's representatives, for any actions or omissions by them in the performance of their powers and duties under RSA 404-G.

C. In accordance with RSA 404-G:3,IV, neither the Corporation (or its directors and officers) nor its employees shall be liable for any obligations of the Plans of Operation. No member (or director or officer) or employee of the Corporation shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under RSA 404-G, unless such act or omission constitutes willful or wanton misconduct.

ARTICLE XII. BYLAWS

Provisions for the regulation of the internal affairs of the Corporation shall be set forth in the Bylaws.

ARTICLE XIII. AMENDMENT OF ARTICLES OF AGREEMENT

These Articles of Agreement may be amended by the affirmative vote of a simple majority of the entire Board of Directors then appointed or elected at a meeting duly called for that purpose, subject to approval of any so-voted amendments by the Commissioner.

VOTED: To direct the officers of the Corporation to cause the foregoing vote further amending and restating, effective as of April 15, 2003, the Amended and Restated Articles of Agreement of the Corporation, to be recorded with the New Hampshire Secretary of State and the City Clerk of Concord, New Hampshire as required by law.

We, the undersigned, certify that the foregoing votes of the Board of Directors of the Corporation remain in full force and effect and have not been modified.

_____, 2003

Name: Rod Turner
Chairperson of the Board

_____, 2003

Name: Tricia Brooks
Secretary

The foregoing Amended and Restated Articles of Agreement have been approved.

New Hampshire Insurance Department

By: _____
Paula T. Rogers, Commissioner

Dated: _____, 2003