

Amendment to HB 1491

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 New Paragraph; Pooled Risk Management Programs; Exemption from RSA 5-B. Amend RSA
4 5-B:3 by inserting after paragraph III the following new paragraph:

5 IV. This chapter shall not apply to advance premium pooled risk management programs,
6 licensed and regulated by the department of insurance under RSA 420-R.

7 2 New Subparagraph; Insurance; Third Party Administrators; Definitions. Amend RSA 402-
8 H:1, I by inserting after subparagraph (m) the following new subparagraph:

9 (n) An advance premium pooled risk management program licensed pursuant to RSA
10 420-R:4.

11 3 Insurance; Licensure of Medical Utilization Review Entities; Licensure or Registration
12 Required. Amend RSA 420-E:2, I to read as follows:

13 I. Any person, partnership or corporation, other than an insurer, nonprofit service
14 organization, health maintenance organization, **advance premium pooled risk management**
15 **program**, or an employee of those exempt organizations, that performs medical utilization review
16 services on behalf of commercial insurers, nonprofit service organizations, health maintenance
17 organizations, **advance premium pooled risk management programs**, third-party
18 administrators or employers, shall apply for a license to be issued by the department and shall pay
19 an application fee and an annual license fee. No person, partnership or corporation, other than an
20 insurer, nonprofit service organization, health maintenance organization, or the employees of
21 exempt organizations shall perform utilization review services or medical utilization review services
22 unless the person, partnership, or corporation has received a license in accordance with this chapter.

23 4 Insurance; Portability, Availability, and Renewability of Health Coverage; Disclosure. Amend
24 RSA 420-G:11, IV to read as follows:

25 IV. The data submission requirements of paragraphs II and II-a shall apply with respect to
26 claims data for all lives covered by a fully-insured health plan in any market in the state, by any
27 self-funded plan for state or municipal employees, including any plan maintained under RSA 5-B **or**
28 **RSA 420-R**, to any self-funded plan maintained by the university system of the state with respect to
29 its employees or its students, and to any self-funded student health benefit plan maintained by an
30 institution of higher education which provides 4-year bachelor's degree programs and graduate or
31 professional degree programs.

1 II. "Advisory board" means a committee comprised of:
2 (a) The secretary of state, or designee;
3 (b) The insurance commissioner, or designee; and
4 (c) The chief of the consumer protection and antitrust bureau of the department of
5 justice, or designee.

6 III. "Assessable policy" means a coverage contract in which the policyholder may be required
7 to pay additional funds beyond premium payments if the policy issuer experiences losses such that
8 its capital is insufficient. This type of policy or pooled risk management program is exclusively
9 regulated under RSA 5-B.

10 IV. "Commissioner" means the insurance commissioner.

11 V. "Department" means the insurance department.

12 VI. "Employee representative" means an employee of a member, who shall not be in a
13 position to make participation decisions for a member.

14 VII. "Excess insurance" means stop loss insurance or liability coverage with a high claim
15 threshold.

16 VIII. "Member" means any political subdivision that participates or may participate in a
17 pooled risk management program under this chapter.

18 IX. "Member representative" means a representative of a member who is in a position to
19 make participation decisions for a member and serving in either an elected or appointed position.

20 X. "Political subdivision" means any city, town, county, school district, chartered public
21 school, village district, school administrative unit, or any district or entity created for a special
22 purpose administered or funded by any of the above-named governmental units.

23 XI. "Program covered person" means a person who is covered under pooled risk management
24 program coverage.

25 XII.(a) "Public representative" means a representative of the general public who shall not
26 be:

27 (1) An employee of a member;
28 (2) In a position to make participation decisions for a member; or
29 (3) Connected with the management or be the holder of a material number of shares
30 of any insurer, insurance holding company, insurance agency, or broker.

31 (b) Family members of employees, persons in a position to make membership decisions,
32 and family members of persons connected with management or holders of a material number of
33 shares of any insurer, insurance holding company, insurance agency, or broker may not serve as
34 public representatives.

35 XIII. "Risk management" means the defense of claims and indemnification for losses arising
36 out of the ownership, maintenance, and operation of real or personal property and the acts or
37 omissions of officials, employees, and agents; the provision of loss prevention services, including, but

Amendment to HB 1491

- Page 4 -

1 not limited to, inspections of property and the training of personnel; and the investigation,
2 evaluation, and settlement of claims by and against political subdivisions.

