



Legislative & Regulatory Report

NATIONAL ALLIANCE OF LIFE COMPANIES *An Association of Life and Health Insurance Companies*

November 30, 2009

Table of Contents

Alabama	1
Arkansas	1
Louisiana	2
Maryland	2
Rhode Island	3
South Dakota	5
Wisconsin	5
2010 State Legislative Sessions	6
2010 State Legislature Lineup	7

The news in this publication, including links to background and supplemental information on state websites, is available on the NALC members website at <http://members.nalc.net>.

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Alabama

Notice of Regulation Hearing

Notice is hereby given that a hearing will be held at 10:00 AM on Tuesday, December 15, 2009, at the offices of the Alabama Department of Insurance, 201 Monroe Street, Suite 1700, Montgomery, Alabama, as follows:

- Revision of Section 19 of Regulation No. 71 [Rule 482-1-071-.19], which sets forth the requirements for approval of Medicare supplement advertisements and marketing material. Under the revisions, approval of marketing material will only be granted if, in the judgment of the Commissioner, the material complies with the requirements of state statutes and regulations. The revision establishes deadlines for filing of Medicare supplement marketing material in use in the state. (2 pages)
- Revision of Section 20 of Regulation No. 71 [Rule 482-1-071-.20], which sets forth clarification regarding standards for marketing and marketing practices. Revisions include the establishment of marketing procedures that are not false or deceptive and have received prior approval of the Commissioner. Revisions also include criteria for direct or indirect marketing practices. (3 pages)
- Revision of Section 7 of Regulations No. 146 [Rule 482-1-146-.07], which revises the composition of the Department's Review Committee for Criminal History Disclosure Forms, Felony Convictions and 18 U.S.C. § 1033 written consent. (4 pages)
- Adoption of new proposed Regulation No. 149 [Chapter 482-1-149], which sets forth requirements for the filing of loss reserve actuarial opinions, actuarial opinion summary and actuarial report and workpapers by property and casualty insurers. (8 pages)

Any person wishing to submit testimony at said hearing is requested to submit said testimony in writing to the Alabama Department of Insurance, Attention: Legal Division, Post Office Box 303351, Montgomery, Alabama 36130-3351. Any written submission of testimony prior to the hearing will not preclude anyone from making an oral or written presentation at the hearing.

A copy of the regulations may be obtained at no charge via electronic mail. You may send an e-mail request to Brenda.Camp@insurance.alabama.gov. For additional information, contact Contact: Elizabeth Bookwalter, Associate Counsel: Elizabeth.Bookwalter@insurance.alabama.gov.

This notice is available at <http://www.aldoi.gov/currentnewsitem.aspx?ID=749>.

Arkansas

Notice of Public Hearing

The Arkansas Insurance Department will hold a public hearing to consider changes to Rule 63, Preneed Insurance Replacement and Prepaid Funeral Benefits Contract Cancellation Requirements. The hearing is scheduled for December 15, 2009 in the 1st Floor Hearing Room, 1200 West Third Street, Little Rock, AR 72201-1904.

The purpose of this Rule is to increase written notice and disclosure to insureds who are replacing life insurance policies, certificates of life insurance coverage, or annuities that fund prepaid funeral benefits contracts. The Rule also provides standards for cancellations or transfers of prepaid funeral benefits contracts.

Interested persons may send comments to Booth Rand at booth.rand@arkansas.gov. The rule is available at <http://www.insurance.arkansas.gov/Legal%20Dataservices/Proposedrnrpage.htm>.

Louisiana

Regulation 98-Annual Financial Reporting

The Louisiana Department of Insurance has given notice of the promulgation of Regulation 98 pursuant to R.S. 22:671 et seq., more particularly described as the "Audited Financial Reports Law".

Regulation 98 is needed to make certain changes, clarify the current language and to implement these annual financial reporting requirements which will improve the surveillance of the financial condition of insurers by the Department of Insurance and will further the National Association of Insurance Commissioners' (NAIC) unified effort toward reciprocity among the states.

