

BULLETIN 2000-2

INSURANCE LEGISLATION ADOPTED BY THE 2000 KENTUCKY GENERAL ASSEMBLY (REGULAR SESSION)

May 31, 2000

THIS BULLETIN IS FOR INFORMATION PURPOSES ONLY. IT DOES NOT AMEND OR INTERPRET PROVISIONS OF THE KENTUCKY REVISED STATUTES OR THE KENTUCKY ADMINISTRATIVE REGULATIONS. THE COMPLETE AND ACCURATE TEXT OF THE LAW CAN BE SECURED WHEN THE 2000 ACTS OF THE KENTUCKY GENERAL ASSEMBLY ARE PUBLISHED IN THE SUMMER OF 2000. UNLESS OTHERWISE NOTED, THE EFFECTIVE DATE OF THE LEGISLATION IS JULY 14, 2000.

(Bills as enacted are available on the LRC website at <http://www.lrc.state.ky.us>)

Senate Bill 11 – Uniform Commercial Code - This bill rewrites two articles of the Kentucky Uniform Commercial Code on Secured Transactions and Letters of Credit.

Contact: Legal Division, (502) 564-6032

Senate Bill 51 – Osteopathy – This bill creates a new section of KRS Chapter 304.17A to provide that any reference in an executive order, administrative regulation or statute to "medical doctor", "M.D.", or "physician" is deemed to include a doctor of osteopathy or D.O., unless specifically excluded. This bill also prohibits discrimination by health facilities or health benefit plans against a doctor of osteopathy when the facilities or plans otherwise have policies for services of physicians.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

Senate Bill 119 – No-Fault Insurance for Buses - This bill amends KRS 304.39-030 which addresses no-fault benefits inside and outside the Commonwealth. SB 119 will provide no-fault coverage to bus passengers involved in an accident outside the Commonwealth if the bus is a secured vehicle, registered in Kentucky, regularly used in the business of transporting persons or property, and one (1) of five (5) or more vehicles under common ownership. The additional requirements are that the passengers be Kentucky residents, have not rejected the limitation on their tort rights and boarded the bus in Kentucky.

Contact: Property and Casualty Division, (502) 564-6046

Senate Bill 163 – Local Government (Municipal) Premium Tax and Occupational License Taxes – This bill addresses the issue of credits for city premium taxes against county premium taxes. This bill provides that if a county imposed its premium tax before July 1, 2000, then city premium taxes shall not be credited against county premium taxes on those taxes that are imposed for the first time or that portion of the tax that is increased on or after July 1, 2000. This provision expires June 30, 2002 unless extended by the General Assembly.

In addition, this bill requires occupational license taxes to be levied by ordinance (rather than order or resolution). A county that enacted an occupational license fee shall not be required to reduce its

occupational tax rate when it is determined that the population of the county exceeds 30,000. The bill also addresses city and county credits for occupational taxes.

Contact: Legal Division, Municipal Tax Unit, (502) 564-1649

Senate Bill 195 – Single Service Health Maintenance Organizations This bill creates new classes of HMO licenses for Single Service HMOs. These entities will be made subject to Subtitle 38 and will be treated essentially as HMOs are today. While there is a lower initial financial requirement for Single Service HMOs, all HMOs are made subject to Risk-Based Capital resulting in a more uniform net worth standard.

The Bill also defines "health discount plan" as a plan that provides discounted services in exchange for a fee from its members, but does not accept insurance risk. Health discount plans are exempt from licensure as an HMO. The bill requires health discount plans to apply for a certificate of filing and defines the conditions where this certificate may be revoked.

Finally, this bill also makes SSOs explicitly subject to several portions of Subtitle 17A, including KRS 304.17A-270, 304.17A-505, 304.17A-525, 304.17A-530, 304.17A-590, 304.17A-545(4).

Contact: Financial Standards and Examination Division, (502) 564-6082

Senate Bill 232 – Compact & Parity - This bill allows the Commissioner to authorize, by regulation, insurers and agents to engage in insurance activities granted to financial institutions by federal laws. The bill also authorizes the Insurance Commissioner to enter into interstate compacts for issuing certificates of authority to insurers.

Contact: Agent Licensing Division, (502) 564-6004

Financial Standards and Examination Division, (502) 564-6082

Senate Bill 245 – Captive Insurers - This bill permits captive insurance companies to apply to the Commissioner for a certificate of authority after establishing minimum unimpaired capital and surplus. This bill does not apply to any foreign captive insurer currently transacting business in the Commonwealth.

