

SB 74 – AS INTRODUCED

2005 SESSION

05-0492

01/09

SENATE BILL 74

AN ACT making certain technical changes in the insurance laws.

SPONSORS: Sen. Flanders, Dist 7; Rep. Hunt, Ches 7

COMMITTEE: Banks and Insurance

ANALYSIS

This bill makes certain technical changes in the insurance laws, including but not limited to:

- I. Clarifying the law regarding insurance premium refunds.
- II. Changing the time frame for when a producer must report any administrative action taken against the producer in another jurisdiction.
- III. Revising the laws relating to forms and rate regulation applicable to workers' compensation.
- IV. Repealing the prospective repeal of the law allowing voluntary small employer health insurance purchasing alliances.

This bill is a request of the insurance department.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears ~~[in brackets and struckthrough]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Five

AN ACT making certain technical changes in the insurance laws.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1. Board of Medicine; Reference Change. Amend RSA 329:17, III-b(a) to read as follows:

III-b.(a) Any referral by the insurance commissioner under RSA 420J:5-e, ~~[VII]~~ VIII or any complaint alleging that a medical director has committed misconduct as set forth in paragraph VI of this section shall be received and reviewed by the board in accordance with the provisions of this section for potential disciplinary action. For the purposes of this paragraph, "medical director" means a physician licensed under this chapter who is employed by a health carrier or medical utilization review entity and is

responsible for the utilization review techniques and methods of the health carrier or medical utilization review entity and their administration and implementation.

2 Insurance; Electronic Funds Transfer. Amend RSA 400-A:32-b to read as follows:

400-A:32-b Electronic Funds Transfer. Insurers shall remit taxes by electronic funds transfer *according to the following schedule:*

I. When the insurer, or group of insurers, had a tax liability in the prior tax year of ~~[\$100,000]~~ \$40,000 or more, effective January 1, 2006.

II. When the insurer, or group of insurers, had a tax liability in the prior tax year of \$30,000 or more, effective January 1, 2007.

III. When the insurer, or group of insurers, had a tax liability in the prior tax year of \$20,000 or more, effective January 1, 2008.

3 Insurance Companies and Agents; Premium Refunds. Amend RSA 402:81 to read as follows:

402:81 Insurance Premium Refunds.

I. Whenever ~~[a person is owed]~~ *an insurer owes* a refund on an insurance premium paid ~~[for insurance coverage, the insurance company]~~, *that insurer shall pay [such person] the refund within 30 days of the date [upon which] when the refund becomes due.*

(a) When an insurance policy is cancelled by [an] a named insured, a refund shall [become] be due [upon receipt by] from the company or its [agent of the policy to be cancelled or] appointed producer receiving:

(1) The original policy to be cancelled;

(2) A signed lost policy release ~~[or the date the company or agent receives the]; or~~

(3) A cancellation request from the insured which has been submitted in accordance with provisions of the policy or statute.

(b) When an insurance policy is cancelled by an insurer, a refund shall become due upon the date of cancellation as stated in the notice of cancellation.

(c) No refund shall be required if the return premium is \$15 or less.

(d) For the purposes of subparagraph (c), the insurer shall notify the party due the return premium as to the amount of return premium and that it must be returned if requested by the party.

(e) For auditable policies, gross unearned premium shall be returned within 30 days from the date of the completed audit.

(f) This paragraph shall not apply to retrospectively rated policies.

II. Whenever ~~[an insurance contract is cancelled at the request of] the premium refunds described in paragraph I are refunded to an authorized third party, such as an insurance [agent for nonpayment of premium, a refund shall become due to the insurance agent upon the effective date of the cancellation. The insurance company shall return any unearned premium to the insurance agent for the account of the insured within the appropriate period specified in paragraph I of this section] producer or a party with cancellation power of attorney from the insured, the authorized third party shall credit the premium refund for the account of the named insured. In the event that crediting of return premiums to the account of the named insured results in a surplus over the amount [due the insurance agent from the insured,] owed the authorized third party by the named insured, the [insurance agent] surplus shall [refund such excess] be paid to the named insured within 10 days of receipt of the return premium, being credited to the third party, provided that no such refund shall be required if it amounts to less than \$1.~~

III. For any refund ~~[which] that is not paid to the named insured within the specified period, the [person] party to whom the premium is owed shall be entitled to interest beginning on the first day after the expiration of the period, at the legal rate. Any interest developed because of late refunding shall ultimately benefit only the named insured.~~ In cases where the amount of refund is in bona fide dispute, the refund shall not become due until the dispute is resolved. In cases where the final premium amount is subject to audit, the refund shall become due upon audit. In any event, return of the unearned premium shall be made within 90 days from the date of expiration or cancellation of the policy. This paragraph shall not apply to retrospectively rated policies.