The purpose of Regulation 98 is to improve the surveillance of the financial condition of insurers by the department by requiring:

1. an annual audit of financial statements reporting the financial position and the results of operations of insurers by independent certified public accountants;
2. the communication of internal control related matters noted in an audit; and
3. a management's report of internal control over financial reporting.

Every insurer as defined by §13705 shall be subject to Regulation 98. Insurers having direct premiums written in this state of less than \$1,000,000 in any calendar year and fewer than 1,000 policyholders or certificate holders of direct written policies nationwide at the end of the calendar year shall be exempt from Regulation 98 for that calendar year unless the commissioner makes a specific finding that compliance is necessary for the commissioner to carry out statutory responsibilities. Insurers having assumed premiums pursuant to contracts and/or treaties of reinsurance of \$1,000,000 or more will not be exempt.

The rule is available at:

http://www.lidi.la.gov/docs/CommissionersOffice/legal/Regulations/Reg98_Cur_AnnualFinancialRepor.pdf

Maryland

Small Employer Definition and Affiliated Companies (Bulletin 09-26)

The purpose of this bulletin is to clarify a portion of the definition of small employer found in the Maryland Health Insurance Reform Act, Insurance Article, §15-1203, Annotated Code of Maryland. Two questions have been presented to the Maryland Insurance Administration regarding the portion of the small employer definition that describes affiliated companies. Section 15-1203(b)(3) reads in part:

“(3) In determining the group size specified under paragraph (1)(i) of this subsection:

(i) companies that are affiliated companies or that are eligible to file a consolidated federal income tax return shall be considered one employer;”

The first question that was raised was whether companies that want to be considered affiliated companies are required to be eligible to file a consolidated federal income tax return. The answer to this question is “No.” The second question was what are “affiliated companies”? Although the term “affiliated companies” is not defined in §15-1203 of the Insurance Article, the term “affiliate” is defined in other parts of the Insurance Article. Section 7-101(b) of the Insurance Article defines “affiliate” to mean “a person that directly or

indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.” Similarly, the Court of Special Appeals has said that “affiliated entities” for the purposes of the Telephone Consumer Protection Act must be related by ownership or operational control. *Worsham v. Nationwide Ins. Co.*, 138 Md. App. 487, 506-07 (2001), cert. denied, 365 Md. 268 (2001). The MIA has utilized these definitions in reviewing whether companies are truly affiliated for the purposes of § 15-1203.

The Maryland Insurance Administration is concerned that some carriers may use the concept of affiliated companies to avoid the dictates of the Maryland Health Insurance Reform Act. While affiliated companies include companies that have common ownership, as described above, common ownership is only one factor to be considered. Before issuing one health benefit plan contract to cover more than one company’s employees, a carrier is responsible for ensuring that the relationship among the companies satisfies the requirement that they be “affiliated companies;” that each company is related through common ownership or common control.

Example: The Maryland Insurance Administration took action against a regulated entity that illegally combined employer groups through an entity in order to avoid the mandates of the Maryland Health Insurance Reform Act among other violations. Instead of selling a small employer health benefit plan contract to each of the member companies, a non-small employer health benefit contract was issued to the entity covering the unrelated and unaffiliated member companies’ employees, in violation of Maryland law.

Carriers should also be aware that illegally combining the risks of multiple employees through a multiple employer welfare arrangement, (“MEWA”), subjects the MEWA to state licensing requirements. In this regard, MEWA’s are required to hold certificates of authority to operate in Maryland.

Also, for the purposes of counting employees, remember that when insuring Professional Employer Organizations (PEO) or employer leasing companies, carriers are required to count employees at the client employer level.

The bulletin is available at:

<http://www.mdinsurance.state.md.us/sa/jsp/news/Bulletins.jsp?divisionName=Bulletins&pageName=/sa/jsp/news/Bulletins.jsp>.

