OKLAHOMA INSURANCE DEPARTMENT

Legislative & Administrative Code Changes 2014

INSURANCE

Legislative & Administrative Code Changes 2014

SB 1319 – OID Omnibus

Market conduct annual statement filing deadline

Title 36, Section 311.4 – Amendatory

- Removes June deadline for filing market conduct annual statements to allow companies flexibility to file in conjunction with NAIC filing deadline.

Fee clarification

Title 36, Section 321 – Amendatory

- Removes language in section about fees to make it easier to understand.

Effective November 1, 2014

SB 1319 – OID Omnibus (cont.)

Reference clean up

Title 36, Section 348.1 – Amendatory

- Updates reference to the Service Warranty Act to reflect the relocation of the Act to Title 15.

Electronic filing

Title 36, Section 350 – New Law

- The Commissioner may require any filing or fee to be submitted to the Department electronically.

SB 1319 – OID Omnibus (cont.)

Deposits

Title 36, Sections 613, 635, 1701, 1704, 2406, 2503, 2604, 2654, 2674, 2691.4, 6146, and 6913 – Amendatory

- Switches all deposits from State Treasurer's office to OID.

Producer appointment fee

Title 36, Section 1435.15 – Amendatory

- Changes producer appointment fee to reflect 2011 change from biennial to annual appointments.

SB 1319 – OID Omnibus (cont.)

Dental Service Corporations financial exams

Title 36, Section 2680 – Amendatory

- Changes financial exam requirement for Dental Service Corporations from every 3 years to every 5 years.

Annuity surrender charges

Title 36, Section 4030.9 – Amendatory

- Clarifies that an annuity sold to someone over the age of 70 cannot have a surrender charge that extends more than 10 years.

HB 2929 – Insurer Liquidations

Distribution of claims from insurer's estate

Title 36, Section 1927.1 – Amendatory

- Class 10 claimants under § 1927.1 of the Uniform Insurers Liquidation Act are prohibited from receiving any distribution if:
  - The intentional wrongdoing, fraud, gross negligence, negligence or other act, failure to act, transaction or proceeding of the claimant is found by a court or by the receiver to have caused, or to have been a contributing factor to, the insolvency of the company, or

Effective November 1, 2014

HB 2929 – Insurer Liquidations (cont.)

- Funds were collected from the claimant in a claim made or brought by the receiver of the company, or
- Any of the funds available for distribution consist of punitive damages recovered by the receiver based upon any claim made or brought by the receiver.

- Any remaining funds can be used by the receiver in the administration of other insurers in rehabilitation or liquidation.

HB 2406 – P&C Guaranty Association

Property and Casualty Guaranty Association board composition

Title 36, Section 2006 – Amendatory

- The Alliance of American Insurers (AAI) and National Association of Independent Insurers (NAII) are removed.
- The Property and Casualty Insurers Association of America (PCI) and the National Association of Mutual Insurance Companies (NAMIC) are added.

Effective November 1, 2014

SB 991 – Stacking

Stacking

(Title 36, Section 3636) – Amendatory

- Uninsured motorist policies issued, renewed, or reinstated after November 1, 2014, shall not be subject to stacking or aggregation of limits unless expressly provided for by an insurance carrier.

SB 2018 – Travel insurance

Limited lines producers

(Title 36, Section 1435.20) – Amendatory

- Adopts the NCOIL Limited Lines Travel Insurance Model Act.
- Adds "damages to accommodations or rental vehicles" to travel insurance definition.
- Travel insurance does not include major medical plans, which provide comprehensive medical protections for travelers with trips lasting 6 months or longer.

Effective November 1, 2014

SB 2018 – Travel insurance (cont.)

Definitions

Title 35, Section 6680 – New Law (Model Law)

- A "Limited Lines Travel Insurance Producer" ("LLTIP") means a licensed managing general underwriter, a licensed MGA or TPA, or a licensed producer, including a limited lines producer.
- "Offer and disseminate" means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other non-licensable activities permitted by the state.
- "Travel Retailer" means a business entity that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a LLTIP.

Effective November 1, 2014

SB 2018 – Travel insurance (cont.)

Requirements to sell travel insurance

(Title 36, Section 6681) – New Law (Model Law)

- A Travel Retailer must provide to purchasers:
  - a description of the material terms or the actual material terms of the coverage,
  - a description of the process for filing a claim,
  - a description of the review or cancellation process for the travel insurance policy, and
  - the identity and contact information of the insurer and LLTIP.

Effective November 1, 2014

SB 2018 – Travel insurance (cont.)

- Each LLTIP must maintain a register on a form prescribed by the Commr. of each Travel Retailer that offers Travel Insurance on its behalf.
- Each LLTIP must designate one of its licensed producers as the person ("Designated Responsible Producer" or "DRP") responsible for its compliance with the laws, rules, and regs.
- Each employee or authorized representative of a Travel Retailer whose duties include offering and disseminating Travel Insurance must receive a program of instruction, which may be subject to review by the Commissioner.
- Travel Retailers must provide brochures or written materials to prospective purchasers containing certain information.
- Sets out what unlicensed employees may not do.