3 XIV. "Net contribution" means the member contribution minus the return of surplus.

4 XV. "Financial impairment" means a condition in which an advance premium pooled risk
5 management program:

6 (a) Has failed to maintain the minimum capital or deposit requirements established
7 under this chapter; or

8 (b) Has been determined by the commissioner to be unable to fulfill its contractual
9 obligations to members or covered persons; or

10 (c) Has a negative surplus as reported in its most recent financial statement.

11 420-R:3 Advance Premium Pooled Risk Management Programs Authorized; Permissible
12 Coverages.

13 I. To accomplish the purposes of this chapter, any 2 or more political subdivisions of this
14 state, of adequate size, may, by resolution of its governing body, form an association under the laws
15 of this state and establish and enter into agreements constituting an advance premium pooled risk
16 management program.

17 II. RSA 53-A shall not apply to an advance premium pooled risk management program
18 formed or affirmed under this chapter, nor to the participation in such a program by a political
19 subdivision.

20 III. Except as otherwise provided under paragraph IV, an advance premium pooled risk
21 management program established for the benefit of political subdivisions may provide any of the
22 following coverages:

23 (a) Casualty, including general and professional liability; errors and omissions; workers'
24 compensation and employer's liability; medical payments; or unemployment compensation as
25 authorized under federal law.

26 (b) Property, including marine and inland navigation; transportation; boiler and
27 machinery; fire; theft; or natural hazards.

28 (c) Vehicle, including any liability or loss arising from the ownership or operation of
29 vehicles.

30 (d) Surety and fidelity.

31 (e) Environmental impairment.

32 (f) Hospital, medical, surgical, or dental benefits for employees and retirees and their
33 dependents.

34 (g) Life, income maintenance, accidental death and dismemberment, vision loss or
35 impairment, or legal benefits for employees and their dependents.

36 (h) Unanticipated special education cost recovery.

1 VI. Any advanced premium pooled risk management program that provides coverage
2 described in subparagraphs III (a) through (e) shall not also provide coverages described in
3 subparagraphs (f), (g), or (h).

4 420-R:4 Licensure Required; Conversion to Advance Premium Pooled Risk Management
5 Program.

6 I. Any person or legal entity that is organized and functions as an advance premium pooled
7 risk management program shall apply to the department for a license and shall pay an application
8 fee and annual license fee of \$250. No person, entity, or association shall, after July 1, 2026, operate
9 an advance premium pooled risk management program unless such program has been reviewed for
10 licensure by the department and has been determined to be in compliance with the provisions of this
11 chapter, including organizational, operational, financial, and reporting requirements. License
12 renewal applications shall be filed annually on or before September 1.

13 II. Pooled risk management programs that have been established and affirmed in
14 accordance with RSA 5-B and that wish to transition to an advance premium pooled risk
15 management program under this chapter shall apply to be licensed under this chapter. Existing
16 contracts and any new contracts for coverage until the effective date of the license shall continue to
17 operate under the requirements of RSA 5-B until they expire. These programs shall file a license
18 application containing the information as set forth in paragraph III. Additionally, any pooled risk
19 management program applying to transition from regulation under RSA 5-B to this chapter shall:

20 (a) Obtain a majority vote of its entire membership in favor of the transition, and the
21 governing body of each member shall cast each vote. All members of the pooled risk management
22 program regulated under RSA 5-B shall be provided with an opportunity to exit the pooled risk
23 management program prior to any transition. The exit value for each member shall be calculated as
24 the member's proportionate share of the program's surplus, less a reasonable reserve for run-off
25 claims, and shall be paid within 90 days of the effective date of the member's exit. Any disputes
26 regarding exit value shall be resolved through binding arbitration. At least 90 days prior to any vote
27 to transition, the pooled risk management program shall provide each member with an accounting of
28 the surplus due to that member should they choose to leave the pooled risk management program
29 and an estimate impact of the transition on net contributions over the 1-year, 5-year, and 10-year
30 periods following the transition, as projected by reasonable actuarial analysis. No pooled risk
31 management program regulated under RSA 5-B shall be permitted to transition to an advanced
32 premium pooled risk management program under this chapter until any outstanding regulatory
33 matters are resolved, including any appeals thereof. Additionally, any expenses related to any
34 pooled risk management program established and affirmed under RSA 5-B seeking to transition to
35 an advanced premium pooled risk management program under this chapter shall only be paid by
36 those members electing to be included in the transition. Furthermore, during the transition period
37 and for a period as determined by the commissioner following licensure under this chapter, the

