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BULLETIN 91-1

TO: ALL INSURANCE COMPANIES LICENSED IN NORTH DAKOTA

FROM: Earl R. Pomeroy, Commissioner of Insurance

DATE: April 24, 1991

SUBJECT: 1991 Insurance Legislation
Company Compliance with Newly Enacted Statutes

This Bulletin contains a brief description of selected insurance-related bills passed by the recently completed 52nd North Dakota Legislative Assembly. Please note that several insurance-related bills have been omitted from this summary because they do not have a general impact on all companies. Specific research into all newly enacted legislation is the responsibility of each respective company whether we have highlighted it or not.

Most of these bills will become law on July 1, 1991. Insurers are required to be in a position to implement these changes on or before this date. The text of each bill is available from the Secretary of State's Office at the following address:

Honorable Jim Kusler
Secretary of State
State Capitol, First Floor
600 East Boulevard
Bismarck, ND 58505
(701) 224-3668

Much of the legislation referred to in this Bulletin is self-explanatory. If you have any specific concerns or questions regarding any of these bills, we would first suggest obtaining a copy of the bill to review its provisions. **AFTER REVIEWING THE BILL**, please feel free to contact the North Dakota Insurance Department with any unanswered questions.

COMPANIES

House Bill No. 1242: Insurance company solvency regulations

1. Creates a new chapter which is substantially the NAIC "Insurers Rehabilitation and Liquidation Model Act" which is aimed at protecting the interests of insureds, claimants, creditors, and the public generally by allowing a framework within which the early detection of any potentially dangerous financial condition of insurer is possible; by providing a framework and improved methods

for rehabilitating insurers; by providing a framework for the efficient and economic liquidation of an insurance company; and generally by providing for a comprehensive scheme for the rehabilitation and liquidation of insurance companies, including intrastate rehabilitation and liquidation.

2-9. Amends existing law to conform with the NAIC "Insurance Company Holding System Regulatory Act" which essentially deals with insurance holding companies and their subsidiaries and the relationships among those entities.

10. Creates a new chapter which only slightly deviates from the NAIC's "Business Transacted With Producer-Controlled Property/Casualty Insurer Act". It places limitations on insurers which are controlled by an insurance broker and places certain liability on the controlling broker in case of the insolvency of the insurer.

11. Creates a new chapter which substantially conforms to the NAIC's "Managing General Agents Act" which provides additional regulation over managing general agents of insurers; places certain duties on insurers who utilize managing general agents; provides for additional examination authority of the Insurance Commissioner; and places certain penalties and liabilities on managing general agents and insurers in the case of insurer insolvency.

12. Creates a new chapter which substantially conforms to the NAIC's "Reinsurance Intermediary Model Act" which provides additional regulatory authority to the Commissioner over persons who act as the conduit between insurance companies and reinsurance companies; places certain duties on insurers and reinsurers utilizing the services of such people; and places penalties and liabilities on each of these entities in the case of insurer insolvency.

13. Creates a new chapter which substantially conforms to the NAIC's "Model Law on Credit for Reinsurance" which allows a domestic insurer to take credit for reinsurance as either an asset or a deduction from policyholder liability in certain circumstances and provides additional regulation of those transactions.

14. Sections currently codified in N.D.C.C. Chapter 26.1-07, which deal with insurance company rehabilitation and liquidation and have been replaced by Section 1 of this bill, are now repealed.

<u>House Bill No. 1441: County mutual insurance companies territorial expansion</u>

Allows county mutual insurance companies to expand their territory to a total of 20 counties. Before a company can expand its territory, it must submit a description of its current territory and proposed territory to the Commissioner for review and approval. The Bill allows a county mutual to issue policies on property located within the platted limits of any incorporated city with a population of less than 10,000 located within their territory. However, these policies may only cover the actual place of residence occupied by the policyholder and appurtenant structures and the contents thereof and must conform to rules adopted by the Commissioner establishing requirements for underwriting risks and safeguarding financial solvency.

House Bill No. 1596: Interest on escrow accounts

Requires banking institutions, savings and loan associations, and other legal lenders (including insurance companies incorporated under N.D.C.C. Section 26.1-01-03 or 26.1-02-05) to give notice to customers of whether they pay interest on escrow accounts when a residential mortgage is made. If interest is paid, it must be paid at least annually and must be compounded in the same manner interest is compounded on savings accounts or semi-annually.

Senate Bill No. 2375: Board of directors of a nonprofit health service corporation

Requires the board of directors of a nonprofit health service corporation be comprised of at least a majority of subscribers. It allows for the subscribers to nominate their own replacements. It allows a director to serve on the board of only one nonprofit health service corporation at a time and prohibits the corporation from reimbursing or compensating its directors for more than the necessary and actual expenses incurred in serving on the board.

