

SENATE FILE NO. SF0017

Risk based capital for health organizations.

Sponsored by: Joint Corporations, Elections and Political Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to insurance; providing for measure of
2 health organization solvency; providing reporting
3 requirements; providing for hearings; providing for
4 confidentiality; providing exemptions; providing for
5 immunity; providing for phase-in of requirements; and
6 providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 26-48-201 through 26-48-213 are
11 created to read:

12

13

ARTICLE 2

14

RISK-BASED CAPITAL FOR HEALTH ORGANIZATIONS

15

16

26-48-201. Definitions.

1

2 (a) As used in this article:

3

4 (i) "Adjusted RBC report" means an RBC report
5 which has been adjusted by the commissioner in accordance
6 with W.S. 26-48-202(c);

7

8 (ii) "Corrective order" means an order issued by
9 the commissioner specifying corrective actions which the
10 commissioner has determined are required;

11

12 (iii) "Domestic health organization" means a
13 health organization domiciled in this state;

14

15 (iv) "Foreign health organization" means a
16 health organization that is licensed to do business in this
17 state but is not domiciled in this state;

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19 (v) "Health organization" means a health
20 maintenance organization, limited health service
21 organization, dental or vision plan, hospital, medical and
22 dental indemnity or service corporation or other managed
23 care organization licensed under chapter 3 or chapter 34 of
24 this title. This definition does not include an

1 organization that is licensed as either a life and health
2 insurer or a property and casualty insurer as defined in
3 W.S. 26-48-101(a)(xiii) and (xiv) and that is otherwise
4 subject to either the life or property and casualty risk
5 based capital requirements of W.S. 26-48-101 through
6 26-48-112;

7

8 (vi) "NAIC" means the National Association of
9 Insurance Commissioners;

10

11 (vii) "RBC" means risk-based capital;

12

13 (viii) "RBC instructions" means the RBC report
14 including risk-based capital instructions adopted by the
15 commissioner, and as may be amended by the commissioner;

16

17 (ix) "RBC level" means a health organization's
18 company action level RBC, regulatory action level RBC,
19 authorized control level RBC or mandatory control level RBC
20 where:

21

22 (A) "Company action level RBC" means, with
23 respect to any health organization, the product of two (2)
24 and its authorized control level RBC;

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(B) "Regulatory action level RBC" means the product of one and one-half (1.5) and its authorized control level RBC;

(C) "Authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions;

(D) "Mandatory control level RBC" means the product of seven-tenths (.7) and the authorized control level RBC.

(x) "RBC plan" means a comprehensive financial plan containing the elements specified in W.S. 26-48-203(b). If the commissioner rejects the RBC plan, and it is revised by the health organization, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan";

(xi) "RBC report" means the report required in W.S. 26-48-202;

(xii) "Total adjusted capital" means the sum of:

1

2 (A) A health organization's statutory
3 capital and surplus as determined in accordance with the
4 statutory accounting applicable to the annual financial
5 statements required to be filed under W.S. 26-34-110 or
6 26-34-123; and

7

8 (B) Such other items, if any, as the RBC
9 instructions may provide.

10

11 **26-48-202. Risk-based capital reports.**

12

13 (a) A domestic health organization shall, annually on
14 or prior to March 1, prepare and submit to the commissioner
15 a report of its RBC levels as of the end of the calendar
16 year just ended, in a form and containing information as
17 required by the RBC instructions. In addition, every
18 domestic health organization shall file its RBC report:

19

20 (i) With the NAIC in accordance with the RBC
21 instructions; and

22

23 (ii) With the insurance commissioner in any
24 state in which the health organization is authorized to do

1 business, if the insurance commissioner has notified the
2 health organization of its request in writing, in which
3 case the health organization shall file its RBC report not
4 later than the later of:

5

6 (A) Fifteen (15) days from the receipt of
7 notice to file its RBC report with that state; or

8

9 (B) March 1.

