

Office of Legislative Research
Connecticut General Assembly



Insurance



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NOTICE TO READERS

This report provides brief highlights of new laws affecting insurance enacted during the 2008 regular session. Each summary indicates the public act (PA) number and effective date.

Not all provisions of the acts are included here. Complete summaries of all 2008 public acts will be available when OLR's Public Act Summary book is published; some are already on OLR's website (www.cga.ct.gov/olr/OLRPASums.asp).

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, House Clerk's Office, or General Assembly's website (www.cga.ct.gov/).

All acts summarized here are effective October 1, 2008, unless otherwise noted.

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CAPTIVE INSURANCE

PA 08-127 permits a captive insurance company (“captive”) to be licensed and domiciled (have its principal place of business) in Connecticut to transact life insurance, annuity, health insurance, and commercial risk insurance business if it meets specified requirements regarding formation, capital and surplus, local office presence, payment of fees and premium taxes, and annual reporting, among other things.

EFFECTIVE DATE: January 1, 2009, except for a provision authorizing the insurance commissioner to use the Insurance Department’s Utilization Review Fund to implement the act, which is effective October 1, 2008.

INSURANCE DEPARTMENT FINES

PA 08-178 increases fines the insurance commissioner may assess against insurance companies, related companies, and people for violating Connecticut’s insurance laws, including those related to utilization review, unauthorized insurers, producer and company licensing, unfair and prohibited practices, and fraud.

LIFE INSURANCE

Annuity Regulations

PA 08-147 (§ 13) requires the insurance commissioner to adopt regulations establishing standards and procedures for annuity transactions involving all consumers, instead of just senior consumers (those age 65 or older).

Life Settlements and Stranger Originated Life Insurance

PA 08-175 replaces current insurance laws for viatical settlements with the National Conference of Insurance Legislators (NCOIL) Life Settlements Model Act. NCOIL adopted the model act to specifically address an emerging type of life settlement activity, stranger-originated life insurance (STOLI). The act defines STOLI and sets requirements and prohibitions for insurers, providers, brokers, and finance companies involved with it and other life settlement transactions.

HEALTH INSURANCE

Appeal Information

PA 08-147 (§ 7) eliminates a 60-day timeframe that prior law permitted an insurer or managed care organization to provide appeal-related information or

notify a plan sponsor of a plan document request. Under prior law, failure to provide information within five business days after a request or the 60-day appeal period, whichever was later, created certain presumptions and may have resulted in the MCO or insurer having to pay appeal-related costs. The act instead requires the information to be provided within five business days after a request before the presumptions and payment responsibility apply.

Autism Spectrum Disorder

PA 08-132 requires health insurance policies to cover physical, speech, and occupational therapy services provided to treat autism spectrum disorders if the policies cover these services for other diseases and conditions.

EFFECTIVE DATE: January 1, 2009

Connecticut Healthcare Partnership (VETOED June 13, 2008)

PA 08-183 allows municipalities, certain municipal service contractors, nonprofit organizations, and small businesses to join the state employee health insurance plan for their employees and retirees. Under the act, all new employees will be pooled together with state employees in the state insurance plan. Employers joining the state

plan must agree to participate for three years and may renew for additional three-year periods,

The act requires the comptroller to provide insurance coverage for these employers when they apply to cover all their employees or retirees. But when an employer applies to cover only some employees or retirees, she must deny coverage if the Health Care Cost Containment Committee (HCCCC) certifies that the group would shift a significantly disproportionate part of the employer's medical risks to the state plan.

It requires municipalities that join the state plan to be charged the same premium as state employees. Premiums charged small employers may be adjusted for certain criteria. The act permits the comptroller to charge participating employers an administrative fee based on a per member, per month basis. If an employer fails to pay premiums, the state can charge interest at the prevailing rate and, in the case of a municipality, it can also withhold grants or other assistance to the town until the premiums are paid.

The act requires the State Employees' Bargaining Agent Coalition (SEBAC) to consent to adding new employees to the state plan before the plan can be opened up. It also establishes a Nonstate Public Health Care Advisory Committee and a Private Sector Health Care Advisory Committee to make recommendations concerning

municipal and private sector coverage, respectively, to the HCCCC.

It requires the comptroller to submit a report to the General Assembly with recommendations on how the state employee health plan can be further expanded to include individuals not authorized under the act.

The act permits two or more municipalities to join together as a single entity to obtain health insurance for their employees. It requires the group to be fully insured and meet existing health insurance requirements.