Contact: Legal Division, (502) 564-6032

Financial Standards and Examination Division, (502) 564-6082

Senate Bill 279 – Prompt Payment of Health Benefit Plan Claims - This bill specifies the payment of claims. Claims must be paid within 30 days, except that the insurer has 60 days to pay claims for organ transplant claims. Insurers must acknowledge receipt of electronic claims with 48 hours and acknowledge paper claims within 20 calendar days. Insurers must have a mechanism to check claims electronically by January 1, 2001. Insurers may provide providers with a manual specifying requirements for paying claims. Insurers must collect overpayments within 24 months; Department of Insurance must audit claims and report to General Assembly and Governor; interest must be paid if claims are not paid in a timely manner. Claims paid between 31–60 days bear interest at rate of 12% per annum, claims paid

61–90 days bear interest at rate of 18% per annum and claims paid in excess of 91 days bear interest at rate of 21%. Department may fine insurers \$1,000 per day or 10% of claims, whichever is greater.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

Consumer Protection and Education Division, (502) 564-6034

Senate Bill 331 – Financial Solvency of Health Maintenance Organizations - This bill is designed to protect consumer interests through three initiatives. First, the bill requires health organizations (HMOs and Subtitle 32 Nonprofit Medical-Surgical Organizations) to comply with risk-based capital requirements. Second, the bill requires HMOs to create and submit plans for reviewing the financial health of their risk-sharing provider partners. Finally, the bill creates a new liquidation priority that allows covered HMO out-of-network claims to be paid before in-network claims covered by a hold-harmless agreement.

Contact: Financial Standards and Examination Division, (502) 564-6082

Health Insurance Policy and Managed Care Division, (502) 564-6088

Senate Bill 335 – Certified Surgical Assistants – This legislation creates a new section of KRS 304.17A to require health benefit plans issued or renewed on or after July 15, 2000, that provide coverage for surgical first assisting or intraoperative surgical care benefits or services, to be construed as providing coverage for a certified surgical assistant who performs services.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

Senate Bill 341 – Managed Care Electronic Disclosures – This bill amends KRS 304.17A-510 and KRS 304.17A-590 to permit managed care plans to make available certain information required to be disclosed to an enrollee in writing or in an accessible electronic format. In addition, the bill requires the plans to notify an enrollee in writing of the availability of a printed document containing required information and permit the information to be available in an accessible electronic format.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 3 – Domestic Violence - This bill creates a new section of Subtitle 12 of KRS Chapter 304 prohibiting insurers from using the fact of domestic violence and abuse as the sole reason for rating or underwriting decisions, or for refusal to insure, refusing to continue to insure, or limiting the amount, extent or kind of coverage available. Additionally, if a property or casualty insurance policy excludes property coverage for intentional acts, the insurer cannot deny payment to an innocent co-insured if the loss arose out of a pattern of domestic violence and abuse and the perpetrator of the loss is criminally prosecuted for the act resulting in the loss.

Contact: Property and Casualty Division, (502) 564-6046

House Bill 9 – Mammogram Coverage – Prior law required health insurers who provide coverage for mastectomies to also provide coverage for mammograms to covered persons 35 years old or older who did not have a sign or symptom of breast cancer. HB 9 amends KRS 304.17-316, 304.18-098, 304.32-

1591, 304.38-1935 and creates a new section of Subtitle 17A of KRS Chapter 304 to cover those people who have been diagnosed with breast cancer. Now the law requires health insurers that provide coverage for mastectomies to provide coverage for mammograms to covered persons, regardless of age, who have been diagnosed with breast disease upon referral of a health care practitioner.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 18 – Agent Appointments - All agents must be appointed by an insurer, and the Commissioner must approve the appointments, prior to implying a relationship with the insurer or placing applications for insurance with the insurer. An exception to this rule is that for a 30-day period prior to the date the first insurance application is executed, the agent may place insurance if the agent has filed evidence of financial responsibility with the Commissioner of not less than \$1,000,000 per occurrence, and the sum of \$2,000,000 in the aggregate.

The Commissioner has 15 days from receipt of the notice of appointment to process the appointment.

Contact: Agent Licensing Division, (502) 564-6004

House Bill 50 – Commercial Deregulation - This bill excludes additional industrial insureds after July 1, 1999 and creates two new classes of entities: exempt commercial policyholder ("ECP") that is a large sophisticated commercial entity and a "governmental entity insureds" for small governmental entities with a population of less than 50,000. When insurers deal with these two entities, or existing industrial insureds, they do not have to use forms or rates that have been reviewed by the Department of Insurance. This exemption does not apply to auto forms or workers' comp rates and forms.

Contact: Property and Casualty Division, (502) 564-6046

House Bill 107 – Health Insurance Policy and Managed Care Division – This bill codifies the Governor's Executive Order 99-37, which created the Health Insurance Policy and Managed Care Division to be better structured to address the emerging health insurance issues. This organizational structure also allows the Life Division (previously the Life and Health Division) to focus solely on life insurance issues including the evolving issues of life insurance and related products, viaticals and financial modernization.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

Life Insurance Division, (502) 564-6071

House Bill 176 – Interest Rate for Corporation Tax Extensions - The bill updates the definition of the Internal Revenue Code to include all amendments made through December 31, 1999 and adds a new provision of Chapter 143A to provide a tax of 14 cents per ton of limestone used to manufacture cement by an integrated miner and manufacturer of cement.