10

11 (b) A health organization's RBC shall be determined
12 in accordance with the formula set forth in the RBC
13 instructions and this article. The formula shall take the
14 following into account, and may adjust for the covariance
15 between the following which are determined in each case by
16 applying the factors in the manner set forth in the RBC
17 instructions:

18

19 (i) Asset risk;

20

21 (ii) Credit risk;

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23 (iii) Underwriting risk; and

24

1 (iv) All other business risks and other relevant
2 risks as are set forth in the RBC instructions.

3

4 (c) If a domestic health organization files an RBC
5 report which in the judgment of the commissioner is
6 inaccurate, the commissioner shall adjust the RBC report to
7 correct the inaccuracy and shall notify the health
8 organization of the adjustment. The notice shall contain a
9 statement of the reasons for the adjustment. An RBC report
10 as so adjusted is referred to as an "adjusted RBC report".

11

12 **26-48-203. Company action level event.**

13

14 (a) "Company action level event" means any of the
15 following events:

16

17 (i) The filing of an RBC report by a health
18 organization that indicates that the health organization's
19 total adjusted capital is greater than or equal to its
20 regulatory action level RBC but less than its company
21 action level RBC;

22

23 (ii) Notification by the commissioner to the
24 health organization of an adjusted RBC report that

1 indicates an event in paragraph (i) of this subsection,
2 provided the health organization does not challenge the
3 adjusted RBC report under W.S. 26-48-207; or

4

5 (iii) If a health organization challenges an
6 adjusted RBC report that indicates the event in paragraph
7 (i) of this subsection under W.S. 26-48-207, the
8 notification by the commissioner to the health organization
9 that the commissioner has, after a hearing, rejected the
10 health organization's challenge.

11

12 (b) In the event of a company action level event, the
13 health organization shall prepare and submit to the
14 commissioner an RBC plan which shall:

15

16 (i) Identify the conditions that contribute to
17 the company action level event;

18

19 (ii) Contain proposals of corrective actions
20 that the health organization intends to take and that would
21 be expected to result in the elimination of the company
22 action level event;

23

1 (iii) Provide projections of the health
2 organization's financial results in the current year and at
3 least the two (2) succeeding years, both in the absence of
4 proposed corrective actions and giving effect to the
5 proposed corrective actions, including projections of
6 statutory balance sheets, operating income, net income,
7 capital and surplus and RBC levels. The projections for
8 both new and renewal business may include separate
9 projections for each major line of business and separately
10 identify each significant income, expense and benefit
11 component;

12

13 (iv) Identify the key assumptions impacting the
14 health organization's projections and the sensitivity of
15 the projections to the assumptions; and

16

17 (v) Identify the quality of, and problems
18 associated with, the health organization's business,
19 including but not limited to its assets, anticipated
20 business growth and associated surplus strain,
21 extraordinary exposure to risk, mix of business and use of
22 reinsurance, if any, in each case.

23

24 (c) The RBC plan shall be submitted:

1

2 (i) Within forty-five (45) days of the company
3 action level event; or

4

5 (ii) If the health organization challenges an
6 adjusted RBC report under W.S. 26-48-207, within forty-five
7 (45) days after notification to the health organization
8 that the commissioner has, after a hearing, rejected the
9 health organization's challenge.

10

11 (d) Within sixty (60) days after the submission by a
12 health organization of an RBC plan to the commissioner, the
13 commissioner shall notify the health organization whether
14 the RBC plan shall be implemented or is, in the judgment of
15 the commissioner, unsatisfactory. If the commissioner
16 determines the RBC plan is unsatisfactory, the notification
17 to the health organization shall set forth the reasons for
18 the determination, and may set forth proposed revisions
19 which will render the RBC plan satisfactory, in the
20 judgment of the commissioner. Upon notification from the
21 commissioner, the health organization shall prepare a
22 revised RBC plan, which may incorporate by reference any
23 revisions proposed by the commissioner, and shall submit
24 the revised RBC plan to the commissioner:

1

2 (i) Within forty-five (45) days after the
3 notification from the commissioner; or

4

5 (ii) If the health organization challenges the
6 notification from the commissioner under W.S. 26-48-207,
7 within forty-five (45) days after a notification to the
8 health organization that the commissioner has, after a
9 hearing, rejected the health organization's challenge.

