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BULLETIN 87-4

TO: ALL INSURANCE COMPANIES LICENSED IN NORTH DAKOTA

FROM: Earl R. Pomeroy, Commissioner of Insurance

DATE: May 29, 1987

SUBJECT: 1987 Insurance Legislation

This bulletin contains a brief description of each insurance-related bill passed by the 50th North Dakota Legislative Assembly.

Each bill, unless otherwise noted, will become law on July 1, 1987. The text of each bill is available from the North Dakota Legislative Council (phone 701-224-2916; mailing address State Capitol, Bismarck, North Dakota 58505).

Please feel free to contact the North Dakota Insurance Department if you have any questions.

TITLE 26.1
Insurance
Summary of Bills Enacted by 1987 Legislative Assembly

This memorandum summarizes all legislation that primarily affects North Dakota Century Code Title 26.1. It should be understood that bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to insurance may be classified in six subject areas: insurance regulatory trust fund, agents and sales, coverage and benefits, insurance companies, state fire and tornado fund, and state employee defense.

AGENTS AND SALES

House Bill No. 1411 provides that an insurance agent's license may be suspended or revoked if the licensee communicates, in an attempt to have the complaint dismissed, with a person who has filed a complaint against the licensee.

House Bill No. 1506 requires out-of-state insurance companies that market certain commercial multiple peril or casualty insurance to transact business through a resident licensed insurance agent or broker. The agent or broker is entitled to a service fee of five percent of the annual premium.

Senate Bill No. 2422 governs the termination of a contract between an independent agent and a property and casualty insurance company.

Senate Bill No. 2484 authorizes the Commissioner of Insurance to reduce the number of hours per year of approved coursework required for any person having a license limited to a single line of insurance.

COVERAGE AND BENEFITS - LIFE AND HEALTH INSURANCE

House Bill No. 1231 provides for the regulation of preferred health care provider organizations. The bill provides for the types of arrangements preferred provider organizations may enter into, what must be contained in policies issued by health care insurers, and participation requirements that health care insurers may place on the preferred providers the insurer contracts with.

House Bill No. 1329 requires individual and group health insurance to cover adoptive children from the date of placement by a licensed child placement agency.

House Bill No. 1338 requires all group health policies or health service contracts to provide coverage for alcoholism or drug abuse and mental disorders. The bill also requires that coverage for substance abuse and mental disorders include outpatient services and services by a licensed physician or psychologist. Coverage for mental disorders must include coverage for services of regional human service centers. The minimum coverage for partial hospitalization is decreased to 120 days and the minimum coverage for inpatient treatment is decreased to 60 days. When there is a combination of inpatient and partial hospitalization treatment, each day of inpatient treatment is equivalent to two days of partial hospitalization; however, no more than 46 days of inpatient treatment benefits may be traded for treatment by partial hospitalization. Benefits must be provided for a minimum of 20 visits for outpatient treatment. No copayment or deductible may be charged for the first five visits and the copayment for the remaining visits may not exceed 20 percent.

House Bill No. 1366 provides that group accident and health insurance policies must allow continued coverage for a spouse and children of the insured if there is a break in the marital relationship unless there is an entry of a decree of annulment of a marriage or divorce. The group policy must provide that if a decree requires the insured to provide continued coverage, the coverage may be continued until the date of remarriage of the insured's former spouse or the date coverage would otherwise terminate, whichever is first, except coverage may not exceed 36 months. The premium may not exceed 102 percent of the premium for group coverage. If the insured is not required to provide coverage, conversion coverage with comparable benefits must be offered the former spouse. The coverage must be renewable by the former spouse up to age 65 or until the former spouse is eligible for Social Security.

House Bill No. 1379 removes the requirement that a person with a preexisting condition must be covered for the first six months under a plan offered by the Comprehensive Health Association upon payment of an additional premium.

House Bill No. 1488 expands the definition of insurance companies that must participate in the Comprehensive Health Association to include health maintenance organizations.

House Bill No. 1513 provides that the sanity or insanity of a person is not a factor in determining whether the person committed suicide within the terms of a life insurance policy.

House Bill No. 1514 allows a person to obtain personal insurance on that person's self or on another person if the benefits under the contract are payable to the individual insured or if the person purchasing the contract is related to the insured or has a lawful and economic interest in the life, health, or bodily safety of the insured; or if the person insured is a party to a contract for the purchase or sale of a business interest.

House Bill No. 1629 provides for the regulation of long-term care insurance including requirements of group policies for members of associations; limits of group long-term care insurance; provisions for cancellation, nonrenewal, or termination of long-term care insurance policies; and provisions covering preexisting conditions and prior institutionalization. The bill also provides for the right to return a policy after examination and authorizes the Commissioner of Insurance to establish loss ratio standards.

