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BULLETIN 89-1

TO: ALL INSURANCE COMPANIES LICENSED IN NORTH DAKOTA

FROM: Earl R. Pomeroy, Commissioner of Insurance

DATE: May 19, 1989

SUBJECT: 1989 Insurance Legislation

This Bulletin contains a brief description of certain insurance-related bills passed by the 51st North Dakota Legislative Assembly. Please note that certain insurance-related bills have been omitted from this summary because they did not have a general impact on all companies.

Most of these bills will become law on July 1, 1989. The text of each bill is available from the Secretary of State's Office (phone #(701) 224-2905; mailing address: The Honorable Jim Kusler, Secretary of State, First Floor, State Capitol, Bismarck, North Dakota 58505).

Most 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 suggest you first obtain a copy of the bill to review its provisions. After reviewing the bills, please feel free to contact the North Dakota Insurance Department if you still have questions.

INSURANCE PREMIUM TAXES

House Bill No. 1029 raises the rate of premium tax for health, accident, and other lines of insurance, except life insurance, from 1.25 to 1.75 percent. A health service corporation is entitled to a tax credit against the tax due for an amount equal to the examination fees the corporation must bear as a result of any examination by the Commissioner of Insurance of its books and financial condition and a health maintenance organization is entitled to a tax credit for expenses of examinations by the Commissioner or the State Department of Health and Consolidated Laboratories. The Act is effective for taxable years after December 31, 1988.

House Bill No. 1448 allows insurance premium taxes to be paid on the next succeeding business day if the due date falls on a Saturday or legal holiday.

INSURANCE CONTRACTS, AGENTS, AND RATES

House Bill No. 1064 provides that an insurable interest, with reference to personal insurance, includes, in the case of a

religious, educational, eleemosynary, charitable, or benevolent organization, a lawful interest in the life of an individual insured if that individual has executed a written consent to the insurance contract.

House Bill No. 1408 allows the Commissioner of Insurance, when establishing rates for insurance companies, to consider loss experience outside this state to the extent the Commissioner deems those areas representative of this state.

House Bill No. 1489 provides that no continuing education is required of a life insurance agent who is at least 62 years of age, who has a combined total years of licensure as an agent and years of age which equals 85, and whose commissions from new business each year do not exceed \$10,000. Also, no continuing education is required of an insurance agent who sells only group credit life or accident and health insurance to cover an indebtedness. Reports of continuing education are to be made every two rather than every four years.

COVERAGE AND BENEFITS

Property and Casualty Insurance

House Bill No. 1540 provides that a binder or contract for temporary farm and personal lines of insurance may be made orally or in writing and is deemed to include all the terms of a standard fire insurance policy and applicable endorsements. A duly authorized binder must be accepted as evidence of insurance coverage required as a condition of financing the purchase of property, except that a mortgagee or lender is not required to accept a renewal or extension of the binder.

Senate Bill No. 2205 requires that a bond or surety company who terminates a contractor's bond for any reason must give the bond recipient and Secretary of State sixty days notice before the termination takes effect.

Motor Vehicle Insurance

House Bill No. 1155 rewrites completely the previous uninsured and underinsured motorist coverage statutes with many significant changes such as the elimination of certain types of vehicles for mandatory coverage, a reduction of the minimum requirement for underinsured motorists to \$25,000/\$50,000, and elimination of the difference in limits calculation of benefits.

House Bill No. 1242 permits a law enforcement officer to request proof of liability insurance when stopping an individual for some other reason. The bill provides for a specific fine if the

Bulletin 89-1
May 18, 1989
Page Three

person fails to provide satisfactory evidence of insurance coverage within 20 days.

House Bill No. 1351 requires that any person other than law enforcement or judicial officers who request drivers abstracts must provide a reason in writing for the request along with the person or firm for whom the request is made.

House Bill No. 1409 provides that an insured who purchases optional excess no-fault benefits is entitled to optional excess no-fault benefits commencing upon the exhaustion of the basic no-fault benefits if the insured person or that person's relative is injured in a motor vehicle not owned by the insured or as a pedestrian.

House Bill No. 1467 increases the time for filing no-fault insurance claims in an action to recover further benefits for a loss in which basic or optional excess no-fault benefits have been paid from two to four years after the last payment of benefits; in an action for benefits for survivors' income loss and replacement services loss and funeral and burial expenses from one to two years after the death or from four to six years after the accident from which death results, whichever is earlier; in an action to recover further survivors' income loss or replacement services loss benefits from two to six years after the last payment of benefits; and if basic or optional excess no-fault benefits have been paid for loss suffered by an injured person before death, an action to recover survivors' income loss or replacement services loss benefits from one to two years after death or from four to six years after the last benefits are paid, whichever is earlier.

Senate Bill No. 2098 requires motor vehicle liability insurance policies for private passenger automobiles to include property damage coverage for rented automobiles. The insurer must inform the insured of the company's coverage of rental vehicles. Notice of rental vehicle coverage must be given with the first renewal notice made after the Act becomes effective. No rental car company may require, as a condition to its rental contract, that the renter make a deposit for a prior payment of damage or loss of use of a rental vehicle. For each day a damaged vehicle is out of service because of damage to the vehicle while rented to others, not to exceed 15 days, the rental car company is entitled to collect 60 percent of the daily rental fee applicable to the contract.