Effective November 1, 2014

SB 2018 – Third Party Administrators

TPA annual report waiver

Title 36, Section 1452 – Amendatory

- If a TPA has had no business or activity in the previous year, then the required annual report may be waived upon application to the Commissioner on a form prescribed by the Commissioner.
- In order to obtain the waiver, the TPA must state under oath that its administration of premiums and claims has been dormant for the past calendar year.

Effective November 1, 2014

SB 2025 – Title Premium Reserves

Title insurance premium reserves

Title 36, Section 5007 – New Law

- For domestic title companies with annual gross premiums of at least $20 million, beginning with premiums received on 1/1/15, the statutory premium reserve must be an amount not less than five 5% of the sum of:
  (1) the direct premium written by the title insurer, and
  (2) premium for reinsurance assumed less premium for reinsurance ceded during the year.

Effective November 1, 2014

SB 2025 – Title Premium Reserves (cont.)

Title insurance premium reserves

Title 36, Section 5007 – New Law

- Domestic companies with annual gross premiums of less than $20 million may elect to establish premium reserves as set forth above, or alternatively, in an amount not less than the title insurer's reserve for incurred but not reported (IBNR) claims plus the reserve for unallocated loss adjustment expense (ULAE).

Effective November 1, 2014

SB 2045 – Principle-Based Reserving

Principle-Based Reserving (PBR)

Title 36, Sections 1510, 4061, and 4029 – Amendatory

- Adopts the revised NAIC model Standard Valuation Law (SVL) and revised Standard Nonforfeiture Law, which move from formula-based to principle-based reserving.
- Will be implemented once at least 42 states representing 75% of total U.S. premium adopt the revisions to the SVL.

Effective November 1, 2014

HB 3280 – Nonprofit HMOs

Nonprofit Health Maintenance Organization Corporations

Title 36, Sections 6952 – 6957 – New Law

- Allows for the creation of a "nonprofit charitable and benevolent health maintenance corporation."
- Existing HMOs may amend their organizational documents to become a nonprofit HMO, subject to approval by the Commissioner.

Effective May 12, 2014

HB 3280 – Nonprofit HMOs (cont.)

- To obtain Commissioner approval, the nonprofit HMO must show:
  - it is a bona fide nonprofit HMO,
  - contracts between the nonprofit HMO and physicians obligate each provider to render service to which each subscriber may be entitled,
  - the amount of required working capital is paid into the HMO and, if subject to repayment, can be repaid only out of operating income without endangering the solvency or financial strength of the nonprofit HMO, and
  - the nonprofit HMO has met, or will be able to meet, the requirements of the HMO Act of 2003 and the risk-based capital for HMO Act of 2003.

Effective May 12, 2014

HB 3280 – Nonprofit HMOs (cont.)

- Any existing HMO which becomes a nonprofit HMO may utilize its existing contracts, forms, and rates already on file with the Commissioner.
- Nonprofit HMOs must comply with all laws and rules applicable to HMOs.

SB 1874 – Long Term Care Insurance

Inflation protection coverage requirements for long-term care insurance

Title 36, Section 4400 – New Law

- Persons who purchase a long-term care insurance policy that contains inflation protection sufficient to meet the standards under the Partnership Program may adjust the inflation protection under the policy as the policyholder ages so long as the inflation protection continues to meet the minimum requirements for their attained age.

Effective November 1, 2014

SB 1873 – Surplus Lines

Surplus lines insurers

Title 36, Sections 1106 and 1109 – Amendatory

- If insurance required to protect the interest of the insured for the amount of insurance, coverage terms and solvency requirements of the insured cannot be procured from admitted insurers after inquiry in the market available to the insurance producer, then insurance may be procured from surplus lines insurers.
- Authorizes the Commissioner to promulgate rules to establish further disclosure requirements for surplus lines insurance contracts.

Effective June 3, 2014

MEDICAID, SERVICE WARRANTIES, & INTERLOCAL ENTITIES

Legislative & Administrative Code Changes 2014

HB 2906 – Medicaid

Medicaid study

New Law – Not Codified

- Directs the Oklahoma Health Care Authority to conduct a study of current and potential emergency department diversion models for persons enrolled in Medicaid and explore options for cost containment and delivery alternatives consistent with the existing Patient-Centered Medical Home program.

SB 1923 – Service Warranty Act

Service warranty requirements

Title 15, Section 141.2 – Amendatory

- Adds motor vehicle ancillary services and motor vehicle ancillary protection products to the Service Warranty Act and provides definitions.
- Defines "road hazard."
- Excludes motor service club contracts governed under Article 31 of Title 36 from the definition of "motor vehicle ancillary services."

Effective November 1, 2014

SB 1923 – Service Warranty Act (cont.)

Vehicle Protection Product Act compliance

Title 36, Section 6652 – Amendatory

- Service contract providers who sell vehicle protection products and are licensed under the Service Warranty Act are not subject to the Vehicle Protect Product Act in Title 36.
- Sales of vehicle protection products under the Vehicle Protection Product Act in Title 36 are exempt from the requirements of the Service Warranty Act.