4 Insurers Rehabilitation and Liquidation; Liability of Insurer; Reference Change. Amend the introductory paragraph of RSA 402-C:36 to read as follows:

Subject to RSA 402-C:34, the amount recoverable by the liquidator from a reinsurer shall not be reduced as a result of delinquency proceedings [unless] where the reinsurance contract provides, in substance, that in the event of the insolvency of the ceding insurer, the reinsurance shall be payable by the assuming insurer on the basis of the claims allowed against the ceding insurer in the insolvency proceedings, under contract or contracts reinsured without diminution because of the insolvency of the ceding insurer [directly to the ceding insurer or to its domiciliary liquidator or receiver] except:

5 Insurers Rehabilitation and Liquidation; Order of Distribution. Amend the introductory paragraph of RSA 402C:44 to read as follows:

*The order of distribution of claims from the insurer's estate shall be as stated in this section. The first \$50 of the amount allowed on each claim in the classes under paragraphs II, V, and VI except claims of the guaranty associations as defined in RSA 404B, 404-H, 404-D, and 408-B shall be deducted from the claim. Claims may not be cumulated by assignment to avoid application of the \$50 deductible provision. Subject to the \$50 deductible provision, every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class. **This section shall not be construed to prohibit any payments, as administrative costs, made to claimants in lower priority classes where those payments assist or result in the collection or recovery of assets or property, including debts, moneys due or claims belonging to the insurer for the benefit of claimants in higher priority classes.***

6 Producer Licensing; Reporting of Actions. Amend RSA 402-J:17 to read as follows:

402-J:17 Reporting of Actions.

I. A producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within ~~[+5]~~ 30 days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.

II. Within ~~[+5]~~ 30 days of the initial pretrial hearing date, a producer shall report to the commissioner any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

7 Group Health Insurance. Amend RSA 415:18, I(p) to read as follows:

*(p) A provision that the policyholder is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the coverage shall continue in force, unless the policyholder has given the insurer written notice of discontinuance in advance of the period for which payment is due, and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a portion of the premium corresponding to the time within the grace period during which the policy was in force. **The policy shall also provide that if the carrier elects to continue the coverage after the 31-day grace period, that the carrier shall assume full liability for any losses occurring after that date without regard to whether the policyholder makes further premium payments. The policy shall contain a provision requiring that the carrier provide notice of termination to each enrollee no later than 10 days after the expiration of the grace period or the date the carrier elects to terminate coverage.***

8 Group Health Insurance; Prompt Payment. Amend RSA 415:18-k, III to read as follows:

~~III. Any claim not paid within the time periods specified in paragraph I shall be deemed overdue. When a claim is overdue, the health care provider may notify the insurer in writing of the insurer's noncompliance with this section. If the insurer fails to pay the claim within 10 days of receiving the notice, then:~~

(a) The amount of the overdue claim shall include an interest payment of 1.5 percent per month beginning from the date the payment was due; and

(b) The health care provider may recover from the insurer, upon a judicial finding of bad faith, reasonable attorney's fees for advising and representing a health care provider in a successful action against an insurer for payment of the claim.

9 Standards for Accident and Health Insurance; Minimum Standards. Amend RSA 415A:4-a, I(b)(1) to read as follows:

(1) Developed with input from appropriate actively practicing practitioners in the licensed entity's service area *with similar*

credentials and licensure as those who typically and currently treat the condition or health problem in question in the appeal;

10 Title Insurance Code; Filing of Forms; Reference Change. Amend RSA 416-A:17-a to read as follows:

416-A:17-a Filing of Forms. Every insurer and advisory organization shall file policy forms, endorsements, and other contract language covered by this chapter within 30 days of the effective date ~~[of this section]~~.

11 Managed Care Law; Grievance Procedures. Amend RSA 420-J:5, I(b) to read as follows:

(b) The person reviewing the grievance on a first or second level appeal have appropriate medical and professional expertise and credentialing *as a practitioner who typically and currently treats the condition or health problem in question in the appeal* to competently render a determination on appeal;

12 Managed Care Law; Grievance Procedures. Amend RSA 420-J:5, II(a) to read as follows:

(a) The review shall be conducted by or in consultation with a health care professional who has appropriate training and experience in the field of medicine *with similar credentials and licensure as those who typically and currently treat the condition or health problem in question in the appeal;*

13 New Paragraph; Property and Casualty Insurance; Monitoring Competition. Amend RSA 412:14 by inserting after paragraph II the following new paragraph:

III. For the purpose of carrying out the provisions of this section, the commissioner may, at any time, request information or data from insurers authorized to conduct business in this state that the commissioner believes relevant to monitoring and maintaining a competitive market.