EFFECTIVE DATE: September 1, 2008, except the definitions, the provision creating the advisory committees, and the SEBAC approval are effective upon passage; and the report and the authority for two or more municipalities to join together to purchase health insurance are effective January 1, 2009.

Dependent Children

PA 08-147 (§§ 8 & 9) revises the criteria for determining when a child loses coverage under a private health insurance policy. Under individual health insurance policies, coverage continues at least until the policy anniversary date on or after the date the child (1) marries; (2) ends Connecticut residency, unless he or she is (a) under age 19 or (b) a full-time student at an accredited college; (3) gets coverage under his or her employer's group health plan; or

(4) turns age 26. Group comprehensive health care plans must (1) extend coverage eligibility to unmarried children under age 26 and (2) offer continuation coverage to the end of the month in which the child meets the criteria for losing coverage under an individual policy.

EFFECTIVE DATE: January 1, 2009

Federally Qualified Health Centers

PA 08-147 (§ 14) and **PA 08-184 (§ 43)** both specify that a state-funded consortium of federally qualified health centers (FQHC) that provides services only to recipients of programs the Department of Social Services administers are exempt from the law that requires provider networks (PPNs) to (1) have a minimum net worth and (2) maintain minimum reserves to pay outstanding amounts due to providers. The social services commissioner must adopt regulations to establish criteria, including minimum reserve fund requirements, to certify these FQHCs.

EFFECTIVE DATE: Upon passage (June 12, 2008)

HealthFirst Connecticut Authority

PA 08-184 (§ 18) adds the executive directors, or their designees, of the Permanent Commission on the Status of

Women, African-American Affairs Commission, and Latino and Puerto Rican Affairs Commission to the HealthFirst Connecticut Authority.

The HealthFirst Connecticut Authority, created by PA 07-185, must recommend alternatives for affordable quality health care coverage for un- and under-insured people, cost containment measures, and insurance financing mechanisms.
EFFECTIVE DATE: Upon passage (June 12, 2008)

Insurance Department Notice of Benefit Laws

PA 08-147 (§ 6) gives the insurance commissioner the option of sending health insurers notice of benefits the law requires them to provide, or any modifications in those benefits, electronically or in writing. Notice must be given at least 30 days before the benefit or modification takes effect. Prior law required the notice to be in writing.

Insurance Guaranty Association

PA 08-147 (§ 10) specifies that the Connecticut Life and Health Insurance Guaranty Association does not provide protection against impaired stop-loss or excess-loss insurance policies providing (1) indemnification or (2) payment to a policy or contract owner, plan, or other person obligated to pay

life, health, or annuity benefits. Prior law instead specified a stop-loss group insurance plan.

Limited Coverage

PA 08-147 (§§ 11 & 12) redefines “limited coverage” as a health insurance policy that covers basic hospital expenses, basic medical-surgical expenses, major medical expenses, or hospital or medical services, including an HMO contract, and includes (1) an annual maximum benefit of less than \$100,000 or (2) fixed-dollar benefits of less than \$20,000 on any core services. The act defines “core services” as medical, surgical, and hospital services, including inpatient and outpatient physician, laboratory, and imaging services.

Medical Discount Plan Marketing

PA 08-181 (§§ 1 & 2) permits licensed medical discount plan organizations (MDPOs) to market plans either directly or through a marketer with which it has a written agreement. It enumerates operating restrictions for marketers and requirements for MDPOs and permits the commissioner to (1) take specified actions against a MDPO if its marketer uses unapproved marketing material and (2) order restitution by a person convicted of larceny for collecting membership fees

without providing the promised benefits in the absence of a court order.

***Prompt Claim Payment to
Emergency Personnel***

PA 08-178 requires insurers to pay claims from Department of Public Health-licensed emergency medical service personnel and organizations in accordance with the law's prompt claim payment requirements. An insurer's failure to pay claims as specified by law is an unfair and deceptive insurance act.

***Residential Treatment for
Serious Mental or Nervous
Condition***

PA 08-125 expands the benefits payable under a group health insurance policy for treatment received in a residential treatment facility by (1) eliminating a three-day hospital stay prerequisite for a child or adolescent with a serious mental illness and (2) extending benefits to adults.

It replaces the term "serious mental illness" with "serious mental or nervous condition" and removes from the term's definition a requirement that the person have shown recent disturbed behavior. It requires benefits to be paid when a physician, psychiatrist, psychologist, or clinical social worker assesses the person and determines that he or she cannot appropriately, safely, or

effectively be treated in other specified settings.