Rhode Island

New Bulletins

The following bulletins are available at <http://www.dbr.state.ri.us/news/>.

2009 Legislative Changes (Bulletin 2009-8)

The following legislative amendments were enacted during the 2009 session of the Rhode Island General Assembly. This bulletin is being provided for informational purposes only and may not be an all-inclusive list of amendments that impact the insurance industry. Licensees should refer to the bills themselves to determine the impact they have on the licensee. The full bulletin includes additional legislative actions.

Examinations

H5903 -- Effective November 13, 2009: <http://www.rilin.state.ri.us/BillText09/HouseText09/H5903.pdf>

S0387 -- Effective November 4, 2009: <http://www.rilin.state.ri.us/BillText09/SenateText09/S0387aa.pdf>

This legislation was introduced at the request of the Department to update the insurance examination statute to the current NAIC Model Act. In addition a section was added to clarify the process, procedures and confidentiality requirements for financial analysis of insurance companies.

Consumer Credit Insurance

H5822a -- Effective February 13, 2010: <http://www.rilin.state.ri.us/BillText09/HouseText09/H5822A.pdf>

S0465a -- Effective February 13, 2010: <http://www.rilin.state.ri.us/BillText09/SenateText09/S0465A.pdf>

This legislation was introduced at the request of the Department to update the Rhode Island Credit Life and Credit Accident and Health Acts to the current NAIC Model Act. The legislation expands the types of credit insurance subject to the Departments' oversight and adds consumer protections to those products. The Department will be amending Insurance Regulation 9 to reflect these statutory changes. Insurers are required to review current policy forms and rules to determine if revisions are required to be filed.

Group Life Insurance

H5826a -- Effective November 13, 2009: <http://www.rilin.state.ri.us/BillText09/HouseText09/H5826A.pdf>

S0463a -- Effective November 13, 2009: <http://www.rilin.state.ri.us/BillText09/SenateText09/S0463A.pdf>

This legislation was introduced at the request of the Department to add the NAIC Group Life Insurance standards adopted by most other states to the Rhode Island statutes. Insurers are required to review current policy forms and rules to determine if revisions are required to be filed. Insurers issuing group policies to trusts should review the requirements to ensure that policies comply with the statutory standards.

Life Settlements Act

H5199suba -- Effective July 1, 2010: <http://www.rilin.state.ri.us/BillText09/HouseText09/H5199Aaa.pdf>

S0229b -- Effective July 1, 2010: <http://www.rilin.state.ri.us/BillText09/SenateText09/S0229B.pdf>

This legislation is a comprehensive regulation of Life Settlement transactions based upon the National Conference of Insurance Legislators (NCOIL) Model Act. The legislation bars stranger-originated life insurance practices, requires licensing of life settlement providers and brokers, requires approval of life settlement forms, provides a basis for license suspension or revocation, provides requirements for life settlement contracts, subjects providers to reporting and examination requirements, regulates the advertisement of life settlement contracts, provides for disclosure to owners and insurers, provides requirements of and prohibited practices concerning these transactions and provides remedies and penalties for violations. The Department will be issuing further guidance as to compliance prior to July 1, 2010.

Rebating in the Sale of Insurance (Bulletin 2009-9)

Rhode Island General Laws prohibit "rebating" in the sale of insurance. R.I. Gen. Laws § 27-4-6, 27-6-46, 27-8-7, 27-9-44 and 27-29-4(8) prohibit a licensee from giving something of value either as an "inducement" or "in connection with" an insurance policy. Therefore a licensee is expressly prohibited from giving a "gift" which requires the actual purchase of an insurance policy.

However, these statutes do not prohibit the use of a "gift" as a marketing tool when the "gift" is given whether or not the individual actually purchases or renews the insurance. For example, a company or agent may offer a "gift" to all persons who receive a quote. The gift must be able to be retained whether or not a policy ever becomes effective.