Effective November 1, 2014

SB 2026 – Interlocal Entities

Interlocal Entities

Title 36, Section 607.1 – Amendatory

- An Interlocal Entity created pursuant to the terms of the Governmental Tort Claims Act will not be considered an insurer even if it has received aggregate premiums totaling $1 million in a 12-month period.
- Any Interlocal Entity that insures an Oklahoma educational institution and has received premiums or contributions of any amount in a 12-month period must have an annual audit by an independent CPA, and must file an audited report to the Insurance Commissioner within 180 days following the close of the Interlocal Entity's fiscal year.

Effective November 1, 2014

NEW LICENSES & REGISTRATIONS

Legislative & Administrative Code Changes 2014

HB 2100 – Pharmacy Benefit Managers

Pharmacy Benefit Managers

Title 59, Sections 357 – 360 – New Law

- No PBM may provide pharmacy benefits management without first obtaining a license from OID.
- OID is given rulemaking authority to establish:
  - licensing procedures, which at minimum must include the completion of an application form that must include the name and address of an agent for service of process, the payment of the licensing fee, and evidence of the procurement of a surety bond.
  - required disclosures for PBMs, and
  - any other rules as may be necessary to carry out and enforce the provisions of the act.

Effective July 1, 2014

HB 2100 – Pharmacy Benefit Managers (cont.)

- OID has the authority to subpoena witnesses and information, and take and copy records for investigative use and prosecutions.
- OID may suspend, revoke, refuse to issue or renew a license, or levy a fine for:
  - noncompliance with any provisions of the act or rules of OID,
  - conduct likely to mislead, deceive, or defraud the public or the OID,
  - unfair or deceptive business practices, or
  - nonpayment of a renewal fee or fine.
- Sets out specific requirements placed on PBMs regarding information disclosure and contracts with providers.

Effective July 1, 2014

HB 3286 - Navigators

Definitions

Title 36, Section 1415.2 – New Law

- A "navigator" is a person, including assistor, application counselor or other person, certified or designated by an exchange to facilitate enrollment in health benefit plans offered by an exchange or to perform any of the other acts described in Section 1311(i) of the Affordable Care Act.
- A "navigator entity" is an organization or business entity which employs or oversees the activities of a navigator or which has received and possesses funding for the purpose of employing or overseeing navigators.

Effective September 1, 2014

HB 3286 – Navigators (cont.)

Registration requirement

Title 36, Section 1415.3 – New Law

- An applicant for an individual navigator registry must:
  - establish to the satisfaction of the Commissioner that he or she has read and will comply with written materials provided by the Commissioner concerning ethics, consumer privacy, the insurance laws of Oklahoma, and any other topics the Commissioner deems necessary,
  - attest to an understanding of the disclosure and recordkeeping requirements ,
  - be at least 18 years old and of good moral character,
  - complete a criminal history and regulatory background investigation,
  - identify the entity with which he or she is or will be affiliated, and
  - pay a registration fee not to exceed $50.

Effective September 1, 2014

HB 3286 – Navigators (cont.)

- An applicant for a navigator entity registration must:
  - establish policies and procedures to ensure that no one is performing the acts of a navigator or producer without proper registration/licensing,
  - acknowledge and accept legal responsibility for the acts of individual navigators that it employs, supervises, or is affiliated with, and
  - pay a registration fee not to exceed $50.
- Registrations expire annually. Individual applicants for a renewal registration must show that they have completed the continuing education required under the ACA and establish to the satisfaction of the Commissioner that they have read and will comply with written materials provided by the Commissioner.

Effective September 1, 2014

HB 3286 – Navigators (cont.)

- A registered individual navigator must:
  - provide a disclaimer to each individual or group he or she assists,
  - record the name and contact information for each individual or group he or she assists in enrolling on the exchange,
  - allow for inspection of operations and records at any time, including providing reports as requested by the Commissioner,
  - report to the Commissioner any administrative action taken against them within 30 days after final disposition of the matter,
  - report to the Commissioner any criminal prosecution taken against them within 30 days of the initial pretrial hearing date, and
  - notify the Commissioner within 10 days of any action by an exchange or related party that restricts or terminates the navigator's authorization to act as a navigator.

Effective September 1, 2014

HB 3286 – Navigators (cont.)

- A registered navigator entity must:
  - maintain a record of all individuals employed or overseen as a navigator for 3 years following the termination or oversight of the individual as a navigator,
  - maintain all records required to be provided to the navigator entity by registered navigators for 3 years following the termination of the navigator,
  - allow for inspection of operations and records at any time, including providing reports as requested by the Commissioner,
  - provide the Commissioner a list of all individual navigators that it employs, supervises, or is affiliated with, and
  - report to the Commissioner the termination of employment of an individual navigator within 30 days if the termination is for failing to comply with this act.

Effective September 1, 2014

HB 3286 – Navigators (cont.)

- Any person who acts as a navigator without a valid registration is guilty of a misdemeanor → fine of up to $250 or imprisonment for 3 - 6 months, or both.
- Any person who violates any provisions of the act is subject to a civil penalty of $50 - $500 for each occurrence.
- Any navigator entity which allows an individual to act as a navigator without a valid registration is subject to a civil fine of up to $500 for each individual or group with whom the unregistered individual interacts as a navigator and a civil fine of up to $50 for each day the unregistered individual performs acts as navigator.
- Any navigator entity which fails to retain the documentation required by the act is subject to a civil fine of $50 - $500.