10

11 (e) In the event of a notification by the
12 commissioner to a health organization that the health
13 organization's RBC plan or revised RBC plan is
14 unsatisfactory, the commissioner may at the commissioner's
15 discretion, subject to the health organization's right to a
16 hearing under W.S. 26-48-207, specify in the notification
17 that the notification constitutes a regulatory action level
18 event.

19

20 (f) Every domestic health organization that files an
21 RBC plan or revised RBC plan with the commissioner shall
22 file a copy of the RBC plan or revised RBC plan with the
23 insurance commissioner in any state in which the health
24 organization is authorized to do business if:

1

2 (i) The state has an RBC provision substantially
3 similar to W.S. 26-48-208(a); and

4

5 (ii) The insurance commissioner of that state
6 has notified the health organization of its request for the
7 filing in writing, in which case the health organization
8 shall file a copy of the RBC plan or revised RBC plan in
9 that state no later than the later of:

10

11 (A) Fifteen (15) days after the receipt of
12 notice to file a copy of its RBC plan or revised RBC plan
13 with the state; or

14

15 (B) The date on which the RBC plan or
16 revised RBC plan is filed under subsections (c) and (d) of
17 this section.

18

19 **26-48-204. Regulatory action level event.**

20

21 (a) "Regulatory action level event" means, with
22 respect to a health organization, any of the following
23 events:

24

1 (i) The filing of an RBC report by the health
2 organization that indicates that the health organization's
3 total adjusted capital is greater than or equal to its
4 authorized control level RBC but less than its regulatory
5 action level RBC;

6

7 (ii) Notification by the commissioner to a
8 health organization of an adjusted RBC report that
9 indicates the event in paragraph (i) of this subsection,
10 provided the health organization does not challenge the
11 adjusted RBC report under W.S. 26-48-207;

12

13 (iii) If the health organization challenges an
14 adjusted RBC report that indicates the event in paragraph
15 (i) of this subsection under W.S. 26-48-207, the
16 notification by the commissioner to the health organization
17 that the commissioner has, after a hearing, rejected the
18 health organization's challenge;

19

20 (iv) The failure of the health organization to
21 file an RBC report annually by March 1, unless the health
22 organization has provided an explanation for the failure
23 that is satisfactory to the commissioner and has cured the
24 failure within ten (10) days after the filing date;

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(v) The failure of the health organization to submit an RBC plan to the commissioner within the time period set forth in W.S. 26-48-203(c);

(vi) Notification by the commissioner to the health organization that:

(A) The RBC plan or revised RBC plan submitted by the health organization is, in the judgment of the commissioner, unsatisfactory; and

(B) Such notification constitutes a regulatory action level event with respect to the health organization, provided the health organization has not challenged the determination under W.S. 26-48-207.

(vii) If the health organization challenges a determination by the commissioner under paragraph (vi) of this subsection under W.S. 26-48-207, the notification by the commissioner to the health organization that the commissioner has, after a hearing, rejected the challenge;

1 (viii) Notification by the commissioner to the
2 health organization that the health organization has failed
3 to adhere to its RBC plan or revised RBC plan, but only if
4 the failure has a substantial adverse effect on the ability
5 of the health organization to eliminate the company action
6 level event in accordance with its RBC plan or revised RBC
7 plan and the commissioner has so stated in the
8 notification, provided the health organization has not
9 challenged the determination under W.S. 26-48-207; or

10

11 (ix) If the health organization challenges a
12 determination by the commissioner under paragraph (viii) of
13 this subsection under W.S. 26-48-207, the notification by
14 the commissioner to the health organization that the
15 commissioner has, after a hearing, rejected the challenge.

16

17 (b) In the event of a regulatory action level event
18 the commissioner shall:

19

20 (i) Require the health organization to prepare
21 and submit an RBC plan or, if applicable, a revised RBC
22 plan;

23

1 (ii) Perform an examination or analysis as he
2 deems necessary of the assets, liabilities and operations
3 of the health organization including a review of its RBC
4 plan or revised RBC plan; and

5

6 (iii) Subsequent to the examination or analysis,
7 issue an order specifying such corrective actions as he
8 shall determine are required.