LIFE AND HEALTH

House Bill No. 1042: Basic health insurance coverage

Allows a basic health insurance coverage plan free of substance abuse coverage (N.D.C.C. Section 26.1-36-08), mental disorder coverage (26.1-36-09), mammogram examination coverage (Section 26.1-36-09.1), temporomandibular joint disorder and craniomandibular disorder coverage (Section 26.1-36-09.3), the right to employ any doctor or hospital (Section 26.1-36-12.1), and the right to employ any optometrist or opthomologist (Section 43-13-31). This basic plan may be offered only to individuals and employers with fewer than 25 employees who have been without health insurance coverage for at least 12 months preceding the date of application for the coverage. The Commissioner of Insurance is required to assemble data related to the coverage provided under this bill and submit periodic reports to the Legislative Council regarding utilization of the coverage.

House Bill No. 1192: Charitable gift annuities

Provides a mechanism by which educational, religious, charitable, and scientific institutions, organized on a nonprofit basis, can apply for an exemption from the Commissioner entitling them to issue charitable gift annuities, thus avoiding previous law prohibiting issuance of annuities by anyone except admitted insurance companies. Safeguards are imposed on those applying to ensure that only bona fide organizations qualify. Minimal solvency standards are set to protect the public.

House Bill No. 1227: Medicare supplement and long-term care insurance

Establishes a new Medicare supplement chapter, removing the confusion caused by having the current Medicare supplement laws within the accident and health insurance chapter. The bill primarily tracks the newest NAIC models for Medicare supplement and long-term care insurance. The bill revises the definition of long-term care insurance to include home health care policies or riders and LTC riders attached to life insurance policies.

House Bill No. 1294: Annuity, accident, and health policies and certificate to provide a "free-look" provision

Allows the purchaser of an annuity policy or certificate to return it within 20 days of delivery, and requires accident and health policies and certificates to indicate it may be returned within 10 days of delivery.

House Bill No. 1370: Extraterritorial workers' compensation coverage

Provides for an employer and the employer's employees to receive North Dakota workers' compensation coverage if they are injured while working outside of North Dakota if the employment is principally localized in North Dakota or if the contract for hire was entered in North Dakota. Payment of workers' compensation benefits by another state, territory, etc. bars a claim for benefits under this title. The provision on reciprocity in extraterritorial application of compensation acts of various states (N.D.C.C. Section 65-08-02) has been repealed and an employer whose employment results in significant contacts (defined as 25 percent of an employee's gross annual wage earned in North Dakota or an employer's gross annual payroll in North Dakota is at least $100,000) shall acquire North Dakota workers' compensation unless a reciprocal agreement is made.

House Bill No. 1424: Refusing health care provider participation in nonprofit health service corporation plans

Allows a nonprofit health service corporation to refuse to contract or to terminate a contract with a health care provider if the corporation determines that the health care provider is providing inappropriate or substandard care to subscribers.

House Bill No. 1425: Dental and optometric service contracts

Removes a prohibition against nonprofit health service corporations from entering into agreements with a dentist to render services to a subscriber (N.D.C.C. Section 26.1-17-21).

House Bill No. 1491: Health insurance proof of loss forms and claim payment time limits

Requires that health insurers shall, within 15 business days of receiving a health insurance proof of loss form, pay the claim or the uncontested portion of the claim, deny it, or make an initial request for additional information. If all or a portion of the claim is contested, the insured must be notified in writing of the contest and the reasons for it. The notification does not preclude the insurer from denying the claim, in whole or in part, for other reasons at a later date.

House Bill No. 1539: Health insurance coverage to small employers

Establishes provisions for regulation of health benefit plans that provide coverage to one or more employees of a small employer (an employer who, for at least 50 percent of its working days, employed less than 25 employees). The bill follows the NAIC model relating to restrictions on premium rates, renewability of coverage, disclosure of rating practices and renewability provisions, and maintenance of records.

MOTOR VEHICLES

House Bill No. 1446: Driver's license records

Requires the Drivers License Division to remove license suspensions arising from failure to appear in court or post and forfeit bond from the part of the operator's license record that is available to the public.

House Bill No. 1492: Availability of commercial driver record information

Repeals the statute authorizing the Department of Transportation to release full information regarding the record of any commercial driver to other states, to employers or prospective employers, and to insurers.

Senate Bill No. 2089: Basic no-fault insurance

Explicitly excludes basic no-fault insurers when filing coordination of benefits provisions from having to show a reduction in the premium (N.D.C.C. Section 26.1-14-17).

Senate Bill No. 2302: Definition of a bus

Includes any motor vehicle owned by a political subdivision and operated as part of a public transit system, in which all or a portion of the costs of operation are subsidized by the political subdivision or the federal government, in the definition of a bus for purpose of no-fault insurance.