Effective September 1, 2014

HB 3286 – Navigators (cont.)

Navigator prohibitions

Title 36, Section 1415.4 – New Law

- Violation of any provision of Title 36 or any provision of the ACA is grounds for the denial, suspension, revocation, or refusal to renew a registration, the levy of a fine, or any combination of actions.
- Registration as a navigator does not constitute licensing as a producer.
- Navigators cannot, except specifically required by the ACA:
  - provide advice about which health benefit plan or benefits, terms, and features are better or worse for a particular individual or business,
  - recommend a particular benefit plan,

Effective September 1, 2014

HB 3286 – Navigators (cont.)

- receive any commission, compensation, or anything of value from any insurer, benefit plan, consumer, or business for performing any activities required under the ACA,
- accept anything of value that is dependent on whether a person enrolls in or purchases a health plan,
- offer gifts or anything of value to enrollees or prospective enrollees as an inducement to, or conditioned upon, the submission of an application for health insurance or the purchase or renewal of a health plan,
- engage in door-to-door solicitations, make unsolicited telephone calls, or send unsolicited electronic communications,

Effective September 1, 2014

HB 3286 – Navigators (cont.)

- solicit any person that is known to be currently insured,
- engage in voter registration activities while performing the duties of a navigator,
- communicate any false, deceptive, or misleading information relating to the exchange, health benefit plans, an insurance contract, the insurance business, any insurer, or any insurance producer.
- engage in any unfair method of competition or any fraudulent, deceptive, or dishonest practice, or
- violate any applicable insurance law or regulation of Oklahoma or any subpoena or order of the Commissioner.

Effective September 1, 2014

UNINSURED MOTORISTS

Legislative & Administrative Code Changes 2014

SB 503 – Uninsured Motorists

Replacement Tag Issuance

Title 47, Section 1114 – Amendatory

- Allows the OK Tax Commission to prohibit the issuance of any replacement tag if the original tag was seized by law enforcement for driving without insurance.

Plan Administrator

Title 47, Section 7-606 – Amendatory

- Directs the Plan Administrator (OK Sheriffs' Association) to submit to the OK Tax Commission the tag number of seized plates.

Effective June 3, 2014

SB 1843 – Uninsured Motorists

Temporary insurance duration

Title 47, Section 7-606 – Amendatory

- Changes "10 working days" to "10 calendar days."

Effective April 7, 2014

WORKERS' COMPENSATION

Legislative & Administrative Code Changes 2014

HB 2994 – Workers' Comp

Fee Collection

Title 36, Section 307.3 – Amendatory

- Exempts money collected for or received from the Workers' Compensation Commission from the OID's revenue split.
  - Will allow a carrier to renew its insurance certificate of authority and get their workers' comp renewal at OID at the same time, creating efficiency for both the state and the carriers.

Effective November 1, 2014

SB 1948 – Workers' Comp

Self-Insurance Guaranty Fund Board Members

Title 85A, Section 96 – Amendatory

- 5 Board members:
  - Governor appoints 2 (one must represent an approved group self-insurance association authorized to self-insure).
  - Senate President Pro Tempore appoints 1 (must be a licensed attorney engaged in the practice of workers' comp law).
  - Speaker of the House of Representatives appoints 1 (must represent a private self-insurer).
  - Workers' Compensation Commission Chair appoints 1 (must be a licensed claims adjuster with a private self-insurer or approved group self-insurance association).
- Sets terms at two years and establishes provisions for vacancies.

Effective April 25, 2014

SB 1948 – Workers' Comp (cont.)

Assessment payment enforcement

Title 85A, Section 98 – Amendatory

- Allows the OK Tax Commission to enforce payment of assessment by allowing the filing of liens with the court clerk's office.

Assumption of actions or claims

Title 85A, Section 124 – Amendatory

- Allows the Self-Insurance Guaranty Fund Board to take over any actions or pending proceedings from the Workers' Compensation Self Insurance Guaranty Fund Board.

Effective April 25, 2014

SB 2029 - CompSource

CompSource

Title 85, Sections 383 & 389 – Repealer

- Repeals CompSource funding from statute.

Effective May 6, 2014

BAIL BONDS

Legislative & Administrative Code Changes 2014

HB 2928 – OID Bail Bonds Omnibus

Annual Statement Date

Title 59, Section 1309 – Amendatory

- Professional bail bondsmen and multicounty agent bondsmen must provide an annual audited financial statement current as of a date not earlier than June 30.

HB 2928 – OID Bail Bonds Omnibus (cont.)

Receipts

Title 59, Section 1316 – Amendatory

- Any receipt provided by a bondsman must be individually numbered and include:
  - the precise amount of the fees, premium, collateral, or other payments received by the bondsman,
  - copies of any agreements executed relating to the appearance bond,
  - the full name of the defendant,
  - the defendant's case number if it is available, and
  - full name of the individual(s) presenting the payment.

Effective November 1, 2014

HB 2928 – OID Bail Bonds Omnibus (cont.)

Affidavit Requirements

Title 59, Section 1317 – Amendatory

- Adds "no fees owed to OID" to list of requirements for a bondsman to get a new appointment.
- Also allows for the denial of an appointment *and/or* sanctions if an affidavit is falsified.