9

10 (c) In determining corrective actions, the
11 commissioner may take into account factors he deems
12 relevant with respect to the health organization based upon
13 his examination or analysis of the assets, liabilities and
14 operations of the health organization, including, but not
15 limited to, the results of any sensitivity tests undertaken
16 pursuant to the RBC instructions. The RBC plan or revised
17 RBC plan shall be submitted:

18

19 (i) Within forty-five (45) days after the
20 occurrence of the regulatory action level event;

21

22 (ii) If the health organization challenges an
23 adjusted RBC report under W.S. 26-48-207 and the challenge
24 is not frivolous in the judgment of the commissioner,

1 within forty-five (45) days after the notification to the
2 health organization that the commissioner has, after a
3 hearing, rejected the health organization's challenge; or

4
5 (iii) If the health organization challenges a
6 revised RBC plan under W.S. 26-48-207 and the challenge is
7 not frivolous in the judgment of the commissioner, within
8 forty-five (45) days after the notification to the health
9 organization that the commissioner has, after a hearing,
10 rejected the health organization's challenge.

11

12 (d) The commissioner may retain actuaries and
13 investment experts and other consultants necessary in the
14 judgment of the commissioner to review the health
15 organization's RBC plan or revised RBC plan, examine or
16 analyze the assets, liabilities and operations of the
17 health organization and formulate the corrective order with
18 respect to the health organization. The fees, costs and
19 expenses relating to consultants shall be borne by the
20 affected health organization or other party as directed by
21 the commissioner.

22

23 **26-48-205. Authorized control level event.**

24

1 (a) "Authorized control level event" means any of the
2 following events:

3

4 (i) The filing of an RBC report by the health
5 organization that indicates that the health organization's
6 total adjusted capital is greater than or equal to its
7 mandatory control level RBC but less than its authorized
8 control level RBC;

9

10 (ii) The notification by the commissioner to the
11 health organization of an adjusted RBC report that
12 indicates the event in paragraph (i) of this subsection,
13 provided the health organization does not challenge the
14 adjusted RBC report under W.S. 26-48-207;

15

16 (iii) If the health organization challenges an
17 adjusted RBC report that indicates the event in paragraph
18 (i) of this subsection under W.S. 26-48-207, notification
19 by the commissioner to the health organization that the
20 commissioner has, after a hearing, rejected the health
21 organization's challenge;

22

23 (iv) The failure of the health organization to
24 respond, in a manner satisfactory to the commissioner, to a

1 corrective order, provided the health organization has not
2 challenged the corrective order under W.S. 26-48-207; or

3

4 (v) If the health organization has challenged a
5 corrective order under W.S. 26-48-207 and the commissioner
6 has, after a hearing, rejected the challenge or modified
7 the corrective order, the failure of the health
8 organization to respond, in a manner satisfactory to the
9 commissioner, to the corrective order subsequent to
10 rejection or modification by the commissioner.

11

12 (b) In the event of an authorized control level event
13 with respect to a health organization, the commissioner
14 shall:

15

16 (i) Take such actions as are required under W.S.
17 26-48-204 regarding a health organization with respect to
18 which a regulatory action level event has occurred; or

19

20 (ii) If the commissioner deems it to be in the
21 best interests of the policyholders and creditors of the
22 health organization and of the public, take such actions as
23 are necessary to cause the health organization to be placed
24 under regulatory control under chapter 28 of this code. In

1 the event the commissioner takes such actions, the
2 authorized control level event shall be deemed sufficient
3 grounds for the commissioner to take action under chapter
4 28, and the commissioner shall have the rights, powers and
5 duties with respect to the health organization as are set
6 forth in chapter 28. In the event the commissioner takes
7 actions under this paragraph pursuant to an adjusted RBC
8 report, the health organization shall be entitled to such
9 protections as are afforded to health organizations under
10 the provisions of chapter 28 pertaining to summary
11 proceedings.

