

LEGISLATIVE BILL 21

Approved by the Governor March 17, 2021

Introduced by Williams, 36.

A BILL FOR AN ACT relating to insurance; to amend sections 44-322, 44-3,127, 44-32,119, and 44-5814, Reissue Revised Statutes of Nebraska, and sections 44-3902 and 44-3903, Revised Statutes Cumulative Supplement, 2020; to provide for distribution of administrative penalties in accordance with Article VII, section 5, of the Constitution of Nebraska; to change requirements for transmittal and review of applications related to health maintenance organizations; to redefine a term; to change continuing education exceptions; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 44-322, Reissue Revised Statutes of Nebraska, is amended to read:

44-322 (1)(a)(i) Every insurance company holding a certificate of authority to transact the business of insurance in this state shall file with the director or, if required by the director, with the National Association of Insurance Commissioners, on or before March 1 of each year, an annual financial statement for the year ending December 31 immediately preceding on forms prescribed by the director which conform substantially to the forms adopted by the National Association of Insurance Commissioners, except that fees, premium tax payments, and other payments associated with such filings shall be paid to the director.

(ii) The financial statement shall be prepared in accordance with annual statement instructions and accounting practices and procedures manuals as prescribed by the director which conform substantially to the annual statement instructions and the Accounting Practices and Procedures Manuals adopted by the National Association of Insurance Commissioners.

(iii) The salaries and compensation of the officers and any other information required by the director shall be filed with the director.

(iv) Every insurance company subject to this section shall make such other periodic financial filings as the director may reasonably require.

(b)(i) Within seven days after the failure of an insurance company to comply with the requirements of subdivision (1)(a) of this section, the director shall notify the insurance company of such failure.

(ii) Subject to subdivision (1)(b)(iii) of this section, if an insurance company fails to comply with the requirements of subdivision (1)(a) of this section and any rules and regulations adopted and promulgated under such subdivision and any orders issued under such subdivision, (A) such insurance company shall pay a fine of ~~forfeit~~ one hundred dollars for each day thereafter such failure continues and the insurance company continues to transact any business of insurance and (B) in addition to the fine ~~forfeiture~~ required under subdivision (1)(b)(ii)(A) of this section, the director may suspend or refuse to renew the certificate of authority of the insurance company until it has complied with the requirements of subdivision (1)(a) of this section and any rules and regulations adopted and promulgated under such subdivision and any orders issued under such subdivision. The director shall remit all All such fines forfeitures collected by the director shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska credit to the permanent school fund.

(iii) For good and sufficient cause shown, the director may grant a reasonable extension of time not to exceed thirty days within which the financial statement may be filed as required under subdivision (1)(a) of this section without the fine ~~forfeiture~~ required under subdivision (1)(b)(ii)(A) of this section and without any suspension or refusal to renew authorized under subdivision (1)(b)(ii)(B) of this section.

(2) Every insurance company holding a certificate of authority to transact the business of insurance in this state shall participate in the National Association of Insurance Commissioners Insurance Regulatory Information System, including the payment of all fees and charges of such system, except as exempted by the director. Each participating insurance company shall file with the National Association of Insurance Commissioners on or before March 1 of each year a copy of its annual financial statement along with any additional filings required by the director for the immediately preceding year. The financial statement so filed shall be in the same format and scope as that required by subsection (1) of this section and shall include a signed jurat page and actuarial certification except as exempted by the director. Each participating insurance company shall file with the National Association of Insurance Commissioners any amendments and addendums to the financial statement and annual and quarterly financial statement information in computer readable format as required by the Insurance Regulatory Information System.

Sec. 2. Section 44-3,127, Reissue Revised Statutes of Nebraska, is amended to read:

44-3,127 The All money collected by the Department of Insurance shall

~~remit all money collected as a fine or penalty shall be paid to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska who shall deposit such money in the permanent school fund.~~

Sec. 3. Section 44-32,119, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,119 (1) Upon receipt of an application for issuance of a certificate of authority, the Director of Insurance shall forthwith transmit copies of such application and accompanying documents to the Department of Health and Human Services.

(2) The Department of Health and Human Services shall determine whether the applicant has complied with sections 44-32,126 to 44-32,128 with respect to health care services to be furnished.

(3) Within forty-five days of receipt of the application for issuance of a certificate of authority, the Department of Health and Human Services shall certify to the Director of Insurance that the proposed health maintenance organization meets the requirements of such sections or notify the Director of Insurance that the health maintenance organization does not meet such requirements and specify in what respects it is deficient.