Jail List

Title 59, Section 1320 – Amendatory

- Requires law enforcement to provide list of properly licensed bondsmen to inmates upon request.
- Clarifies that "any surety bondsman without a current surety appointment shall be removed from the list."

Effective November 1, 2014

HB 2928 – OID Bail Bonds Omnibus (cont.)

Forfeiture Process

Title 59, Section 1332 – Amendatory

- Makes the procedure for returning defendants to custody the same for those arrested in-state and out-of-state. A bondsman must request a hold on the defendant and guarantee travel expenses before a defendant can be considered "returned to custody."
- Requires court clerk to file arrest warrant within 10 days, and file order and judgment of forfeiture within 15 days, after defendant's failure to appear.

Effective November 1, 2014

HB 2407 – Multicounty Agent Bondsman

Multicounty agent bondsman – Definition

Title 59, Section 1301 – Amendatory

- "Multicounty agent bondsman" (MCA) means a professional bondsman who has been approved by the Commissioner and who otherwise complies with the provisions of Section 1306.

License fee

Title 59, Section 1305 – Amendatory

- $1,000 license fee.

Effective July 1, 2014

HB 2407 – Multicounty Agent Bondsman (cont.)

Licensing requirements

Title 59, Section 1306A – New Law

- Must have been a professional bondsman for at least 2 years before applying.
- Audited financial statement showing at least $250,000 in net worth.
- Make a deposit of at least $100,000 → reserve available to pay forfeitures.
- Can write bonds up to a 12:1 ratio.
- Same deposit holding /release, license transfer, and appointment laws as professional bondsmen.
- Not limited by the ten bond rule found in 59 O.S. § 1320(B).

Effective July 1, 2014

HB 2407 – Multicounty Agent Bondsman (cont.)

License renewal

Title 59, Section 1309 – Amendatory

- $1,000 license renewal fee.
- Same renewal requirements as professional bondsmen: biennial renewal, financial statement, 1-year reinstatement.

MCA inclusion in existing laws

Title 59, Section 1314 – Amendatory

- MCA bondsmen are subject to the same requirements as other bondsmen regarding the proper receipt and holding of collateral, monthly reporting, usual and customary records, and reviewal fees.

Effective July 1, 2014

SB 2003 – Bail Enforcement

Suspended or revoked bail bondsmen

Title 59, Section 1311.3 – Amendatory

- A bail bondsman whose license has been revoked or suspended may, within 90 days of the suspension or revocation, contract with a licensed bail enforcer to apprehend his or her clients.

Bondsman exemption

Title 59, Section 1750.14 – Amendatory

- A bail bondsman who has been licensed in Oklahoma for at least 5 years and who has a valid appointment with an insurer may apprehend any defendant on bond with the appointing insurer.

Effective November 1, 2014

SB 2003 – Bail Enforcement (cont.)

Licensed bondsmen may aid other bondsmen

Title 59, Section 1311.4 – New Law

- A bail bondman who has been continuously licensed in Oklahoma for at least 5 years may seek assistance from, or provide assistance to, another bondsman licensed in this state or another state for purposes of apprehension and surrender of his or her defendant client.

Effective November 1, 2014

REAL ESTATE APPRAISERS, FUNERAL BOARD, & ROOFING CONTRACTORS

PROTECTING OKLAHOMA
JOHN D. DOAK
INSURANCE COMMISSIONER
OKLAHOMA INSURANCE DEPARTMENT

Legislative & Administrative Code Changes 2014

SB 1809 – Real Estate Appraisers

Real Estate Appraisers

Title 59, Section 858-706 – Amendatory

- Changes "Appraisal Subcommittee" to "Appraiser Qualification Board of the Appraisal Foundation."

Title 59, Section 858-709 – Amendatory

- Applicants for original certification must submit to a background search effective January 1, 2015.

Title 59, Section 858-717 – Amendatory

- Establishes criteria by which the Board may deny an applicant.

SB 1809 – Real Estate Appraisers (cont.)

Title 59, Section 858-709A – New Law (Model Law)

- Criminal history check must come from the OSBI & may not be older than 90 days.
- Applicants must submit a full set of usable fingerprints that are not older than 90 days. OSBI may exchange fingerprints with FBI.
- Applicant is responsible for any fees charged by law enforcement for the background check.
- OSBI retains one set of prints for the Automated Fingerprint Identification System. OSBI must send another set to the FBI for national criminal history records search.
- Fingerprints that are not already public shall remain confidential. Establishes who may use the fingerprints.
- Establishes reasons for rejecting fingerprints. Specifies that applicants are responsible for all data submitted and must pay for any re-printing.

Effective November 1, 2014

HB 3199 – Oklahoma Funeral Board

Funeral Board

Title 59, Section 396 – Amendatory

- Extends the Oklahoma Funeral Board through July 1, 2020.

HB 3184 – Roofing Contractors

Roofing Contractor Registration Act

Title 59, Sections 1151.2 – 1151.17 (Amendatory); 1151.2a, 1151.25 – 1151.29 (New Law)

- Completely overhauls the Roofing Contractor Registration Act to provide greater oversight.

