

STATE OF NORTH DAKOTA

BEFORE THE COMMISSIONER OF INSURANCE

In the Matter of the Promulgation )  
 Of Proposed Rules Regarding: )  
 Unfair Sex Discrimination, )  
 Preferred Mortality Tables, )  
 Loss Ratios, Accounting Practices )  
 and Procedures, Model Rule )  
 Requiring Audited Financial )  
 Reports, Risk Retention and )  
 Purchasing Groups, Licensing of )  
 Insurance Producers, Continuing )  
 Education and Prelicensure )  
 Education, Viatical Settlement )  
 Advertising, Surplus Lines, Military )  
 Sales Model Regulations, and Hobby )  
 Boiler Operator Licensing. )

NOTICE OF PROPOSED  
RULEMAKING

FILE NO. RU-07-208

**NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES  
AND NOTICE OF PUBLIC HEARING**

**September 7, 2007**

**PLEASE TAKE NOTICE** that the North Dakota Insurance Department will hold a public hearing to address the proposed creation of and amendments to the following chapters of the North Dakota Administrative Code: 45-03-10, Unfair Sex Discrimination; 45-04-07.2, Preferred Mortality Tables; 45-06-08, Loss Ratios; 45-03-15, Accounting Practices and Procedures; 45-03-20, Model Rule Requiring Annual Audited Financial Reports; 45-05-05, Risk Retention and Purchasing Groups; Chapter 45-02-02, Licensing of Insurance Producers; Chapter 45-02-04, Continuing Education and Prelicensure Education; 45-04-13, Viatical Settlement Advertising; 4-09-01, Surplus Lines; 45-04-14, Military Sales Model Regulations; and 45-12-11, Hobby Boiler Operator Licensing. The hearing will be held at 10:00 a.m., central time, October 19, 2007, in the Red River Room, State Capitol, Bismarck, North Dakota.

The proposed revisions to the North Dakota Administrative Code are as follows:

1. N.D. Admin. Code Chapter 45-03-10 - Unfair Sex Discrimination. The proposed rule would update the types of practices that will be considered as unfair in the terms and conditions of insurance contracts and in the underwriting criteria of insurance carriers.

2. N.D. Admin. Code Chapter 45-04-07.2 – Preferred Mortality Tables. This proposed rule would recognize and permit the use of additional valuation mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities of life insurers. The table, the 2001 CSO Mortality Table, includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables unless the context indicates otherwise. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.
3. N.D. Admin. Code Chapter 45-06-08 – Loss Ratios. The proposed rule is designed to implement 2007 Senate Bill No. 2154 which reduced the loss ratios that apply to health insurers from 75% to 70% of premium received for group policyholders and 65% to 55% of premium received from individual policyholders.
4. N.D. Admin. Code Chapter 45-03-15 – Accounting Practices and Procedures. This proposed rule requires every insurance company doing business in this state to file the appropriate National Association of Insurance Commissioners (NAIC) annual statement blank, prepared in accordance with the NAIC Instructions Handbook and follow the accounting procedures and practices prescribed by the March 2007 version of the NAIC Accounting Practices and Procedures Manual for property and casualty and life and health insurance. The current rule calls for the use of the March 2005 version of this manual.
5. N.D. Admin. Code Chapter 45-03-20 - Model Rule Requiring Annual Audited Financial Reports. The proposed rule adds one item which impacts the qualifications of an independent certified public accountant. The rule provides that the Insurance Commissioner shall not recognize any person or firm as a qualified independent certified public accountant which has either directly or indirectly entered into an agreement of indemnification with respect to the audit of the insurer. It also provides that a qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration.
6. N.D. Admin. Code Chapter 45-05-05 - Risk Retention and Purchasing Groups. The proposed rule is necessary to comply with the requirements of the federal law known as the Gramm-Leach-Bliley Financial Services Modernization Act [Pub. L. No. 106-102, 113 Stat. 1338] relating to licensing reciprocity for nonresidents.
7. N.D. Admin. Code Chapter 45-02-02 - Licensing of Insurance Producers. The proposed rules would remove the requirement that the Department

verify, at the time of licensing, that an applicant for an insurance producer's license by a business entity has an active Certificate of Authority with the North Dakota Secretary of State's office. An applicant licensed in another state who moves to this state must provide within 90 days proof of clearance from the state in which the insurance producer is currently or was most recently licensed which is needed to be consistent with statutory requirements. The proposed rules also modify the requirements for producer licensing, prelicensing, and examinations.

8. N.D. Admin. Code Chapter 45-02-04 - Continuing Education and Prelicensure Education. The proposed rule would add a definition of "insurance continuing education" and remove prelicensing education requirements for those residents wishing to be licensed as insurance producers. It would also provide that a nonresident insurance producer who has satisfied the producer's home state's continuing education requirements and is in good standing in the producer's home state shall electronically submit a uniform application for individual producer license renewal/continuation through the NAIC. It would repeal the rule that provides that a letter of certification is not required if the home state participates in the NAIC producer database and the Department can verify the license is in good standing in the insurance producer's home state.
9. N.D. Admin. Code Chapter 45-04-13 - Viatical Settlement Advertising. The proposed rules would apply to the advertising of viatical settlements intended for dissemination in the state. It provides that the advertising of viatical settlements must be done in a manner to assure that product descriptions are presented in a manner that prevents unfair, deceptive, or misleading advertising and is conducive to accurate presentation and description of viatical settlements through the advertising media and material used by viatical settlement licensees. The proposed rules are related to the enactment of 2007 Senate Bill No. 2268.
10. N.D. Admin. Code Chapter 45-09-01 - Surplus Lines. The proposed rules would delete obsolete appendices and extend the deadline for the filing of a surplus lines affidavit from 15 days to 60 days of the effective date of a policy in order to be consistent with the governing statute.
11. N.D. Admin. Code Chapter 45-04-14 - Military Sales Model Regulations. The proposed rules are based upon the NAIC Model Regulation concerning unfair sales practices in the sale of insurance to active duty military personnel. The rules set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair. The rules apply to the solicitation or sale of any life insurance or annuity product by an

insurer or insurance producer to an active duty service member of the United States Armed Forces.

12. N.D. Admin. Code Chapter 45-12-11 - Hobby Boiler Operator Licensing. The proposed rules govern the licensing of hobby boiler operators. They provide that the Insurance Commissioner may not issue a hobby boiler license to an individual unless the individual: files a written application with the Commissioner on a form prescribed by the Commissioner; passes an examination developed by the Commissioner and pays an examination fee of \$25; provides evidence of the successful completion of 120 hours of apprenticeship training with a licensed hobby boiler operator; is at least 16 years of age; and pays a \$25 license fee. The proposed rules are related to the enactment of 2007 Senate Bill No. 2411.

These rules are expected to have an impact in excess of \$50,000 on the regulated community.

Any interested person may review the text of the proposed rules at, and written comments concerning the proposed rules may be sent to, the following address: North Dakota Insurance Department, 600 East Boulevard Avenue, 5<sup>th</sup> Floor, Bismarck, ND 58505. The deadline for submission of written comments is October 29, 2007. A copy of the rules and the regulatory analyses may be reviewed on the Department's website at [www.nd.gov/ndins](http://www.nd.gov/ndins) or may be requested by telephoning (701) 328-2440.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Insurance Department at the above telephone number or address at least seven days prior to the public hearing.

DATED this 7 day of September, 2007.



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