Senate Bill No. 2271 requires all rate filings with the Commissioner of Insurance to provide for an appropriate reduction in insurance premium charges for at least a two-year period for the principal operators of motor vehicles who successfully complete

a motor vehicle accident prevention course. If an insurance policy insures two or more motor vehicles, the reduction applies only to the motor vehicle principally operated by the person who satisfactorily completed the course. The reduction does not apply to an operator who is subject to an experience rating or a driver education premium reduction.

Senate Bill No. 2316 requires the occupants of the front seat of a motor vehicle to wear a properly adjusted and fastened safety belt.

Life and Health Insurance

House Bill No. 1123 prohibits an insurer from rescinding a long-term care insurance policy after it has been in effect for six months except upon a showing by the insurer that the insured knowingly misrepresented relevant facts relating to the insured's health. Coverage for preexisting conditions may be excluded only if the loss or confinement begins within six months of the effective date of coverage. Long-term care insurance policies or certificates may not be delivered if the policy or certificate conditions eligibility for any benefits on a prior hospitalization requirement or conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care. Any long-term care insurance policy or certificate containing limitations or conditions for eligibility other than those described above must clearly label the limitations or conditions in the manner prescribed by the Commissioner of Insurance. The Act establishes guidelines for an outline of coverage that must be delivered to an applicant for long-term care insurance at the time of initial solicitation.

House Bill No. 1124 prohibits any Medicare supplement insurance policy, contract, or certificate in force in the state to contain benefits that duplicate benefits provided by Medicare. No person may provide compensation to its agents which is greater than the renewal compensation that would have been paid on an existing policy if the existing policy is replaced by another policy with the same company where the new policy's benefits are substantially similar to the benefits under the old policy.

House Bill No. 1370 provides that evidences of coverage in a health maintenance organization health care plan or a health benefit plan issued by a health care insurer must contain a provision that the enrollee or covered person is entitled to coverage for health care services provided by a provider not under contract with or employed by the health maintenance organization or health care insurer if the health care services through a provider under contract with the organization are not available within 50 miles of the enrollee's or covered person's

residence and if the provider not under contract furnishes the health care services for the same cost or less as a provider under contract would have furnished the services.

House Bill No. 1391 requires all health insurance policies and certificates to provide coverage for mammogram examinations for women who meet certain age requirements.

House Bill No. 1652 provides that a person may return a life insurance policy within 20 days of the delivery of the policy and receive a refund of the premium if the person is not satisfied with the policy for any reason. Any person who is at least 65 years of age may return a long-term care insurance policy within 30 days of delivery if the person is not satisfied for any reason. An individual under 65 years of age may return a long-term care insurance policy within 10 days of delivery if the person is not satisfied for any reason.

Senate Bill No. 2283 prohibits a third-party payor from restricting a beneficiary's choice of pharmacy. Any pharmacist licensed in this state may participate as a preferred provider under a third-party payor's contract. The department of Human Services may exclude from participation in the federal medical assistance program any pharmacist who does not comply with state and federal requirements.

Senate Bill No. 2416 provides that health policies and certificates issued or renewed after January 1, 1990, must provide coverage for temporomandibular joint disorder and craniomandibular disorder. The treatment for such disorders must be administered or prescribed by a physician or a dentist and benefits for such coverage may be limited to a lifetime maximum of \$8,000 for surgery and \$2,000 for nonsurgical treatment.

Senate Bill No. 2464 revises certain definitions for mandated group health substance abuse and mental disorder coverage. The new definitions now clarify that services to be covered may only be provided by a licensed physician or psychologist listed on the National Register of Health Service Providers in Psychology or certain addiction counselors or social workers providing services within the scope of their license. Out patient benefit coverage for mental disorders changes from 20 visits to 30 hours.

INSURANCE COMPANIES

House Bill No. 1142 revises minimum capital and surplus requirements for domestic insurance companies and health maintenance organizations.

House Bill No. 1395 requires an insurer providing commercial

Bulletin 89-1
May 18, 1989
Page Six

multiple peril insurance to conduct any audits to determine premium owed or to be refunded within 180 days after the expiration of the policy. The bill prohibits insurers from estimating the amount of premium owed or to be refunded.

Senate Bill No. 2282 allows domestic insurance companies to invest up to five percent of their admitted assets in mineral interests and five percent of their admitted assets in tangible personal property if there is a right to receive fixed obligatory payments for the use or purchase of the property or in bonds secured by tangible personal property.

Senate Bill No. 2299 allows domestic insurance companies, under certain conditions and with the prior approval of the Commissioner of Insurance, to invest in financial futures contracts provided the amount purchased does not exceed five percent of the company's assets and in stock options provided that the amount purchased does not exceed five percent of the company's assets.

Senate Bill No. 2491 allows the Commissioner of Insurance to designate independent contract examiners to perform examinations of insurance companies permitted by law to be conducted by the Commissioner of Insurance. Independent contract examiners must be paid directly by the company examined and no person providing services on a contract or fee basis may be in the classified service of the state.

Senate Bill No. 2093 provides that if no civil monetary penalty is otherwise provided by law, a person who violates an insurance law is subject to payment of an administrative monetary penalty of up to \$10,000.

INSURANCE PREMIUM FINANCE COMPANIES

Senate Bill No. 2287 provides that no person may finance insurance premiums without a license as an insurance premium finance company. The Act does not apply to resident insurance agents or financial institutions licensed to do business in the state.

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