Effective November 1, 2014

WORKERS' COMPENSATION EMERGENCY RULES

EFFECTIVE FEBRUARY 18, 2014

Legislative & Administrative Code Changes 2014

CHAPTER 25. LICENSURE OF PRODUCERS, ADJUSTERS, BAIL BONDSMEN, COMPANIES, PREPAID FUNERAL BENEFITS, CEMETERY MERCHANDISE TRUSTS, OKLAHOMA EMPLOYEE INJURY BENEFIT ACT QUALIFIED EMPLOYERS, AND VIATICAL SETTLEMENT PROVIDERS AND BROKERS

SUBCHAPTER 25. OKLAHOMA EMPLOYEE INJURY BENEFIT ACT

Effective February 18, 2014

SUBCHAPTER 25. OKLAHOMA EMPLOYEE INJURY BENEFIT ACT

365:25-25-1. Purpose (New)

- These rules set out the procedure for employers to secure compensation for their covered employees under the Oklahoma Employee Injury Benefit Act.

365:25-25-2. Scope (New)

- The Subchapter applies to all employers who elect to be exempt from the Administrative Workers' Compensation Act and become a Qualified Employer ("QE").

365:25-25-3. Authority (New)

- Promulgated under the authority of the Commissioner under the two Acts.

365:25-25-4. Definitions (New)

- Sets out the definitions of terms used in the Subchapter.

Effective February 18, 2014

SUBCHAPTER 25. OKLAHOMA EMPLOYEE INJURY BENEFIT ACT (cont.)

365:25-25-5. Election notification to the Oklahoma Insurance Department (New)

- Any employer electing to become a QE, or renew its election after the 1-year term, must complete a form electronically and provide all information at least 60 days prior to the desired effective date of the election.
- The election form must include complete answers and proof of the employer's ability to secure compensation for its covered employees.
- The employer may proceed with its written benefit plan after confirmation of election from OID.
- A QE must submit documentation upon request by OID to affirm its continued compliance and notify OID of any change of material information within 14 days after the change. If a QE is found noncompliant, OID may withdraw its confirmation of the employer as a QE.

Effective February 18, 2014

SUBCHAPTER 25. OKLAHOMA EMPLOYEE INJURY BENEFIT ACT (cont.)

365:25-25-6. Election fee (New)

- $1,500 nonrefundable fee upon filing an initial or renewal election form.

365:25-25-7. Written benefit plan (New)

- The employer must submit to OID:
  - A copy of the employer's written benefit plan,
  - A statement explaining the procedure used to notify the employer's covered employees that the employer has elected to become a QE,
  - The name, title, address, and telephone number for a covered employee to contact for claims administration, and whether that party is in-house, a third-party administrator, or an insurance carrier, and
  - A copy of the employer's Employee Notice.

Effective February 18, 2014

SUBCHAPTER 25. OKLAHOMA EMPLOYEE INJURY BENEFIT ACT (cont.)

365:25-25-8. Employee notice (New)

- An employer may not act as a QE until it provides written notification to its employees in substantially the same for as the "Notice to Employees Concerning Qualified Employer" (*See* Appendix Z).
- The notice must be posted at conspicuous locations at the QE's place(s) of business to provide notice that the employer is a QE, it does not carry workers' compensation coverage, and its workers' compensation coverage has been terminated or canceled.

365:25-25-9. Funding of Qualified Employer's benefit plan, liability, and other insurable risk (New)

- A QE may self-fund or insure benefits payable under the benefit plan (which are in the nature of workers' compensation), the employer's liability under the Employee Injury Benefit Act, and any other insurable risk related to its status as a QE.

Effective February 18, 2014

SUBCHAPTER 25. OKLAHOMA EMPLOYEE INJURY BENEFIT ACT (cont.)

365:25-25-10. Insuring Qualified Employer's benefit plan, liability, and other insurable risk (New)

- A Qualified Employer electing to insure benefits payable must obtain insurance coverage in an amount equal to the compensation obligation with an admitted or surplus lines carrier which has an AM Best Rating of B+ or better.
- Such coverage pertains to Oklahoma covered employees only. Employers with employees working in other states must arrange separate coverage for those employees in compliance with that state's laws.

Effective February 18, 2014

SUBCHAPTER 25. OKLAHOMA EMPLOYEE INJURY BENEFIT ACT (cont.)

365:25-25-11. Self-Funding Qualified Employer's benefit plan, liability, and other insurable risk (New)

- A QE electing to self-fund benefits payable must secure compensation to covered employees by furnishing proof to OID of its financial ability to pay the compensation and meet the following requirements:
  - Provide documentation regarding the employer's yearly claims for the last 3 years,
  - Attach employer's most recent financial statement including a balance sheet and income statement, and
  - Furnish proof of the employer's financial ability to pay the compensation (rule sets out the full specific standards which an employer must meet).

Effective February 18, 2014

SUBCHAPTER 25. OKLAHOMA EMPLOYEE INJURY BENEFIT ACT (cont.)

365:25-25-12. Surety bond and irrevocable letter of credit (New)

- Surety bonds must be from an admitted or surplus lines insurer with an AM Best Rating of B+ or better, and on a form prescribed by OID.
- Irrevocable letters of credit shall contain such terms as may be prescribed by OID, include an automatic renewal clause, and cannot be non-renewed without at least 60 days prior written notice to OID, and shall be issued for the benefit of OID by a financial institution, approved in advance by OID, whose deposits are insured by FDIC.
- OID may make demand and collect on the posted letter of credit in the case of actual or imminent default of the employer to pay compensation liabilities or the cancellation of the letter of credit without an adequate replacement.