Senate Bill No. 2555: Funeral benefits under basic no-fault insurance

Increases basic no-fault insurance benefits for funeral expenses from $1,000 to $3,500.

PROPERTY AND CASUALTY

House Bill No. 1084: Definition of a covered claim under Property and Casualty Insurance Guaranty Association Act

Stops the reinsurer, insurer, insurance pool, or underwriting association that has paid a claim from subrogating against the insured of the insolvent insurer, but not the liquidator of the insolvent insurer.

House Bill No. 1229: Property and casualty insurance

1. Provides for a change from rating organizations who set rates to advisory organizations who may file loss costs. This bill sets out licensing procedures for advisory organizations, prohibited activities of insurers and advisory organizations, and permitted activity and filing requirements of advisory organizations (N.D.C.C. Chapter 26.1-25).

2. Amends the chapter to make it applicable to all commercial insurance, provides specific criteria for cancellation, and requires a nonrenewal notice to include the reason (N.D.C.C. Chapter 26.1-30.1).

3. Amends the chapter to add "underinsured motorist" to the policy definition and add "motorcycle" to clarify that the cancellation/nonrenewal provisions for autos apply also to motorcycles (N.D.C.C. Chapter 26.1-40).

4. Amends the section to clarify that the mandated rental vehicle coverage pertains to "noncommercial" type vehicles and adds a definition for private passenger (N.D.C.C. Section 26.1-40-17.1).

House Bill No. 1264: Audits by commercial insurers

N.D.C.C. Section 26.1-24-10 is amended so that the provisions are applicable to commercial insurers rather than limited to commercial multiple peril insurers only.

MISCELLANEOUS

House Bill No. 1439: Petroleum Tank Release Compensation Fund

Creates a state fund to compensate petroleum tank owners for clean-up costs and third-party liability if they have a petroleum release which causes contamination or bodily injury. The Fund offers $1,000,000 liability coverage with a $5,000 deductible and a 90/10 co-payment for the first $155,000 of a claim. After that the Fund covers 100 percent of the loss up to the $1,000,000 limit. Tank owners are required to pay an annual registration fee of $75 for aboveground tanks and $125 for underground tanks. If an owner does not register, they are subject to a Class B misdemeanor along with not being able to collect from the Fund. The Fund is designed to comply with federal requirements for tank owners.

House Bill No. 1522: Insurance agent fraud and grounds for license revocation

Allows the Insurance Commissioner to revoke, suspend, or refuse to continue or issue an insurance agent's license if the agent's license has been suspended or revoked in another state, province, district, or territory, unless the reason for the suspension or revocation was the agent's noncompliance with continuing education programs or noncompliance with mandatory filing requirements, if the filing did not directly affect the public interest, safety, or welfare.

Senate Bill No. 2266: Housekeeping

This bill is a group of small but important changes to Title 26.1 of the insurance code. The following is a selection of these changes by section:

1. Replaces "rating organizations" with "advisory organizations" and provides for a license fee (N.D.C.C. Section 26.1-01-07).

2. Relocates licensing fee for nonprofit health service corporation and prepaid legal service sales representatives.

3. Provides for a premium tax filing fee to be paid by each licensed insurance company (N.D.C.C. Section 26.1-03-17).

. . .

6. Clarifies the number of notices required to be published before a hearing on consolidation, merger or assumptive reinsurance transactions (N.D.C.C. Section 26.1-07-04).

7. Defines provisions under which coverage can be terminated under the CHAND program (N.D.C.C. Chapter 26.1-08).

9. Requires a benevolent society to file its Annual Statement on March 1 (N.D.C.C. Section 26.1-16-24).

10. Conforms nonprofit health service corporation representatives to the same standards required of all other insurance agents.

11. Requires a nonprofit health service corporation to file its Annual Statement on March 1.

12. Conforms prepaid legal service organization representatives to the same standards required of all other insurance agents.

13. Increases the penalty for selling insurance without a license from a Class B misdemeanor to a Class C felony.

. . .

15. Provides for the payment of reasonable interest on life insurance death claims to be accrued from the date of death. It also clarifies the return of unearned premium to an insured's estate.

. . .

17. Clarifies that "certificates" written under group policies are to be included in the definition of a life insurance "policy" as it pertains to the suicide defense.

18. Extends the grace period for the payment of premiums for monthly accident and health insurance policies; and clarifies the return of unearned premium to an insured's estate.

. . .

22. Conforms the existing Life and Health Insurance Guaranty Association Act to the current NAIC model.

<u>Senate Bill No. 2372: Commitment procedures, confidentiality of records</u>

Allows disclosure of patient information to qualified service organizations and third-party payers to the extent necessary to perform their duties and defines "qualified service organization" as a person or entity that provides services to a treatment facility and "third-party payer" as a person or entity who pays on a contractual basis for a patient's diagnosis/treatment.