EFFECTIVE DATE: January 1, 2009

***Secondary Market for
Physician Discounts***

PA 08-126 requires, with some exceptions, a "contracting entity" that (1) enters into or renews a contract with a health care provider on or after January 1, 2009 and (2) sells, leases, rents, assigns, or grants access to the provider's health care services, discounted rates, or fees, to include a contract provision that it can permit a third party (i.e., a "covered entity") to access the provider's services, discounted rates, or fees.

The act requires covered entities that access a provider's services to pay the discounted rates or fees established in the provider's contract with the contracting entity. It requires all written and electronic remittance advices (payment notices sent to providers) to clearly identify the name of the (1) covered entity responsible for paying the provider and (2) contracting entity whose payment rates and discounts apply.

EFFECTIVE DATE: January 1, 2009

Small Employer Rating Exemption

PA 08-181 (§3) lowers the number of employees covered from 10,000 to 3,000 to exempt small employer groups purchasing health insurance through MEHIP or an association group plan from the existing small employer rating law, which requires adjusted community rating, at the comptroller's or association group plan administrator's option, under certain circumstances. The MEHIP or association plans offered or issued must cover small employer groups as a single group and insure at least 3,000 individuals; (2) each small employer must be offered the same premium rates for each individual and dependent (i.e., rated using a pure community rating methodology); and (3) the plans must be written on a guaranteed issue basis. The act also requires such an association group plan to be a bone fide group. Also it cannot (1) be a fictitious grouping (a grouping for rating purposes where a rate differentiation is based solely upon group membership) or (2) issue a plan that causes undue disruption in the insurance marketplace, as determined by the commissioner.

Small Employers and Special Health Care Plans

PA 08-33 eliminates the requirement that insurers offer "special health care plans" and limits the employers to whom insurers must offer a small employer plan.

Under prior law, an insurer had to offer a small employer plan to any small employer (50 or fewer employees, including a sole proprietor) for which it denied other coverage. The act requires the insurer to offer a plan only to a sole proprietor.

EFFECTIVE DATE: Upon passage (May 7, 2008)

Specified Disease Policies

PA 08-181 (§§ 5-7) (1) permits health insurers to issue "specified disease" policies in Connecticut; (2) requires the insurance commissioner to adopt regulations by January 1, 2009 to establish minimum standards for these policies; and (3) prohibits group or individual health insurance plans from coordinating benefits with these policies.

EFFECTIVE DATE: Upon passage (June 12, 2008)

State-Wide Primary Care Access Authority

PA 08-184 (§ 19) adds two members to the State-Wide Primary Care Access Authority, one appointed by the Connecticut State Dental

Association and one appointed by the Connecticut Community Providers Association.

This authority, created by PA 07-185, must develop a universal system for providing primary care services to all Connecticut residents.

EFFECTIVE DATE: Upon passage (June 12, 2008)

TriCare Supplement Coverage

PA 08-147 (§ 5) adds TriCare supplement coverage to the list of coverage types that a health insurance policy may include. (TriCare is a federal health benefit program for military personnel and their dependents.)

PROPERTY & CASUALTY INSURANCE

Accident Prevention Course for Insurance Premium Discount

PA 08-74 requires Department of Motor Vehicle (DMV) regulations regarding accident-prevention courses that drivers age 60 and over may take to qualify for an auto insurance premium discount to address approval of Internet-based courses. The regulations must include methods to verify a (1) course participant's identity; (2) course participation; and (3) course completion within any deadlines the course or commissioner requires.

Connecticut Insurance Guaranty Association

PA 08-96 eliminates the Connecticut Insurance Guaranty Association's (CIGA) right to recover any amount of covered claims it paid on or after December 1, 2001 on behalf of a nonprofit corporation that meets certain criteria, if the insolvent insurer was declared insolvent before May 27, 2008. The nonprofit must be (1) organized to deliver health and social services to the elderly, (2) incorporated in Connecticut, and (3) qualified as an IRS Code 501(c)(3) tax-exempt organization. The act specifies that CIGA is not required to refund any amount recovered from such a nonprofit, or its affiliates, before May 27, 2008. EFFECTIVE DATE: Upon passage (May 27, 2008)

Motor Vehicle Repairs

PA 08-146 requires a notice (1) in motor vehicle repair shops, (2) on a repair appraisal or estimate, and (3) on auto insurance identification cards informing customers of their right to choose the licensed repair shop that will fix their vehicles.