Effective February 18, 2014

SUBCHAPTER 25. OKLAHOMA EMPLOYEE INJURY BENEFIT ACT (cont.)

365:25-25-13. Release of security deposit (New)

- Security deposit must remain in place for at least 2 years after the Qualified Employer ceases to self-fund its benefit plan.
- The deposit may be reduced at OID's discretion after the 2-year waiting period upon application and submission of current financial statements and loss runs.
- The deposit may be released at OID's discretion upon application and submission of current financial statements and a signed and notarized affidavit affirming that all injury claims have been permanently closed.
- The deposit will be released in full by OID within a reasonable time following proof of an assumption agreement or equivalent from a licensed insurance carrier.

Effective February 18, 2014

SUBCHAPTER 25. OKLAHOMA EMPLOYEE INJURY BENEFIT ACT (cont.)

365:25-25-14. Oklahoma Option Self-Insured Guaranty Fund (New)

- Upon declaration by the Commissioner that a self-insurer has become an impaired insurer, the Commissioner will petition the Workers' Compensation Commission for its approval that the Commissioner release the Qualified Employer's required security from the State Treasurer and shall advise the Oklahoma Property and Casualty Insurance Guaranty Association of the impairment.

365:25-25-15. Severability (New)

- The provisions of the Subchapter are declared severable.

Effective February 18, 2014

Expiration/Termination

- These emergency rules are effective through September 14, 2015.
- OID plans to propose them as permanent rules during the 2015 legislative session.

PERMANENT RULES

EFFECTIVE SEPTEMBER 15, 2014

Legislative & Administrative Code Changes 2014

CHAPTER 1. ADMINISTRATIVE OPERATIONS SUBCHAPTER 9. DESCRIPTION OF FORMS AND INSTRUCTIONS

365:1-9-17. Other agents forms (Amendatory)

- Eliminates the letter of clearance because OID no longer issues a letter of clearance to an agent, but instead utilizes the NIPR Producer Database.

CHAPTER 10. LIFE, ACCIDENT AND HEALTH SUBCHAPTER 11. COORDINATION OF BENEFITS GUIDELINES

365:10-11-2. Definitions (Amendatory)

- Requires coordination between individual and group health insurance products, as well as between group health insurance products, in order to prevent over-insurance of a person's health insurance risk.

365:10-11-9. Applicability (Amendatory)

- The amended definition of "plan" set out in the previous amendment applies to plans delivered or renewed on or after 1/1/15.
- Contracts in force on 1/1/15 must be brought into compliance with the definition on the next anniversary date or renewal date of the contract.

Effective September 15, 2014

CHAPTER 10. LIFE, ACCIDENT AND HEALTH SUBCHAPTER 11. COORDINATION OF BENEFITS GUIDELINES (CONT.)

Appendix UU. Policy Holder's Authorization to Release Insurance Policy Information to Agent of Record (Revoked)

- Revoked because it is no longer in compliance with the Oklahoma Insurance Code due to a 2013 legislative change to 36 O.S. § 1435.41(A).
- OID will update the form and post it to the OID website.

Effective September 15, 2014

CHAPTER 20. TITLE INSURANCE SUBCHAPTER 3. OKLAHOMA TITLE INSURANCE POLICIES

365:20-3-3. Documentation (Amendatory)

- Clean up after 2013 legislative changes.
- Expands who can countersign a title insurance policy—can be performed by anyone who holds a valid license and who is appointed as an agent of the insurance company.

Effective September 15, 2014

CHAPTER 25. LICENSURE OF PRODUCERS, ADJUSTERS, BAIL BONDSMEN, COMPANIES, PREPAID FUNERAL BENEFITS, CEMETERY MERCHANDISE TRUSTS, AND VIATICAL SETTLEMENT PROVIDERS AND BROKERS

Effective September 15, 2014

SUBCHAPTER 3. PRODUCERS, BROKERS, LIMITED LINES PRODUCERS AND VEHICLE PROTECTION PRODUCT WARRANTORS

365:25-3-14. Insurance adjusters continuing education (Amendatory)

- Clean up to reflect a 2013 legislative change to 36 O.S. § 6217(C), which changed the professional designation program biennial continuing education from 20 to 24 hours.

Effective September 15, 2014

SUBCHAPTER 5. BAIL BONDSMEN
PART 5. GENERAL PROVISIONS PERTAINING TO BAIL BONDSMEN

365:25-5-31. Residence, business, mailing, and e-mail addresses on applications (Amendatory)

- Bail bondsman applications must include an applicant's:
  - Residence address,
  - Business address,
  - Mailing address, and
  - E-mail address
- An applicant's business address and mailing address must be in the same county.

Effective September 15, 2014

SUBCHAPTER 5. BAIL BONDSMEN
PART 5. GENERAL PROVISIONS PERTAINING TO BAIL BONDSMEN (cont.)

