

STATE OF NORTH DAKOTA
BEFORE THE COMMISSIONER OF INSURANCE

In the Matter of the Promulgation of Proposed Rules)	FINAL ORDER ADOPTING RULES
)	FILE NO. RU-03-165

THIS MATTER regarding proposed changes to N.D. Admin. Code Title 45 came before the North Dakota Commissioner of Insurance for consideration. The Commissioner, having published notice, having held a public hearing, having considered the testimony and filed comments of all interested persons, and having been otherwise fully advised in the premises, **FINDS AND CONCLUDES THAT:**

1. A Notice of Intent to Amend Administrative Rules describing the proposed rule changes was prepared and filed on July 27, 2005. The North Dakota Insurance Department staff also prepared a Statement Regarding the Need for a Regulatory Analysis and a Small Company Economic Impact Statement and filed it on July 27, 2005.
2. The Notice and Regulatory Analysis were made available to all interested persons.
3. An Abbreviated Notice of Intent to Amend Administrative Rules was properly published once in each official county newspaper at least 30 days prior to the date of the hearing.
4. A hearing was held on September 19, 2005, in Bismarck, North Dakota, to take comments on the proposed rules. Notice of the hearing was published in all county newspapers as required by law. Department staff testified at the hearing.
5. At the hearing, all interested persons were given a reasonable opportunity to submit relevant oral or written comments and to examine witnesses providing comment at the hearing. The record was held open for additional written comments after the hearing.

6. In promulgating the final version of the rules in the form attached to this Order, the Commissioner considered all testimony given at the hearings and all written comments that have been filed in the docket.

**I. N.D. ADMIN. CODE CHAPTER 45-02-03
LICENSING OF ADMINISTRATORS**

7. This rule change adopts the changes provided for in Senate Bill No. 2187 relating to increasing fees and repeals the request for waiver procedure.

8. No comments were submitted by the public.

**II. N.D. ADMIN. CODE CHAPTER 45-02-04
PRODUCER CONTINUING EDUCATION REQUIREMENTS**

9. This rule change implements House Bill No. 1113, which revised and reduced the number of continuing education hours required for insurance producers from 30 hours to 24 hours every two years, of which 3 must be in ethics.

10. No comments were submitted by the public.

**III. N.D. ADMIN. CODE SECTIONS 45-03-15-01 AND 45-03-15-02
ACCOUNTING PRACTICES AND PROCEDURES**

11. This rule updates references to the NAIC Accounting Practices and Procedures Manual to reflect the March 2005 version of the manual.

12. No comments were submitted by the public.

**IV. N.D. ADMIN. CODE CHAPTER 45-05-08
AUTOMOBILE NO-FAULT INSURANCE**

13. This rule repeals N.D. Admin. Code Chapter 45-05-08 to eliminate binding arbitration in settling disputes between no-fault carriers as provided for in Senate Bill No. 2047.

14. No comments were submitted by the public.

**V. N.D. ADMIN. CODE SECTION 45-04-10-07(2)
INSURANCE COMPANY ADVERTISING CERTIFICATION**

15. This rule repeals the rule that requires that a life or annuity company must annually certify to the Insurance Department that it has complied with North Dakota's advertising rules.

16. No comments were submitted by the public.

**VI. N.D. ADMIN. CODE ARTICLE 45-08
COORDINATION OF BENEFITS**

17. This rule updates existing health and accident coordination of benefit rules to adopt the updated NAIC model. The updated model more clearly identifies the circumstances under which a health or accident company is primary, the circumstances when it is secondary, and describes the manner in which benefits must be paid if a company is secondary.

18. Two interested parties filed comments addressing the proposed change found in N.D. Admin. Code § 45-08-01.2-06 regarding required language on a health and accident company's explanation of benefits. Comments were received from Blue Cross Blue Shield of North Dakota (BCBSND) and America's Health Insurance Plan (AHIP). Both argued that the required wording would cause confusion among policyholders and asked that the provision be removed from the proposed rules. The Department reviewed the comments and after further research agreed with the BCBSND and AHIP comments. N.D. Admin. Code § 45-08-01.2-06 has been removed from the proposed rules and the rules have been renumbered.

19. State Farm, through its attorney, Pat Ward of the Zuger Law Firm, Bismarck, North Dakota, recommended adding language to the definition of "plan" in N.D. Admin. Code § 45-08-01.2-01(10)(c)(6) to make it clear that the rules did not conflict with the no-fault coordination of benefits provisions found in N.D. Cent. Code § 26.1-41-13. The additional wording has been added to the definition.

**VII. N.D. ADMIN. CODE ARTICLE 45-12
BOILER INSPECTIONS**

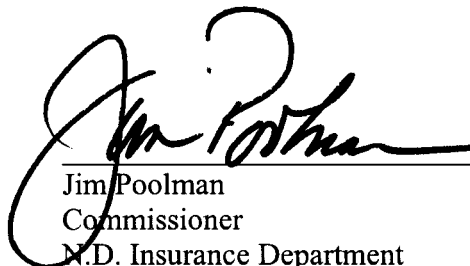
20. These rules allow for the appointment of additional special boiler inspectors to implement the law changes in House Bill No. 1116; update existing rules to adopt the most current provisions of ASME, the National Board of Boiler Inspectors, and national building codes relating to the installation, maintenance, and repair of boilers; and reduce the effective period for a certificate of inspection for a steam engine boiler from 24 months to 12 months to implement the law change in House Bill No. 1116.

21. No comments were submitted by the public.

ORDER

IT IS, THEREFORE, ORDERED that the rules in the form attached to this Order, modified to include the changes recommended, be adopted and filed in accordance with applicable provisions of state law to become effective on the date of publication by the North Dakota Legislative Council.

DATED this 10th day of November, 2005.



Jim Poolman
Commissioner
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