12

13 **26-48-206. Mandatory control level event.**

14

15 (a) "Mandatory control level event" means any of the
16 following events:

17

18 (i) The filing of an RBC report which indicates
19 that the health organization's total adjusted capital is
20 less than its mandatory control level RBC;

21

22 (ii) Notification by the commissioner to the
23 health organization of an adjusted RBC report that
24 indicates the event in paragraph (i) of this subsection,

1 provided the health organization does not challenge the
2 adjusted RBC report under W.S. 26-48-207; or

3

4 (iii) If the health organization challenges an
5 adjusted RBC report that indicates the event in paragraph
6 (i) of this subsection under W.S. 26-48-207, notification
7 by the commissioner to the health organization that the
8 commissioner has, after a hearing, rejected the health
9 organization's challenge.

10

11 (b) In the event of a mandatory control level event,
12 the commissioner shall take such actions as are necessary
13 to place the health organization under regulatory control
14 under chapter 28 of this code. In that event, the
15 mandatory control level event shall be deemed sufficient
16 grounds for the commissioner to take action under chapter
17 28, and the commissioner shall have the rights, powers and
18 duties with respect to the health organization as are set
19 forth in chapter 28. If the commissioner takes actions
20 pursuant to an adjusted RBC report, the health organization
21 shall be entitled to the protections of chapter 28
22 pertaining to summary proceedings. Notwithstanding any of
23 the foregoing, the commissioner may forego action for up to
24 ninety (90) days after the mandatory control level event if

1 the commissioner finds there is a reasonable expectation
2 that the mandatory control level event may be eliminated
3 within the ninety (90) day period.

4

5 **26-48-207. Hearings.**

6

7 (a) A health organization shall have the right to an
8 administrative hearing, on a record, at which the health
9 organization may challenge any of the following
10 determinations or actions by the commissioner:

11

12 (i) Notification to a health organization by the
13 commissioner of an adjusted RBC report;

14

15 (ii) Notification to a health organization by
16 the commissioner that:

17

18 (A) The health organization's RBC plan or
19 revised RBC plan is unsatisfactory; and

20

21 (B) The notification constitutes a
22 regulatory action level event with respect to the health
23 organization.

24

1 (iii) Notification to any health organization by
2 the commissioner that the health organization has failed to
3 adhere to its RBC plan or revised RBC plan and that the
4 failure has a substantial adverse effect on the ability of
5 the health organization to eliminate the company action
6 level event with respect to the health organization in
7 accordance with its RBC plan or revised RBC plan; or

8

9 (iv) Notification to a health organization by
10 the commissioner of a corrective order with respect to the
11 health organization.

12

13 (b) A health organization seeking a hearing under
14 this section shall notify the commissioner of its request
15 for a hearing within five (5) days after the notification
16 by the commissioner under subsection (a) of this section.
17 Upon receipt of the health organization's request for a
18 hearing, the commissioner shall set a date for the hearing,
19 which shall be no less than ten (10) nor more than thirty
20 (30) days after the date of receipt of the health
21 organization's request.

22

23 **26-48-208. Confidentiality; prohibition on**
24 **announcements; prohibition on use in ratemaking.**

1

2 (a) All RBC reports, to the extent the information is
3 not required to be set forth in a publicly available annual
4 statement schedule, and RBC plans, including the results or
5 report of any examination or analysis of a health
6 organization performed pursuant to this article and any
7 corrective order issued by the commissioner pursuant to
8 examination or analysis, with respect to a domestic health
9 organization or foreign health organization that are in the
10 possession or control of the department of insurance shall
11 be confidential by law and privileged, shall not be subject
12 to inspection under W.S. 16-4-201 through 16-4-205, shall
13 not be subject to subpoena, and shall not be subject to
14 discovery or admissible in evidence in any private civil
15 action. However, the commissioner is authorized to use the
16 documents, materials or other information in the
17 furtherance of any regulatory or legal action brought as a
18 part of the commissioner's official duties.