365:25-5-33. Change of mailing address, legal name, e-mail address, or telephone requirements (Amendatory)

- A bondsman must notify the Commissioner within 5 days after changing his or her mailing address, legal name, e-mail address, or telephone number (*See* 59 O.S. § 1310).
- The notification may be in any form acceptable to the Commissioner, and must include the name and license number of the bondsman, the date, the bondsman's telephone number, and the bondsman's e-mail address.

SUBCHAPTER 15. CAPTIVE INSURANCE COMPANIES REGULATION

365:25-15-1. Purpose and authority (Amendatory)

- All captive companies rule changes are intended to clean up the language and reflect the 2013 legislative changes made to the Oklahoma Captive Insurance Company Act (HB 1108).
- Provides consistency with terminology used elsewhere in Chapter 25

Effective September 15, 2014

SUBCHAPTER 15. CAPTIVE INSURANCE COMPANIES REGULATION (cont.)

365:25-15-2. Annual reporting requirements (Amendatory)

- The annual financial reporting requirements for risk retention groups are distinguished from other types of captive insurance companies.
- Risk retention groups are still required to report pursuant to 36 O.S. § 311, but other captive insurance companies may now financially report pursuant to the Oklahoma Captive Company Annual Report prescribed by the Commissioner.

SUBCHAPTER 15. CAPTIVE INSURANCE COMPANIES REGULATION (cont.)

365:25-15-3. Annual Audit (Amendatory)

- A pure captive may apply to file its annual audited financial report within 60 days of the close of the fiscal year as opposed to June 30 each year; but the captive must still file certain parts of the financial report before March 1 of each year to support the premium tax return.
- The opinion of the independent CPA, the report of evaluation of internal controls, and the notes to financial statements may now apply GAAP, as opposed to the previously required SAP.
- A distinction is made between reserves for P&C reserves and L&H or annuity reserves as captives were previously formed only as P&C insurance companies.
- Companies with < $2 million in premiums exempt from annual audit.

Effective September 15, 2014

SUBCHAPTER 15. CAPTIVE INSURANCE COMPANIES REGULATION (cont.)

365:25-15-4. Independent Certified Public Accountant (Amendatory)

- Requires independent CPA to apply for approval from the Commissioner before transacting annual audits for captive insurers and provides that either the company's captive manager or the captive company shall report notification of adverse financial condition to the Commissioner.

365:25-15-5. Deposit Requirement (Amendatory)

- Deposit requirement changed from the restrictions in 36 O.S. § 613 and Article 17 to as "approved by the Commissioner" and also adds that a clean irrevocable letter of credit issued by a bank may be used as a deposit

SUBCHAPTER 15. CAPTIVE INSURANCE COMPANIES REGULATION (cont.)

365:25-15-6. Organizational examination (Amendatory)

- An organizational examination may be performed after, in addition to before, an applicant is licensed. Deletes the requirement of independent third party biographical background checks during organizational examination.

365:25-15-9. Executive officers and directors (Amendatory)

- Deletes the requirement of independent third party biographical background checks when there is a change in a captive's executive officers or directors.

365:25-15-12. Acquisition of control of or merger with domestic company (Amendatory)

- The Commissioner may waive or modify the requirements for public hearing pursuant to 36 O.S. § 1653 if the Commissioner deems it not necessary due to limited public interest in the change of control.

Effective September 15, 2014

SUBCHAPTER 15. CAPTIVE INSURANCE COMPANIES REGULATION (cont.)

365:25-15-13. Change of business (Amendatory)

- Any change in the nature of the captive business from that stated in the company's plan of operation requires prior approval from the Commissioner. Any *other* changes must be filed within 60 days of the change but do not require prior approval from the Commissioner.

365:25-15-14. Prior approval (Amendatory)

- All requests for the prior approval of the Commissioner of mergers, consolidations, conversions, mutualizations, redomestications, or any other matter for which prior approval is required shall be made on the forms set out in Chapter 25 or on forms as determined by the Commissioner.

365:25-15-15. Severability Provision (New)

- The provisions of the subchapter are declared severable.

Effective September 15, 2014

SUBCHAPTER 19. ANNUITY DISCLOSURE REGULATION

365:25-19-5. Standards for the disclosure document and buyer's guide (Amendatory)

- Where an application for an annuity contract is taken in a face-to-face meeting, the applicant shall be given, based on the type of annuity product involved in the application, the most current and appropriate version of the NAIC Buyer's Guide to Annuities.

Appendix S. Buyer's Guide to Fixed Deferred Annuities (Revoked)

- The current guide in the rules is rendered obsolete by the previous rule change.

Effective September 15, 2014

CHAPTER 40. HEALTH MAINTENANCE ORGANIZATIONS (HMO)
SUBCHAPTER 5. LIFE, ACCIDENT & HEALTH DIVISION AND CONSUMER ASSISTANCE AND CLAIMS DIVISION RULES
PART 9. HMO REQUIREMENTS AND PROHIBITIONS

365:40-5-43. Premiums/co-payments (Amendatory)

- The co-payment limit calculation is amended to allow HMOs more flexibility in their product design and offer products in a greater range of actuarial values.
- The Commissioner is given discretion to approve a cost-sharing arrangement if he or she finds that it will provide a reduction in premium costs.

Effective September 15, 2014

OKLAHOMA INSURANCE DEPARTMENT

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