The act prohibits a motor vehicle repair shop that participates in an insurer's vehicle repair program from repairing a vehicle under that program unless the person whose insured vehicle needs

repairs acknowledges in writing that he or she is aware of the right to have the vehicle repaired at a shop he or she chooses.

EFFECTIVE DATE: January 1, 2009

Surplus Lines Insurer Notice

PA 08-129 changes the notice requirement concerning the Connecticut Insurance Guaranty Association that surplus lines insurers' must include on the cover of their policies. It requires the notice to be printed in at least 12-point boldface type and in capital letters instead of 10-point red bold type.

MISCELLANEOUS

Financial Reporting

PA 08-147 (§§ 1- 4) requires assuming and accredited reinsurers and risk retention groups (RRGs) doing business in Connecticut to file complete, accurate financial reports by March 1 annually for the previous calendar year with the insurance commissioner by electronically filing them with the National Association of Insurance Commissioners (NAIC). A reinsurer must prepare its reports following NAIC instructions and accounting practices and procedures, unless the commissioner requires or approves any deviations. An RRG must prepare its reports as its home state requires. Assuming reinsurers must also

give the commissioner a paper copy of the report.

Technical Revisions

PA 08-110 makes technical revisions to the insurance statutes.

EFFECTIVE DATE: Upon passage (May 27, 2008)

TAX CREDITS

Film Industry

Connecticut grants transferable tax credits equal to 30% of eligible film production expenses incurred in the state that exceed \$50,000. The credits apply against the corporation tax for income years starting on or after January 1, 2006 and, under prior law, against the insurance premium tax for income years starting on or after January 1, 2007.

PA 08-142 extends the applicability of the film credits to insurance premium tax liability for income years beginning on or after January 1, 2006 as well. It allows these 2006 credits to be sold or transferred on or after July 1, 2006, as well as on or after July 1, 2007. It requires the 2006 credits to be (1) attributable to film production expenses incurred in 2006 and (2) claimed on or after July 1, 2006. It allows them to be carried forward only for the three income years immediately succeeding the 2006 income year.

EFFECTIVE DATE: Upon passage (June 5, 2008)

Insurance Reinvestments

PA 08-82 redefines “insurance business,” for purposes of the Insurance Reinvestment Fund, by limiting it to insurance and other businesses providing insurance-related services with a North American Industry Classification code of 524113 through 524298. These include (1) insurance and reinsurance carriers; (2) insurance agencies and brokerages; and (3) other insurance-related activities, such as claims adjusting, third-party administration, and advisory and rate-making services. The new definition limits the types of businesses eligible for the Insurance Reinvestment Fund program, which grants premium, corporate, and personal income tax credits for people and businesses that invest through state-registered fund managers.

WORKERS’ COMPENSATION INSURANCE

Coverage for Firefighters, Police Officers, and Constables

PA 08-61 establishes a rebuttable presumption under workers’ compensation law for municipal firefighters, police, and constables hired after July 1, 1996 who suffer a cardiac emergency while on duty after July 1, 2009. The cardiac

emergency must result in lost work time due to total or partial incapacity or death. There is a presumption that the ailment is due to the occupation and is job related unless a preponderance of evidence shows it is not. Until the act takes effect, such an ailment is compensable, but the employee must prove it is job related.

EFFECTIVE DATE: July 1, 2009

Employee Misclassification

PA 08-156 establishes a permanent enforcement commission to address the problem of employers avoiding state and federal labor, employment, and tax law obligations by misclassifying their employees (e.g., treating employees as independent contractors to avoid workers’ compensation insurance premiums and unemployment taxes.) The commission must (1) coordinate civil prosecution of state and federal employment law violations involving employee misclassification, (2) report any suspected violation of state criminal statutes to the chief state’s attorney or the state’s attorney serving the district where the violation allegedly occurred, and (3) report annually to the governor and the Labor and Public Employees Committee.

The act also creates an advisory board to advise the commission on misclassification in the construction industry.
EFFECTIVE DATE: July 1, 2008

Self-Insured Group's Standard Premium Offset

PA 08-181 (§4) permits a workers' compensation self-insurance group to offset or reduce its required annual standard premium of at least \$1 million by depositing equivalent liquid assets in an interest-bearing claims reserve account set up in the group's name. The act prohibits the group from pledging, hypothecating, or otherwise encumbering its assets to secure debt, guaranty, or obligations.

Workers' Compensation Commission to Provide Claim Forms

PA 08-3 requires the Workers' Compensation Commission to give an injured employee a workers' compensation claim form within five business days after it receives a first report of the injury from an employer, employer's insurance carrier, or employer's representative.

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