Therefore, "gifts" may be offered in exchange for quotes only if: (1) the gift is not contingent on the purchase or renewal of a policy; (2) the value of the gift is minimal enough that it would not serve as an inducement to choose one policy over another similar policy; and (3) the gift is offered to the general public.

South Dakota

Notice of Public Hearing to Adopt Rules

A public hearing will be held in the Main Floor Conference Room, Anderson Building, Pierre, South Dakota, on December 22, 2009 at 10:00 a.m, to consider the adoption and amendment of proposed rules to the following:

Chapter 20:06:18

The effect of the rule is to repeal continuing education requirements that are specific to new licensees, delete unnecessary provisions pertaining to instructor CEC hours, include requirements regarding new qualifications, and clarify certain CE hours. The reason for adopting the rules is to streamline and make the Continuing Education requirements more uniform.

Chapters 20:06:39, 20:06:40, and 20:06:48

The effect of the rule is to define a Children's Health Insurance Program as creditable coverage. The reason for adopting the rules is to clarify that children covered under a Children's Health Insurance Program are considered to have had creditable coverage.

The rules are available at <http://www.state.sd.us/drr2/reg/insurance/Legal/hearing.htm>. Send comments to Melissa.Klemann@state.sd.us

Wisconsin

Resident and Nonresident Annual Billing Reminder (Bulletin)

Invoices for filing the required annual initial and renewal billings will be mailed on or shortly after **January 15, 2010**. All payments must be completed by Electronic Funds Transfer (EFT) at our Web site. No other form of payment is acceptable and all other forms will be returned unprocessed. For purposes of this bulletin, the website is <https://ociaccess.oci.wi.gov/CmpBillingWebModule/jsp/billinglogin.oci>.

When logging on to the site to complete the payment process, companies will be able to download the lists of agents associated with each invoice. The lists will include those who were initially appointed for the previous year, as well as those whose appointments are being renewed.


Each invoice will have the amount calculated for you, and no reconciliation is permitted. You may not take credit for terminating an agent at that time. All terminations must have been processed prior to January 15, 2010, or they will appear on the renewal billing. Please note that Sircon transactions are completed in real time. Companies using other business partners must allow for the transfer of data, which can cause a delay of one or more days in processing those transactions.

The initial and renewal appointment fees are \$16.00 for each resident agent per company and \$50.00 for each nonresident agent per company regardless of the number of lines of authority. These fees are established under s. 601.31 (1) (n), Wis. Stat., and s. Ins. 6.57, Wis. Adm. Code.

If you have specific questions or wish to notify our office of a change in the Agent Licensing address for your company, please contact us at ociagentlicensing@wisconsin.gov.

This entire bulletin is available at <http://oci.wi.gov/bulletin.htm>.

2010 State Legislative Sessions



State	Convenes	Adjourns
Alabama	1/12	4/22
Alaska	1/19	4/18
Arizona	1/11	5/26
Arkansas	2/8	3/9
California	1/4	8/31
Colorado	1/6	5/11
Connecticut	2/3	5/5
Delaware	1/12	6/30
Florida	3/2	5/1
Georgia	1/12	4/2
Hawaii	1/20	5/7
Idaho	1/11	4/7
Illinois	1/13	1/11/11
Indiana	11/17/09	3/14
Iowa	1/11	4/20
Kansas	1/11	4/10
Kentucky	1/5	4/1
Louisiana	3/29	6/21
Maine	1/6	4/21
Maryland	1/13	4/13
Massachusetts	1/6	1/4/11
Michigan	1/13	12/31
Minnesota	2/4	5/17
Mississippi	1/5	4/4
Missouri	1/6	5/10
Montana	No Regular 2010 Session	
Nebraska	1/6	4/16
Nevada	No Regular 2010 Session	
New Hampshire	1/6	6/30
New Jersey	1/12	1/10/11
New Mexico	1/19	2/18
New York	1/6	1/5/11
North Carolina	5/10	7/26
North Dakota	No Regular 2010 Session	
Ohio	1/5	12/31
Oklahoma	2/1	5/28
Oregon	No Regular 2010 Session	
Pennsylvania	1/5	11/30
Rhode Island	1/5	6/25
South Carolina	1/12	6/3
South Dakota	1/12	3/29
Tennessee	1/12	5/25
Texas	No Regular 2010 Session	
Utah	1/18	3/19
Vermont	1/5	5/30
Virginia	1/13	3/13
Washington	1/11	3/15
West Virginia	1/13	3/14
Wisconsin	1/19	5/26
Wyoming	2/8	3/5