14 Property and Casualty Insurance; Forms and Regulations. Amend RSA 412:28 and RSA 412:29 to read as follows:

412:28 *Filing and Approval of Rates and Rating Plans.*

I. Every ~~[insurance company or other]~~ insurer, ~~[which]~~ that insures employers against liability for compensation under the workers' compensation law, *RSA 281-A*, shall file with the insurance commissioner individually or in collaboration with others, in such form as the commissioner may prescribe ~~[its classification of risks and premium rates, together with basic rates and merit or debit and credit schedule rating, if a system of merit or debit and credit schedule rating is in use]~~ *every manual, minimum premium, class rate, rating schedule, or rating plan and every other rating rule, and every modification of any of the foregoing that it proposes to use; provided, that none of [which] the above shall take effect until the commissioner shall have approved the same as just and reasonable and adequate for the risks to which they respectively apply. The commissioner may require such insurer to furnish information to support such filing] adequate, not excessive, and not unfairly discriminatory.*

II. *An insurer shall file its rates by filing a multiplier, and, if applicable, other modifications to the prospective loss costs and rating plan filed by the National Council on Compensation Insurance or other authorized advisory organization on behalf of the insurer as permitted by RSA 412:23.*

III. *At the same time as a filing made pursuant to paragraphs I and II, every insurer shall file, or incorporate by reference any material that has been filed with and approved by the commissioner, all supplementary statistical and supporting information to be used as justification for this filing.*

IV. The commissioner may evaluate systems of administered pricing versus competitive rating and the costs and benefits of applying such systems to regulating the classification of risks and premium rates for workers' compensation insurance in New Hampshire. The commissioner may provide an evaluation to the workers' compensation advisory council established by RSA 281-A:62.

412:29 Withdrawal of Approval. The commissioner may withdraw approval of any premium rate, *rating manual*, or schedule ~~[made]~~ *filed by any insurer according to RSA 412:28, if, in the commissioner's judgment, such [premium rate or schedule is unjust, unreasonable, or inadequate to provide for the obligations assumed by the insurer] rate filing no longer results in premiums that are adequate, not excessive, or not unfairly discriminatory.*

15 Special Notice Required. RSA 412:30 is repealed and reenacted to read as follows:

412:30 Special Notice Required. Any insured receiving a premium quote from an insurer, based on an approved rating plan, as described in RSA 412:28, that is higher than the premium that would be derived from the rates and rating plan approved for the

assigned risk plan, shall be made aware by the insurer, in writing, that coverage may be obtained at a lower premium in the assigned risk plan.

16 Definition "Purchasing Alliance" Amended. Amend RSA 420-G:2, XIV-a to read as follows:

XIV-a. "Purchasing alliance" means a non-risk bearing corporation or other entity licensed pursuant to RSA 420-G:10-a that provides, on a voluntary basis, health insurance coverage through *a single participating carrier or* multiple unaffiliated participating carriers to member small employers and their employees within a defined service area authorized by the commissioner.

17 Exceptions to Rulemaking; Insurance. Amend RSA 541-A:21, VI to read as follows:

VI. Rules adopted under title XXXVII, relative to insurance regulation, shall be exempt from the uniform system of numbering and drafting rules required by RSA 541-A:8. These rules shall ~~[be in compliance with]~~ *also be exempt from the provisions of RSA 541-A:3, RSA 541-A:7, RSA 541-A:16, I, and RSA 541-A:22, I* if the wording is consistent with the language of the corresponding National Association of Insurance Commissioners regulations.

18 Unauthorized Insurance. Amend RSA 406-B:16, VI(a) to read as follows:

(a) An insured who procures the insurance of any risk or risks other than life and annuity contracts *and health insurance contracts* by use of the services of a full time employee acting as an insurance manager or buyer or the services of a regularly and continuously retained qualified insurance consultant; and

19 Repeal. RSA 420-G:6, II-a, relative to individual health insurance, is repealed.

20 Repeal of Prospective Repeal. 2000, 2:3 and 4 relative to the repeal of RSA 420-G:2, XIV-a and RSA 420-G:10-a, and a contingency, are repealed.

21 Effective Date. This act shall take effect 60 days after its passage.