Senate Bill No. 2053 exempts pensions; life insurance policies payable to the spouse, children, or dependents of the insured which have been in effect for a period of at least one year; annuity policies or plans; individual retirement accounts; Keogh plans; and simplified employee pension plans; and the proceeds, surrender values, payments, and withdrawals from such pensions, policies, plans, and accounts with an aggregate limitation of $200,000 for all pensions, policies, plans, and accounts from execution of judgment. The dollar limit does not apply to the extent reasonably necessary for the support of the resident or that resident's dependents. The pensions, policies, plans, and accounts or proceeds, surrender values, payments, and withdrawals are not exempt from enforcement of any order to pay spousal support or child support.

Senate Bill No. 2164 imposes the insurance premium tax on the gross amount of service fees collected by a third-party administrator providing service to a group that is self-insured for health care benefits. The bill provides for the collection of interest of one percent per month on any unpaid tax in addition to the penalty for not paying that tax. The commissioner may waive any or all of the penalty and interest. The bill also provides for a credit against future tax liability for overpayment of a premium tax, interest, or penalty by an insurance company.

Senate Bill No. 2174 removes provisions relating to the qualifications of the board of directors of a health service corporation.

Senate Bill No. 2287 provides that it is an unfair insurance practice to refuse to insure, refuse to continue to insure, limit the extent or kind of insurance available to an individual, or charge a different rate for the same coverage because of an individual's blindness. Any denial to insure on grounds that the policy defines "disability" as being presumed in the event the insured loses his or her eyesight is an unfair practice. An insurer may exclude from coverage blindness or partial blindness that exists at the time a policy is issued.

Senate Bill No. 2391 provides that any insurance policy providing supplementary Medicare benefits or nursing home benefits may not limit payment of benefits due to preexisting conditions of the insured. If the underlying policy has a waiting period for coverage of preexisting conditions and that waiting period has not expired, benefits for preexisting conditions may be limited during the remaining period that has not expired. This bill also amends the definition of "Medicare supplement policy" to include a health care plan of any health maintenance organization marketed, advertised, or designed as a supplement to reimbursements under Medicare.

COVERAGE AND BENEFITS - PROPERTY AND CASUALTY INSURANCE

House Bill No. 1269 allows county mutual insurance companies to issue policies on property within the city limits of cities of fewer than 2,500 people.

House Bill No. 1310 removes the requirement that insurance companies pay full face value of a fire policy for partial fire damage.

House Bill No. 1452 prohibits the cancellation of a commercial liability insurance policy during the term of the policy except for specified reasons and prohibits nonrenewal of a commercial liability policy unless the insurer gives at least 30 days' notice to the policyholder of the insurer's intent not to renew.

House Bill No. 1622 extends the requirement that full face value of an insurance policy covering property be paid for any covered cause of loss instead of just losses caused by fire or lightning.

COVERAGE AND BENEFITS - MOTOR VEHICLE INSURANCE

Senate Bill No. 2413 provides that a basic no-fault insurer may coordinate any benefits it is obligated to pay for medical expenses incurred as a result of accidental bodily injury in excess of $5,000.

House Bill No. 1279 requires motor vehicle insurers to provide their insureds coverage for underinsured motorists as well as for uninsured motorists. The minimum required coverage is $50,000 per person and $100,000 per accident. The bill also provides for offsets for other payments received by the insured.

House Bill No. 1579 prohibits rescission of automobile insurance policies for concealment or for an intentional or fraudulent omission.

Senate Bill No. 2095 requires that insurers disclose the amount by which motor vehicle liability insurance premiums are reduced for drivers over 55 who have successfully completed an accident prevention course.

INSURANCE COMPANIES

House Bill No. 1175 grants immunity from civil liability to good faith reporters of fraudulent insurance acts.

House Bill No. 1192 increases the tax on premiums and other fees charged by stock and mutual insurance companies, nonprofit health service corporations, health maintenance organizations, and prepaid legal service organizations doing business in this state to one and one-fourth percent for all lines of insurance except life insurance. The tax on life insurance remains unchanged at two percent.

House Bill No. 1205 allows the Commissioner of Insurance to adopt rules for the demutualization of domestic insurance companies.

House Bill No. 1243 provides that any group life or health insurance company claiming an exemption from the requirement that the company have a certificate of authority to do business in this state or comply with the insurance laws of this state must file with the Commissioner of Insurance a report containing information supporting the reasons the company should be exempt. Any certificate of insurance or a certificate on a master policy of group life, accident, and health, or blanket accident and health insurance, or group annuities issued by an insurer claiming such an exemption must continue group hospital, surgical, or major medical coverage after termination of employment or membership if that insurer provides hospital, surgical, or major medical expense insurance.