2010 State Legislature Lineup

State	Governor	House			Senate		
		Dem	Rep	O/V	Dem	Rep	O/V
AK	Sean Parnell (R)	17	21	2	10	10	
AL	Bob Riley (R)	59	44	2	21	14	
AR	Mike Beebe (D)	71	28	1	27	7	1
AZ	Jan Brewer (R)	25	35		12	18	
CA	Arnold Schwarzenegger (R)	50	28	2	25	15	
CO	William "Bill" Ritter (D)	38	27		21	14	
CT	M. Jodi Rell (R)	114	37		24	12	
DE	Jack A. Markell (D)	24	17		15	6	
FL	Charlie Crist (R)	44	76		14	26	
GA	Sonny Perdue (R)	72	104	4	20	34	2
HI	Linda Lingle (R)	45	6		23	2	
IA	Chester "Chet" Culver (D)	56	44		32	18	
ID	C. L. "Butch" Otter (R)	18	52		9	28	
IL	Pat Quinn (D)	70	48		37	22	
IN	Mitchell E. Daniels (R)	52	48		17	33	
KS	Mark Parkinson (D)	48	77		9	31	
KY	Steve Beshear (D)	64	35	1	17	19	2
LA	Piyush "Bobby" Jindal (R)	52	50	3	23	16	
MA	Deval L. Patrick (D)	143	16	1	35	5	
MD	Martin O'Malley (D)	104	37		33	14	
ME	John Elias Baldacci (D)	94	56	3	20	15	
MI	Jennifer M. Granholm (D)	67	43		16	22	
MN	Tim Pawlenty (R)	87	47		46	21	
MO	Jeremiah W. Nixon (D)	73	88	2	11	23	
MS	Haley Barbour (R)	75	47		27	25	
MT	Brian Schweitzer (D)	50	50		23	27	
NC	Beverly Eaves Perdue (D)	68	52		30	20	
ND	John Hoeven (R)	36	58		21	26	
NE	Dave Heineman (R)						49*
NH	John Lynch (D)	222	176	2	14	9	1
NJ	Christopher J. Christie (R)	48	31	1	23	17	
NM	Bill B. Richardson (D)	45	25		27	15	
NV	James Arthur Gibbons (R)	28	14		12	9	
NY	David A. Paterson (D)	108	42		32	30	
OH	Ted Strickland (D)	53	46		12	21	
OK	Brad Henry (D)	39	62		22	26	
OR	Theodore R. Kulongoski (D)	36	24		18	12	
PA	Edward G. "Ed" Rendell (D)	104	98	1	20	30	
RI	Donald L. Carcieri (R)	67	6	2	33	4	1
SC	Marshall C. Sanford (R)	52	72		19	27	
SD	Mike Rounds (R)	24	46		14	20	1
TN	Phil Bredesen (D)	48	50	1	14	18	1
TX	Rick Perry (R)	73	77		12	19	
UT	Gary R. Herbert (R)	22	53		8	21	
VA	Robert F. McDonnell (R)	43	53	4	21	19	
VT	James H. "Jim" Douglas (R)	95	48	7	23	7	
WA	Christine Gregoire (D)	62	36		31	18	
WI	Jim Doyle (D)	52	47		18	15	
WV	Joe Manchin (D)	71	29		26	8	
WY	Dave Freudenthal (D)	19	41		7	23	

Legend: O/V = Other, Vacant * = Nebraska has a non-partisan, unicameral legislature