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BULLETIN 87-7

TO: All Companies Licensed to Sell Health Insurance in North Dakota

FROM: Earl R. Pomeroy, Insurance Commissioner

DATE: June 22, 1987

SUBJECT: Application of Coverage Requirements to Policies and Certificates

There have been some questions about how North Dakota laws concerning coverage requirements apply to group certificates of insurance. To avoid misunderstandings, this Bulletin refers you to some of the pertinent sections in the North Dakota Century Code.

In order for certificates of insurance to be approved by the Commissioner, they must comply with the requirements of the chapter on health and accident insurance. N.D.C.C. Section 26.1-30-19, Subsection 3, states, "No insurance policy, certificate, contract, . . . against loss or expense from sickness, bodily injury, or death . . . may be issued for delivery or delivered to any person in this state nor may any application, rider, or endorsement be used . . . until the form thereof and the classification of risks and the premium rates . . . have been filed with and approved by the commissioner. A form must be disapproved if the benefits provided are unreasonable in relation to the premium charge or if the benefits do not comply with [N.D.C.C.] 26.1-36 . . ." In other words, **the Commissioner has the authority to review all insurance contracts, including group certificates, and apply North Dakota laws extraterritorially.**

Since all of 26.1-36 applies to group certificates under 26.1-30-19, sub. 3, you should be aware that a new section has been added to the chapter:

HB1366 added a new section to 26.1-36 on group accident and health conversion and continuation rights for former spouses and dependent children. The new section applies to group accident and health insurance policies, including policies issued under a self-insured plan, group health service contracts

issued under Chapter 26.1-17, or evidence of HMO coverage. It states in part, "[e]very policy [etc.] . . . must [permit] continuation of coverage of the insured's former spouse and dependent children upon entry of decree of annulment of marriage or divorce, if decree requires the insured to provide continued coverage for [them]. The coverage may be continued until the date of remarriage of the insured's former spouse or the date coverage would otherwise terminate . . . but not exceed thirty-six months. . . . premium contributions not to exceed one hundred two percent of the premium for the group coverage." A former spouse and dependent children, without providing evidence of insurability, must be able to obtain from the insurer at the expiration of any continuation of coverage or upon termination of coverage at divorce, conversion coverage providing comparable benefits of the group policy--or reduced coverage at a reduced premium--upon payment of the appropriate premium. A policy is renewable at the option of the former spouse as long as the former spouse is not covered under another accident and health insurance plan up to age 65 or to eligibility for coverage under Title XVIII of the Social Security Act.

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