19

20 (b) Neither the commissioner nor any person who
21 received documents, materials or other information while
22 acting under the authority of the commissioner shall be
23 permitted or required to testify in any private civil

1 action concerning any confidential documents, materials or
2 information subject to subsection (a) of this section.

3

4 (c) In order to assist in the performance of the
5 commissioner's duties, the commissioner:

6

7 (i) May share documents, materials or other
8 information, including the confidential and privileged
9 documents, materials or information subject to subsection
10 (a) of this section, with other state, federal and
11 international regulatory agencies, with the NAIC and its
12 affiliates and subsidiaries and with state, federal and
13 international law enforcement authorities, provided that
14 the recipient agrees to maintain the confidentiality and
15 privileged status of the document, material or other
16 information;

17

18 (ii) May receive documents, materials or
19 information, including otherwise confidential and
20 privileged documents, materials or information, from the
21 NAIC and its affiliates and subsidiaries, and from
22 regulatory and law enforcement officials of other foreign
23 or domestic jurisdictions, and shall maintain as
24 confidential or privileged any document, material or

1 information received with notice or the understanding that
2 it is confidential or privileged under the laws of the
3 jurisdiction that is the source of the document, material
4 or information; and

5

6 (iii) May enter into agreements governing
7 sharing and use of information consistent with this
8 subsection.

9

10 (d) No waiver of any applicable privilege or claim of
11 confidentiality in the documents, materials or information
12 shall occur as a result of disclosure to the commissioner
13 under this section or as a result of sharing as authorized
14 in paragraph (c)(iii) of this section.

15

16 (e) Except as otherwise required under the provisions
17 of this article, the making, publishing, disseminating,
18 circulating or placing before the public, or causing,
19 directly or indirectly to be made, published, disseminated,
20 circulated or placed before the public, in a newspaper,
21 magazine or other publication, or in the form of a notice,
22 circular, pamphlet, letter or poster, or over a radio or
23 television station, or in any other way, an advertisement,
24 announcement or statement containing an assertion,

1 representation or statement with regard to the RBC levels
2 of any health organization, or of any component derived in
3 the calculation, by any health organization, agent, broker
4 or other person engaged in any manner in the insurance
5 business would be misleading and is therefore prohibited,
6 provided, however, that if any materially false statement
7 with respect to the comparison regarding a health
8 organization's total adjusted capital to its RBC levels or
9 an inappropriate comparison of any other amount to the
10 health organizations' RBC levels is published in any
11 written publication and the health organization is able to
12 demonstrate to the commissioner with substantial proof the
13 falsity of the statement, or the inappropriateness, as the
14 case may be, then the health organization may publish an
15 announcement in a written publication if the sole purpose
16 of the announcement is to rebut the materially false
17 statement.

18

19 (f) RBC instructions, RBC reports, adjusted RBC
20 reports, RBC plans and revised RBC plans shall not be used
21 by the commissioner for ratemaking nor considered or
22 introduced as evidence in any rate proceeding nor used by
23 the commissioner to calculate or derive any elements of an
24 appropriate premium level or rate of return for any line of

1 insurance that a health organization or any affiliate is
2 authorized to write.

3

4 **26-48-209. Supplemental provisions; rules;**
5 **exemptions.**

6

7 (a) The provisions of this article are supplemental
8 to any other provisions of the laws of this state, and
9 shall not preclude or limit any other powers or duties of
10 the commissioner under such laws, including, but not
11 limited to, W.S. 26-3-115, 26-3-116, 26-28-101 through
12 26-28-131, 26-34-121 and 26-34-123.

13

14 (b) The commissioner may adopt reasonable rules
15 necessary for the implementation of this article.

16

17 (c) The commissioner may exempt from the application
18 of this article a domestic health organization that:

19

20 (i) Writes direct business only in this state;

21

22 (ii) Assumes no reinsurance in excess of five
23 percent (5%) of direct premium written, and:

24

1 (A) Writes direct annual premiums for
2 comprehensive medical business of two million dollars
3 (\$2,000,000.00) or less; or

4

5 (B) Is a limited health service
6 organization that covers less than two thousand (2,000)
7 lives.