Amendment to HB 1491

- Page 6 -

1 program shall be subject to enhanced monitoring, including financial reporting and examination,
2 until the commissioner determines that the program has demonstrated consistent compliance and
3 financial stability.

4 (b) Obtain approval from the governing body of each member of the pooled risk
5 management program wishing to transition to the advanced premium pooled risk management
6 program. Any member electing to leave an advanced premium pooled risk management program
7 under this chapter shall be entitled to request and receive, pursuant to RSA 420-G:12-a, that
8 member's specific health plan loss information.

9 (c) Obtain an opinion from the Internal Revenue Service as to whether the advance
10 premium pooled risk management program established under this chapter will meet the
11 requirements of Section 115 of the Internal Revenue Code.

12 III. Prior to providing coverage, a license application shall be filed with the commissioner for
13 approval of the advance premium pooled risk management program in a form and manner as
14 established by the commissioner. Such license application and related documents shall also be
15 provided to the advisory board, who shall review the application and provide recommendations to
16 the commissioner. The application materials shall include at least the following:

17 (a) A copy of the constitution or bylaws of the association, trust instrument, or articles of
18 incorporation.

19 (b) The names and addresses of the trustees, directors, or incorporators.

20 (c) A copy of the bylaws or trust agreement that governs the operation of the pooled risk
21 management program.

22 (d) A copy of the policy, contract, certificate, summary plan description, or other
23 evidence of the benefits and coverages provided.

24 (e) A copy of the fidelity bond in an amount equal to not less than 12 percent of the funds
25 handled annually and issued in the name of the pooled risk management program covering its
26 trustees, directors, employees, administrator, or other individuals managing or handling the funds
27 or assets of the pooled risk management program. In no case may such a bond be less than
28 \$1,000,000 or more than \$5,000,000, except that the commissioner, after due notice to all interested
29 parties and opportunity for hearing, and after consideration of the record, may prescribe an amount
30 in excess of \$5,000,000 subject to the 12 percent limitation.

31 (f) A copy of the advance premium pooled risk management program's excess insurance
32 agreement, if any.

33 (g) A business plan setting out the lines of coverage the program intends to write, the
34 projected membership amount, a plan of capitalization, and such other plan information as the
35 commissioner may require.

1 (h) A signed statement by an independent actuary, who is a member of the American
2 Academy of Actuaries qualified in the coverage area being evaluated, showing that the arrangement
3 will be operated in accordance with sound actuarial principles, including a certification that:

4 (1) The proposed rates are adequate to cover expected losses and experiences with a
5 reasonable margin for adverse experience;

6 (2) The proposed capitalization plan is sufficient to maintain risk-based capital
7 above the authorized control level under stress scenarios; and

8 (3) The program has adequate reinsurance or excess insurance protection.

9 (i) Such additional information as the commissioner may require.

10 IV. The commissioner shall not approve the application unless the commissioner determines
11 that the program is designed to provide sufficient revenues, reserves, and surplus to pay current and
12 future liabilities, as determined in accordance with sound actuarial principles and risk-based capital
13 standards as set out in RSA 404-F.

14 V. A license renewal application with such form and content as shall be established by the
15 commissioner and the license renewal fee shall be filed with the commissioner by September 1 of
16 each year.

17 VI. No person, other than a pooled risk management program, shall sell, solicit, or negotiate
18 pooled risk management program coverage in this state for any line of coverage permitted under this
19 chapter unless the person is licensed for that line of coverage in accordance with RSA 402-J.

20 420-R:5 Applicable Regulatory Standards.

