

UNIFORM INDIVIDUAL ACCIDENT AND SICKNESS POLICY PROVISION LAW

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Section 1. Definition of Accident and Sickness Insurance Policy

The term "policy of accident and sickness insurance" as used herein includes any policy or contract covering the kind or kinds of in

Drafting Note:

be without prejudice to any claim originating while the policy is in force. The preceding sentence shall not apply to accident insurance only policies.

(5) A provision as follows:

Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of the application by the insurer or, lacking approval, upon the forty-fifth day following the date of the conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of the application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten (10) days after that date. In all other respects the insured and insurer shall have the same rights as they had under the policy immediately before the due date of the defaulted premium, subject to the provisions of any rider which may be attached in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premiums have not been previously paid, but not to any period more than sixty (60) days prior to the date of reinstatement.

Drafting Note: The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums until at least age 50 or, in the case of a policy issued after age 44, for at least five years from its date of issue.

Drafting Note: For a statement of interpretation of this provision. See 1963 NAIC Proceedings II 518-17.

- (7) A provision as follows:

Claim Forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If forms are not furnished within fifteen (15) days after the giving of notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, a proof covering the occurrence, the character and the extent of the loss for which claim is made.

- (8) A provision as follows:

Proofs of Loss: Written proof of loss must be furnished to the insurer at its office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety (90) days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety (90) days after the date of the loss. Failure to furnish proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within that time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

- (9) A provision as follows:

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entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of the payment.

Subject to any written direction of the insured in the application or otherwise, all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.

- (11) A provision as follows:

Physical Examinations and Autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

- (12) A provision as follows:

Legal Actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty (60) days after written proof of loss has been furnished in accordance with the requirements of this policy.

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expense during the period, this insurer shall be liable only for the proportionate amount of the benefits for allowable expense under this policy during the period as the total

coverage, individual and family coverage, Blue Cross Blue Shield coverage and other prepayment plans, group practice and individual practice plans, uninsured benefits provided by labor management trusteed plans, or union welfare plans, or by employer or employee benefit organizations, benefits provided under governmental programs, workmen's compensation insurance or any coverage required or provided by any other statute, and medical payments under automobile liability or personal liability policies. Other valid coverage shall not include payments made under third party liability coverage as a result of a determination of negligence. An insurer may at its option include a subrogation clause in its policy. The insurer may require, as part of the proof of claim, the information necessary to administer this provision.

(5) A provision as follows:

Overinsurance: After the loss of time benefit of this policy has been payable for ninety (90) days, the benefit will be adjusted, as provided below, if the total amount of unadjusted loss of time benefits provided in all valid loss of time coverage upon the insured should exceed [insert amount] percent of the insured's earned income; provided, however, that if the information contained in the application discloses that the total amount of loss of time benefits under this policy and under all other valid loss of time coverage expected to be effective upon the insured in accordance with the application for this policy exceeded [insert amount] percent of the insured's earned income at the time of such application, the higher percentage will be used in place of [insert amount] percent. The adjusted loss of time benefit under this policy for any month shall be only such proportion of the loss of time benefit otherwise payable under this policy as (i) the product of the insured's earned income and [insert amount] percent (or, if higher, the alternative percentage described at the end of the first sentence of this provision) bears to (ii) the total amount of loss of time benefits payable for such month under this policy and all other valid loss of time coverage on the insured (without giving effect to the overinsurance provision in this or any other coverage) less in both (i) and (ii) any amount of loss of time benefits payable under other valid loss of time coverage which does not contain an overinsurance provision. In making the computation, all benefits and earnings shall be converted to a consistent [insert "weekly" if the loss of time benefit of this policy is payable weekly, "monthly" if the benefit is payable monthly, etc.] basis. If the numerator of the foregoing ratio is zero or is negative, no benefit shall be payable under this policy. In no event shall this provision operate to reduce the total combined amount of loss of time benefits for such month payable under this policy and all other valid loss of time coverage below the less of \$300 and the total combined amount of loss of time benefits determined without giving effect to any overinsurance provision, or operate to increase the amount of benefits payable under this policy above the amount which would have been paid in the absence of this provision, or take into account or operate to reduce any benefit other than the loss of time benefit.

For purposes of this provision:

- (a) "Earned income," except where otherwise specified, means the greater of the monthly earnings of the insured at the time disability commences and his average monthly earnings for a period of two (2) years immediately preceding the commencement of disability, and shall not include any investment income or any other income not derived from the insured's vocational activities.
- (b) "Overinsurance provision" shall include this provision and any other provision with respect to any loss of time coverage which may have the effect of reducing

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shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

D. Order of Certain Policy Provisions

The provisions which are the subject of Subsections A and B of this section, or any corresponding provisions which are used in the policy in accordance with such subsections, shall be printed in the consecutive order of the provisions in such subsections or, at the option of the insurer, any such provisions may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

E. Third Party Ownership

The word "insured," as used in this Act, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to indemnities, benefits and rights provided therein.

F. Requirements of Other Jurisdictions

- (1) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this Act and which is prescribed or required by the law of the state under which the insurer is organized.
- (2) Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

G. Filing Procedure

The Commissioner may make such reasonable rules and regulations concerning the procedure for the filing or submission of policies subject to this Act as are necessary, proper or advisable to the administration of this Act. This provision shall not abridge any other authority granted the

B. Policy Conflicting with this Act

A policy delivered or issued for delivery to any person in this state in violation of this Act shall be held valid but shall be construed as provided in this Act. When any provision in a policy subject to this Act is in conflict with any provision of this Act, the rights, duties and obligations of the insurer, the insured and the beneficiary shall be governed by the provisions of this Act.

Section 5. Application

A. The insured shall not be bound by any statement made in an application for a policy unless a copy of the application is attached to or endorsed on the policy issued as a part thereof. If any such policy delivered or issued for delivery to any person in this state shall be reinstated or renewed, and the insured or the beneficiary or assignee of the policy shall make written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall within fifteen (15) days after the receipt of the request at its home office or any branch office of the insurer, deliver or mail to the person making the request, a copy of the application. If the copy shall not be so delivered or mailed, the insurer shall be precluded from introducing the application as evidence in any action or proceeding based upon or involving the policy or its reinstatement or renewal.

B. No alteration of any written application for any such policy shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

C. The falsity of any statement in the application for any policy covered by this Act may not bar the right to recovery thereunder unless such false statement is made in violation of the provisions of this Act.

Section 8. Non-Application to Certain Policies

Nothing in this Act shall apply to or affect:

- A. Any policy of workmen's compensation insurance or any policy of liability insurance with or without supplementary expense coverage therein; or
- B.

Section 12. Effective Date of Act

This Act shall take effect on the [insert day] of [insert month], 19 [insert year]. A policy, rider or endorsement which could have been lawfully used or delivered or issued for delivery to any person in this state immediately before the effective date of this Act may be used or delivered or issued for delivery to any such person during five (5) years after the effective date of this Act.

APPENDIX A

PROPOSED REGULATION REGARDING OVERINSURANCE PROVISIONS

Each individual health insurance policy, delivered or issued for delivery in this State on or after [insert effective date], which contains the overinsurance provisions authorized in [insert reference to statutory section which contains Section 3B(4) of the Uniform Individual Accident and Sickness Policy Provisions Law] or [insert reference to statutory section which contains Section 3B(5) of the Uniform Individual Accident and Sickness Policy Provisions Law] or, at the option of the insurer, the application for such policy, shall contain, or have attached to or be stamped or endorsed to add, a statement to the effect that benefits under the policy are