8

9 **26-48-210. Foreign health organizations.**

10

11 (a) A foreign health organization shall, upon the
12 written request of the commissioner, submit to the
13 commissioner an RBC report as of the end of the calendar
14 year just ended by the later of:

15

16 (i) The date an RBC report would be required to
17 be filed by a domestic health organization under this
18 article; or

19

20 (ii) Fifteen (15) days after the request is
21 received by the foreign health organization.

22

23 (b) A foreign health organization shall, at the
24 written request of the commissioner, promptly submit to the

1 commissioner a copy of any RBC plan that is filed with the
2 insurance commissioner of any other state.

3

4 (c) In the event of a company action level event,
5 regulatory action level event or authorized control level
6 event with respect to a foreign health organization as
7 determined under the RBC statute applicable in the state of
8 domicile of the health organization, or, if no RBC statute
9 is in force in that state, under the provisions of this
10 article, if the insurance commissioner of the state of
11 domicile of the foreign health organization fails to
12 require the foreign health organization to file an RBC plan
13 in the manner specified under that state's RBC statute, or,
14 if no RBC statute is in force in that state, under W.S.
15 26-48-203, the commissioner may require the foreign health
16 organization to file an RBC plan with the commissioner. In
17 such event, the failure of the foreign health organization
18 to file an RBC plan with the commissioner shall be grounds
19 to order the health organization to cease and desist from
20 writing new insurance business in this state.

21

22 (d) In the event of a mandatory control level event
23 with respect to a foreign health organization, if no
24 domiciliary receiver has been appointed with respect to the

1 foreign health organization under the rehabilitation and
2 liquidation statute applicable in the state of domicile of
3 the foreign health organization, the commissioner may make
4 application to the district court of Laramie county as
5 permitted under chapter 28 of this code. The occurrence of
6 the mandatory control level event shall be considered
7 adequate grounds for the application.

8

9 **26-48-211. Immunity.**

10

11 There shall be no liability on the part of, and no cause of
12 action shall arise against, the commissioner or the
13 insurance department or its employees or agents for any
14 action taken by them in the performance of their powers and
15 duties under this article.

16

17 **26-48-212. Notices.**

18

19 All notices by the commissioner to a health organization
20 that may result in regulatory action under this article
21 shall be effective upon dispatch if transmitted by
22 registered or certified mail, or in the case of any other
23 transmission shall be effective upon the health
24 organization's receipt of notice.

1

2 **26-48-213. Phase-in period.**

3

4 (a) For RBC reports required to be filed by health
5 organizations with respect to the year 2007, the following
6 requirements shall apply in lieu of the provisions of W.S.
7 26-48-203 through 26-48-206:

8

9 (i) In the event of a company action level event
10 with respect to a domestic health organization, the
11 commissioner shall take no regulatory action under this
12 article;

13

14 (ii) In the event of a regulatory action level
15 event under W.S. 26-48-204(a)(i) through (iii) the
16 commissioner shall take the actions required under W.S.
17 26-48-203;

18

19 (iii) In the event of a regulatory action level
20 event under W.S. 26-48-204(a)(iv) through (ix) or an
21 authorized control level event, the commissioner shall take
22 the actions required under W.S. 26-48-204 with respect to
23 the health organization;

24

1 (iv) In the event of a mandatory control level
2 event with respect to a health organization, the
3 commissioner shall take the actions required under W.S.
4 26-48-205 with respect to the health organization.

5

6 **Section 2.** W.S. 26-28-101(a)(vii) is amended to read:

7

8 **26-28-101. Definitions.**

9

10 (a) As used in this chapter:

11

12 (vii) "Insurer" means any person, firm,
13 corporation, association or aggregation of persons doing an
14 insurance business and subject to the insurance supervisory
15 authority of, or to liquidation, rehabilitation,
16 reorganization or conservation by the commissioner or the
17 equivalent insurance supervisory official of another state,
18 including health organizations regulated under W.S.
19 26-48-201 through 26-48-213;

20

21 **Section 3.** This act is effective July 1, 2007.

22

23

(END)