21 I. Any advance premium pooled risk management program meeting the standards
22 established under this chapter is not an insurance company, reciprocal insurer, or insurer under the
23 laws of this state, and the administration of any activities of the plan shall not constitute doing an
24 insurance business for purposes of regulation or taxation. Advance premium pooled risk
25 management programs shall not be subject to the premium tax under RSA 400-A:32 and shall not be
26 subject to assessment with respect to the administration fund under RSA 400-A:39.

27 II. Advance premium pooled risk management programs shall be governed by this chapter
28 and shall be otherwise exempt from this title, except for the provisions of: RSA 400-A:16, relative to
29 investigations; RSA 400-A:17 through 24, relative to hearings and appeals; RSA 400-A:37, relative to
30 examinations; RSA 401-B, relative to insurance holding companies; RSA 402:28, relative to the
31 regulation of investments of insurance companies other than life insurance companies; RSA 402-C,
32 relative to receivership; RSA 402-J, relative to producer licensing; RSA 402-M, relative to
33 administrative supervision; RSA 404-F, relative to risk-based capital for insurers; RSA 420-G:11, II,
34 II-a, and IV, relative to the submission of claims data to the department; RSA 401-B:3, 4, and 5,
35 relative to insurance holding companies; and RSA 411-A, relative to the regulation of investments of
36 life insurance companies.

37 III. RSA 5-B shall not apply to advance premium pooled risk management programs.

1 420-R:6 Requirements of Organization and Operation.

2 I. To meet charter requirements for licensure and to maintain an advance premium pooled
3 risk management program, a program shall be:

4 (a) A nonprofit;

5 (b) Member-owned;

6 (c) Established as a legal entity organized under New Hampshire law; and

7 (d) Governed by written bylaws, which shall detail the terms of eligibility for
8 participation by political subdivisions, the governance of the program, and other matters necessary
9 to the program's operation.

10 II. The board of directors, who shall manage the business and affairs of the program, shall
11 be comprised of:

12 (a) For programs offering employee health and welfare benefits under RSA 420-R:43, III
13 (f) and (g), 6 member representatives, 6 employee representatives, and up to 3 public
14 representatives; and

15 (b) For all other programs, 12 member representatives and 3 public representatives.

16 III. Any bylaw developed by the board of directors shall require approval of 2/3 of the
17 directors. Bylaws and any subsequent amendments shall be filed with the commissioner.

18 IV. Directors shall not receive compensation but may be reimbursed for mileage and other
19 reasonable expenses. Directors shall comply with the provisions of RSA 15-A. Directors shall have a
20 fiduciary responsibility to act in the best interest of the advance premium pooled risk management
21 program, which shall include a duty of care to ensure prudent investment and use of assets, a duty of
22 loyalty to act to further the purposes and mission of the program, and a duty of obedience to comply
23 with organizational bylaws and applicable law.

24 V. Any coverages issued by the program shall be on an advance premium basis, and the
25 bylaws shall not allow assessable coverages. Assessable pooled risk management programs are
26 exclusively regulated under RSA 5-B.

27 420-R:7 Approval of Rates.

28 I. Each advance premium pooled risk management program shall file with the insurance
29 commissioner a full schedule of the rates to be paid by participating members and shall obtain the
30 commissioner's approval prior to implementing any rate changes. The schedule of rates and related
31 documents shall also be shared with the advisory board, who may make recommendations to the
32 commissioner. The commissioner may refuse such approval if he or she finds the rates are excessive,
33 inadequate, or unfairly discriminatory. Contribution rates charged in any given year for each
34 member may not be lower than the amounts indicated by reasonable actuarial analysis.

35 II. For purposes of this section, "reasonable actuarial analysis" shall mean:

Amendment to HB 1491
- Page 9 -

1 (a) A complete actuarial report prepared by a qualified actuary in accordance with the
2 Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American
3 Academy of Actuaries;

4 (b) Use of at least 5 years of credible historical experience data specific to the program or
5 comparable pooled risk management programs;

6 (c) Explicit documentation of all material assumptions, including but not limited to,
7 claim frequency, claim severity, trend factors, and investment income; and

8 (d) A certification by the qualified actuary that the rates are not excessive, inadequate,
9 or unfairly discriminatory.

10 III. Contribution rate relativities shall be updated as frequently as necessary to reflect the
11 program's loss experience, but in no event less frequently than every 3 years. The commissioner
12 may require more frequent updates if the program's loss experience varies materially from projected
13 losses.