(4) This section shall not apply to an application from an applicant that only provides health care benefits pursuant to Title 42, Chapter 7, Subchapter XVIII, Part C or D, of the United States Code, commonly known as Medicare Parts C and D. If a certificate of authority was originally issued to a health maintenance organization only authorizing the provision of health care benefits through Medicare Part C or D and such health maintenance organization expands its operations after receiving such certificate of authority, the expansion shall be treated as a new application to the Department of Insurance and transmitted to the Department of Health and Human Services for review pursuant to this section.

Sec. 4. Section 44-3902, Revised Statutes Cumulative Supplement, 2020, is amended to read:

44-3902 For purposes of sections 44-3901 to 44-3908, unless the context otherwise requires:

(1) Active participation means either (a) attendance at formal meetings of a professional insurance association where a formal business program is presented, (b) service on the board of directors or a formal committee of a professional insurance association and involvement in the activities of such board or committee, or (c) participation in industry, regulatory, or legislative meetings held by or on behalf of a professional insurance association;

(2) Department means the Department of Insurance;

(3) Director means the Director of Insurance;

(4) Licensee means a natural person who is licensed by the department as a resident insurance producer or consultant;

(5) Professional insurance association means a state or national membership organization that offers courses, lectures, seminars, or other instructional programs certified by the director as approved continuing education activities pursuant to section 44-3905, is organized as an association or corporation for the express purpose of promoting the interests of insurance licensees in this state or nationally, and is based on paid membership renewable annually or biennially for a membership fee; and

(6) Two-year period means (a) the period commencing on the date of licensing and ending on the date of expiration of the licensee's first license effective for not less than two years and (b) each succeeding twenty-four-month period beginning on the date of expiration of the licensee's first license regardless of the time period such license is in effect.

Sec. 5. Section 44-3903, Revised Statutes Cumulative Supplement, 2020, is amended to read:

44-3903 Sections 44-3901 to 44-3908 shall not apply to the following persons:

(1) Licensees for whom an examination is not required under the laws of this state;

(2) Licensees who sell or consult only in the areas of credit life insurance and credit accident and health insurance;

(3) Licensees who sell or consult only in the area of travel insurance;

(4) Licensees who sell or consult only in the area of self-service storage facility insurance pursuant to section 44-4069; ~~and~~

(5) Licensees holding such limited or restricted licenses as the director may exempt; ~~and -~~

(6) Licensees in their first license period if that first license expires less than one year after the date of licensing.

Sec. 6. Section 44-5814, Reissue Revised Statutes of Nebraska, is amended to read:

44-5814 (1) Each third-party administrator shall file an annual report for the preceding calendar year with the director on or before March 1 of each year or within such extension of time therefor as the director for good cause may grant. The annual report shall be in the form and contain such matters as the director prescribes and shall be verified by at least two officers of the third-party administrator.

(2) The annual report shall include the complete names and addresses of all insurers with which the third-party administrator had a written agreement during the preceding fiscal year.

(3) At the time of filing its annual report, the third-party administrator

shall pay to the director a filing fee of two hundred dollars.

(4)(a) Within seven business days after the failure of a third-party administrator to comply with the requirements of this section, the director shall notify the third-party administrator of such failure.

(b) Subject to subdivision (4)(c) of this section, if a third-party administrator fails to comply with the requirements of this section and any rules and regulations adopted and promulgated under this section and any orders issued under this section:

(i) Such third-party administrator shall ~~pay a fine of forfeit~~ fifty dollars for each day thereafter such failure continues and the third-party administrator continues to transact any business of insurance; and

(ii) In addition to the ~~fine forfeiture~~ required under subdivision (4)(b)(i) of this section, the director may suspend the certificate of authority of the third-party administrator until it has complied with the requirements of this section, any rules and regulations adopted and promulgated under this section, and any orders issued under this section. The director shall remit all ~~All such fines forfeitures collected by the director shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska credit to the permanent school fund.~~

(c) For good and sufficient cause shown, the director may grant a reasonable extension of time not to exceed thirty days within which the annual report may be filed as required under this section without the ~~fine forfeiture~~ required under subdivision (4)(b)(i) of this section and without any suspension authorized under subdivision (4)(b)(ii) of this section.

Sec. 7. Original sections 44-322, 44-3,127, 44-32,119, and 44-5814, Reissue Revised Statutes of Nebraska, and sections 44-3902 and 44-3903, Revised Statutes Cumulative Supplement, 2020, are repealed.