House Bill No. 1253 increases the amount allowed to be maintained in the permanent loss fund for county mutual insurance companies to four percent of the amount of insurance in force, and for companies providing combined policies of fire and windstorm insurance the amount is increased to eight percent.

House Bill No. 1270 increases the number of counties in which the people forming a county mutual insurance corporation may reside to 15.

House Bill No. 1350 requires any risk retention group seeking to be chartered in this state to be chartered and licensed as a liability insurance company pursuant to the laws of this state. Risk retention group is defined as any corporation or other limited liability association meeting the qualifications of the federal Product Liability Risk Retention Act of 1981. All premiums paid for coverages within this state to risk retention groups are subject to the premium tax.

House Bill No. 1355 increases the time period the Commissioner of Insurance has to approve insurance policies to 60 days.

House Bill No. 1405 excludes health maintenance organizations that have insolvency coverage in force from participating in the Life and Health Insurance Guaranty Association.

House Bill No. 1463 allows nonprofit health service corporations to become mutual insurance companies.

Senate Bill No. 2097 lists as an unfair insurance practice the failure of an insurer to refund premiums unearned through cancellation of a policy within 30 days of the cancellation of the policy, and if the policy is for commercial lines coverage, within 30 days from the date the insurer receives from the insured the information necessary for the insurer to conduct an audit to determine the unearned premium. All life insurance policies and accident and health insurance policies must contain provisions that in the event of the death of the insured, the insurer must refund the unearned premium within 30 days after the insurer receives notice of the death.

Senate Bill No. 2271 requires every insurance company in this state to transmit a copy of its annual statement to the National Association of Insurance Commissioners; authorizes the Commissioner of Insurance to exempt any domestic company from the filing requirements; and provides immunity, in the absence of actual malice, for the employees of the National Association of Insurance Commissioners from any civil action arising by virtue of their use of the data filed.

Senate Bill No. 2273 provides that the capital stock and surplus of a stock insurance company may not, except as specifically provided, be depleted to an amount totaling less than $1 million.

Senate Bill No. 2376 creates a new law regulating fraternal benefit societies, including the issuance of benefit contracts

and repeals the existing law regulating fraternal benefit societies.

Senate Bill No. 2402 provides that working papers generated by the Commissioner of Insurance in conducting examinations of insurance companies is confidential until the commissioner releases a final report or declares the material nonconfidential.

Senate Bill No. 2437 allows a domestic insurance company to participate in clearing corporations and the federal reserve book entry system.

STATE FIRE AND TORNADO FUND

House Bill No. 1428 allows a winter show to obtain insurance coverage through the fire and tornado fund.

STATE EMPLOYEE DEFENSE

House Bill No. 1446 requires the review by and approval of the Commissioner of Insurance before the state, any state agency, bureau, or department may purchase liability insurance and provides state employees immunity for negligent actions occurring within the scope of the employee's employment. The bill requires the Attorney General to defend a state employee in connection with any civil claim arising from actions occurring during and within the scope of the employee's employment. Actions that constitute reckless or grossly negligent conduct, malfeasance, or willful misconduct are excluded. The Attorney General may withdraw up to $250,000 from the state bonding fund to pay for the defense of state employees. The funds must be reimbursed to the state bonding fund through a deficiency appropriation.

INSURANCE REGULATORY TRUST FUND

Senate Bill No. 2024 establishes an insurance regulatory trust fund consisting of all fees charged by the Commissioner of Insurance, all earnings from the investment of moneys in the trust fund, all retaliatory fees, and all legislative appropriations. Moneys in the trust fund may be used to defray the administrative and regulatory expenses of the commissioner. Any cash balance in the trust fund at the end of a biennium in excess of $2 million must be transferred to the general fund. In order to meet the cyclical cash flow needs of the insurance regulatory trust fund, the Office of Management and Budget, upon approval of the Emergency Commission, may issue certificates in anticipation of revenues, notes, or bonds. Terms of the certificates may not exceed 180 days.

This bill also requires all applications for admission by county mutual, fraternal benefit, and surplus lines companies to include a fee of $100, and by all other insurance companies to include a fee of $500. The fee for issuing an original certificate of authority is increased to $100 and the $35 per day limit for the examination fee is removed.

House Bill No. 1214 includes nonresident drivers in the group of drivers whose licenses or operating privileges must be suspended within 60 days of a reportable accident if the driver is unable to provide adequate proof of financial responsibility. Insurance companies are allowed to send proof of insurance electronically to the Highway Department. Also, the bill repeals the requirement that an insurance company notify the Highway Department before cancelling a motor vehicle insurance policy, and allows that notice to be provided within 10 days after the cancellation.