14 IV. If the commissioner finds that a proposed rate increase is significant, the program shall
15 provide direct written notice to all affected members and covered persons at least 30 days prior to
16 the effective date of such increase.

17 V. At least 10 days prior to filing rates with the commissioner, each advance premium
18 pooled risk management program shall provide notice to all members and conduct 2 public hearings
19 for the purpose of advising of potential rate changes, the reasons for projected rate changes, and
20 soliciting comments from members and program-covered persons regarding the relative advantages
21 and disadvantages of pursuing goals of rate stabilization, strengthening capitalization, or returning
22 surplus.

23 420-R:8 Financial Reporting.

24 I. Each advance premium pooled risk management program shall file with the commissioner
25 on March 1 a report verified by an appropriate official of the program, which shall include:

26 (a) The program's financial statements, including its balance sheet and statement of
27 income and expenditures for the preceding year, certified by an independent certified public
28 accountant; and

29 (b) Such other financial information relating to the program's performance as the
30 commissioner may require.

31 II. The commissioner may prescribe a uniform reporting format for the preparation of the
32 audited financial statements and may also prescribe a uniform accounting system to be used by
33 advance premium pooled risk management programs.

34 III. Each advance premium pooled risk management program shall, in accordance with RSA
35 404-F, file with the commissioner on March 1 a report verified by an appropriate official of the
36 program, showing its RBC levels as of the end of the calendar year just ended, in a form and
37 containing such information as is required by the RBC instructions. The commissioner shall provide

1 written guidance on how to apply the RBC instructions to advance premium pooled risk
2 management programs.

3 420-R:9 Minimum Capital.

4 I. Each advance premium pooled risk management program shall maintain capital above
5 the RBC levels required for insurers under RSA 404-F.

6 II. The commissioner shall establish by rule, under RSA 541-A, specific capital levels that
7 shall trigger regulatory action, which shall include at a minimum:

8 (a) A requirement to submit a corrective action plan;

9 (b) Restrictions on issuing new coverages; and

10 (c) Conservatorship or receivership action.

11 III. Programs shall notify the commissioner within 5 business days of any material
12 deterioration in RBC levels.

13 IV. To protect the interest of participating members, creditors, and the public in the event
14 that an advance premium pooled risk management program is financially impaired, the
15 commissioner shall apply the corrective measures and take such other actions as deemed
16 appropriate under RSA 402-C, RSA 402-M, and RSA 404-F in the same manner as may be taken
17 against insurers under those provisions. The commissioner shall inform the advisory board of the
18 financial impairment, and the advisory board may make recommendations to the commissioner.

19 420-R:10 Member Equity Guaranty Funds Authorized. With prior approval from the
20 commissioner, a program shall establish and maintain a member equity guaranty fund as provided
21 in paragraph I. In addition to the required fund under paragraph I, a program may voluntarily
22 implement additional guarantee measures as provided in paragraphs II and III to protect from
23 financial impairment. In addition, the commissioner may require any additional guaranty measures
24 beyond those required in paragraph I if a program's RBC is above company action level but less than
25 the product of its authorized control level RBC and 3.0 with a negative trend.

26 I. Each advance premium pooled risk management program shall establish and maintain a
27 member equity guarantee fund out of surplus in any amount not to exceed 1/2 its net surplus by
28 appropriation from its net assets and maintain it in a separate account. Such member equity
29 guaranty fund shall be available to meet the obligations of the program, but not to pay dividends or
30 to be otherwise distributed except to meet the obligations of the program when all other assets of the
31 program shall become exhausted.

32 II. Any advance premium pooled risk management program may create not more than one
33 member equity guaranty fund by borrowing a sum of money not exceeding \$1,000,000 by the issue of
34 certificates of indebtedness upon such terms as the members shall determine, provided that such
35 certificates shall not be divided into classes in any way and that the holders of such certificates shall
36 not be entitled to vote in the direction of the affairs of the program and shall not receive a greater
37 return on their investment than 10 percent per annum. The commissioner, upon notice to the

1 program and after hearing its objections, if any, may require any member equity guaranty fund
2 established under this section to be retired when he or she shall find it is no longer needed for
3 protection of covered persons, creditors, or the general public.

4 III. Any advance premium pooled risk management program that has created a member
5 equity guaranty fund under either paragraph I or II may, with the approval of the insurance
6 commissioner, reduce or retire such fund in whole or in part, but it may not be otherwise distributed
7 except to pay the obligations of the program or refunded to members. Any member equity guaranty
8 fund held by the advance premium pooled risk management program on behalf of a member shall be
9 returned to that member within 3 months of the date of termination of the member's involvement in
10 that pooled risk management program.

11 420-R:11 Deposit. Each advance premium pooled risk management program shall maintain a
12 deposit with the commissioner, which shall be used in the event that the program's resources are
13 exhausted in a given fiscal period, and which may not be reflected on the balance sheet of the
14 program. If the program obtains excess insurance that limits the retained annual aggregate claim
15 cost to no more than 105 percent of the amount anticipated in the calculation of contribution rates,
16 the deposit shall be, at a minimum, the product of a program's authorized control level and 1.0. If
17 the program does not obtain the required level of excess insurance, the deposit shall be, at a
18 minimum, the product of the program's authorized control level and 2.0. The commissioner may
19 require an increase in the deposit based on the program's financial condition, risk exposure, loss
20 experience, or any material change in the program's risk profile. Failure to maintain the required
21 deposit for a period exceeding 30 days shall constitute grounds for immediate suspension of
22 licensure, provided that the commissioner may grant a one-time cure period of up to 30 days upon a
23 showing of good cause.

24 420-R:12 Return of Capital.

25 I. If, on the last day of the calendar year, a program's RBC, as measured under the
26 provisions of RSA 404-F, is more than the product of its authorized control level and 6.0, then the
27 board of directors shall vote, by April 1 of the succeeding year, on the question of whether to make a
28 return of excess surplus to members through the declaration of a dividend, return of capital, or
29 return of premium.

30 II. Regardless of its RBC level, any dividend, return of capital, or return of premium
31 proposed by the board of a program shall be reviewed and approved prior to distribution by the
32 commissioner under such terms of RSA 401-B:5, II, as are applicable to advance premium pooled
33 risk management programs as determined by the commissioner.

34 420-R:13 Examination.

35 I. The commissioner shall make an examination of each advance premium pooled risk
36 management program under the terms of RSA 400-A:37 as often as he or she deems necessary, but

1 not less frequently than once in every 5 years. All examinations shall be conducted at the expense of
2 the program.

3 II. Each program shall submit its books and records relating to its operations to such
4 examinations and in every way facilitate them. For the purpose of examinations, the commissioner
5 may issue subpoenas, administer oaths to, and examine the officers and agents of the program.

6 420-R:14 Investments. The assets of any advance premium pooled risk management program
7 shall be invested in those securities and investments permitted for insurers in this state under RSA
8 402:28 and RSA 411-A as applicable.

9 420-R:15 Acquisition of Control or Merger.

10 I. An advance premium pooled risk management program may acquire control of or merge
11 with any other advance premium pooled risk management program licensed in this state by
12 complying with the provisions of this section and with such terms of RSA 401-B:3 as are applicable
13 to advance premium pooled risk management programs as determined by the commissioner. It shall
14 file with the commissioner:

15 (a) A certified copy of the written contract containing in full the terms and conditions of
16 the consolidation or merger;

17 (b) A sworn statement by the president and secretary or corresponding officers of each
18 program showing the financial condition thereof on a date fixed by the commissioner but not earlier
19 than December 31, next preceding the date of the contract;

20 (c) A certificate of such officers, duly verified by their respective oaths, that the
21 consolidation or merger has been approved by a 2/3 vote of the board of each program, such vote
22 being conducted at a regular or special meeting of each board, or, if the program's laws so permit, by
23 mail;

24 (d) Evidence that at least 60 days prior to the action of the board of each program, the
25 text of the contract has been furnished to all members of each program either by mail or by
26 publication in full in an official publication of each program; and

27 (e) Any information that a domestic insurer is required to file with the commissioner
28 under RSA 401-B:3, I through V, that the commissioner deems to be applicable to advance premium
29 pooled risk management programs.

30 II. If the commissioner finds that the contract is in conformity with the provisions of this
31 section, that the financial statements are correct, that the standards set out in RSA 401-B:3, VI(a)
32 are met, and that the acquisition or merger is just and equitable to the members of each program,
33 the commissioner shall approve the contract and issue a certificate to such effect. Upon such
34 approval, the contract shall be in full force and effect. If the contract is not approved, it shall be
35 inoperative, and the fact of submission and its contents shall not be disclosed by the commissioner.

36 III. Upon a merger becoming effective as provided under this section, all the rights,
37 franchises, and interests of the merged programs in and to every species of property, real, personal,

1 or mixed, and things in action thereunto belonging shall be vested in the program resulting from or
2 remaining after the merger without any other instrument, except that conveyances of real property
3 may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under
4 the laws of this state in any of the programs merged, shall not revert or be in any way impaired by
5 reason of the merger, but shall vest absolutely in the program resulting from or remaining after such
6 merger.

7 420-R:16 Commissioner's Additional Enforcement Authority.

8 I. In addition to the solvency enforcement measures authorized in 420-R:9, II, when the
9 commissioner, upon investigation, finds that: an advance premium pooled risk management program
10 has failed to comply with any provision of this chapter; or is not fulfilling its contracts in good faith;
11 or is conducting business fraudulently or in a manner hazardous to its covered persons, members,
12 creditors, the public, or the business; or is acting outside its authority; or is operating as an advance
13 premium pooled risk management program without a license, then the commissioner shall provide
14 detailed written notice to the program of the deficiency and require that such deficiency be corrected.

15 II. After such notice, the program shall have a 30-day period in which to comply with the
16 commissioner's request for correction or the submission of a corrective action plan. If the program
17 fails to comply, the commissioner shall notify the program of such findings of noncompliance and
18 require the program to show cause, on a date named, why: its license should not be suspended,
19 revoked, or limited to servicing existing business only; or it should not be subject to a cease and
20 desist order; or it should not be fined in an amount up to \$2,500 per violation; or it should not be
21 ordered to make restitution or refund to an aggrieved person.

22 III. Upon hearing, the commissioner shall issue such prohibitory and mandatory orders
23 as are reasonably necessary to secure compliance with the terms of this chapter and are within his
24 or her enforcement powers as specified in this section.

25 420-R:17 Appeals. All orders and decisions of the commissioner concerning matters within his
26 or her jurisdiction under this chapter shall be subject to hearing and appeal as provided in RSA 400-
27 A:17 through 24 and RSA 541. RSA 541:18 shall apply to orders and decisions of the commissioner
28 affecting the rates of the program.

29 420-R:18 Rulemaking Authority. The commissioner may adopt rules in accordance with RSA
30 541-A, which are reasonable and necessary to administer and enforce the provisions of this chapter.

31 420-R:19 Powers; Liability. Any program operating under this chapter, whether or not a body
32 corporate, may sue or be sued; make contracts; hold and dispose of real property; and borrow money,
33 contract debts, and pledge assets in its capacity to serve its members.

34 420-R:20 Liquidation.

35 I. If a program is placed in liquidation, the commissioner shall be the liquidator and shall
36 administer the liquidation in accordance with RSA 402-C. The assets of the program shall be
37 distributed in accordance with the priority classes established under RSA 402-C:44.

1 II. Notwithstanding any other provision of law, claims of members for return of
2 contributions shall be subordinated to all other claims under RSA 402-C:44 and shall be paid only
3 after all other claims have been satisfied in full.

4 III. The commissioner may, with court approval, transfer all or part of the program's
5 liabilities to another advanced premium pooled risk management program, provided that the
6 transferee has adequate capital and has agreed to assume such liabilities.

7 6 Effective Date. This act shall take effect July 1, 2027.

UNAPPROVED

2026-1316s

AMENDED ANALYSIS

This bill:

I. Defines "advance premium pooled risk management programs" as a type of non-assessable risk pool regulated and licensed by the department of insurance.

II. Establishes licensing, capitalization, and rate-setting requirements, provides enforcement authority to the insurance department, and establishes an advisory board to provide additional regulatory oversight.

III. Requires such programs to establish a member equity guarantee reserve fund and to maintain certain minimum deposits.

UNAPPROVED