Contact: Revenue Cabinet, Department of Law (502) 564-9544

House Bill 177 – Telehealth - This bill creates a board called the Telehealth Board. The Board is charged with promulgating administrative regulations to establish telehealth training centers, to develop a telehealth network, and to maintain the central link for the network with the Kentucky information

highway. The Cabinet of Health Services is required to provide Medicaid reimbursement for a telehealth consultation. Health plans are prohibited from denying a benefit solely because the service is provided through telehealth. Providers that provide telehealth services shall ensure that the patient has consented to the services and that the confidentiality of patient's records is maintained.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 202 – Coverage for Treatment of Inherited Metabolic Diseases – This bill requires all health benefit plans that provide family or dependent coverage to provide coverage of a newly born child of the insured from the moment of birth. Included in that coverage is a new mandated benefit, the necessary care and treatment of medically diagnosed inherited metabolic diseases. Also, this bill requires health benefit plans that provide prescription drug coverage to provide coverage for amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases. This coverage is only required if the amino acid products are prescribed for the therapeutic treatment of inherited metabolic diseases and are administered under the direction of a physician.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 218 – Charitable Health Care Providers - This bill addresses issues related to the premiums for medical malpractice insurance paid by taxpayers for charitable health care provider. The requirement that charitable health care providers submit a \$50 registration fee was deleted. The \$20,000 cap on premiums to be paid from the General Fund for medical professional liability insurance for charitable health care providers was deleted.

Contact: Property and Casualty Division, (502) 564-6046

House Bill 268 – Mental Health Parity - Health benefit plans that provide coverage for mental health conditions must provide coverage under the same terms as provided for a physical health condition. This provision does not apply to group health plans covering less than 50 employees, individual health plans, or employer organized association health plans.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 281 – Registered Nurse First Assistants – This bill creates a new section of KRS 304.17A to require that health plans that offer coverage for surgical first assisting benefits or services be construed as providing coverage for those services that are offered by a registered nurse first assistant.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 300 – Insurance Fraud - This legislation creates new sections in KRS 304.47 to require certain convicted felons to receive written permission from the Commissioner to work in the business of insurance. The new sections also include a provision giving confidential status to information sent to the Department as required under the statutes. This bill also amended current statutes in KRS 304.47 including: including "electronic transmission" within the definition of statements to insurance companies; revising the wording of theft type offenses by licensees and workers' compensation fraud; clarifying that the Commissioner has subpoena power in criminal cases, that the cost of investigations may be awarded to the Fraud Investigation Division, and that reporting of insurance fraud to that

Division is mandatory; and adding terminology requiring each insurer to maintain an effective investigation unit for the investigation of insurance fraud.

Contact: Insurance Fraud and Investigation Division, (502) 564-1461

House Bill 342 – Demutualization - This act enables a mutual insurance company to reorganize into a stock insurance company (i.e. demutualize). This legislation revises the current mutual insurance company demutualization statute (KRS 304.24-380) initially enacted in 1942. This legislation permits a mutual insurer to demutualize pursuant to a statutorily prescribed plan of conversion. The legislation specifies in detail the standards and procedures for filing, review, and approval/disapproval of a plan of conversion. The Commissioner may hold a public hearing. The policyholders must approve the demutualization. Standards for review and approval of allocation of excess surplus and reserves to member policyholders is specified. Limitations of ownership by prior management are specified in an effort to prevent improper stockholder or management enrichment.

Contact: Financial Standards and Examination Division, (502) 564-6082

Legal Division, (502) 564-6032

House Bill 348 – Manufactured homes Converted to "Real Property" – This bill creates a new section of KRS 186A to allow owners of manufactured homes who affix their homes to the land to file an "Affidavit of Conversion to Real Estate" with the county clerk and surrender their previous title and release all liens. The home will then be added to the real property tax rolls.

Contact: Property and Casualty Division, (502) 564-6046

House Bill 354 –Property & Casualty Rate, Rule and Form Filings; Vehicle Rental Companies; Exemption From Open Records Law

Rate, Rule and Form Filings - This bill updates existing definitions, and adds new

definitions to KRS 304.13 and KRS 304.14, and addresses requirements for advisory organizations, statistical agents, and form providers.

Contact: Property and Casualty Division, (502) 564-6046

Vehicle Rental Companies - This bill also permits the Commissioner to issue an agent's license to vehicle rental companies to allow them to offer and sell insurance in connection with vehicle rentals.

Contact: Agent Licensing Division, (502) 564-6004

Exemption from Open Records Law - Finally, this bill exempts records that the Kentucky Department of Insurance receives from insurance regulatory officials in other states from the Kentucky Open Records Law.

Contact: Legal Division, (502) 564-6032

House Bill 371 – Prohibition Against All Products Clauses - This act makes it an unfair trade practices act for an insurer to require that a provider participate in all plans offered by the insurer.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 390 – Utilization Review Agents, Internal Appeals Process, External Review –This act addresses utilization review requirements by insurer, internal review by insurers of health care claims and an external review of health care claims by an independent review agency.

All entities performing utilization reviews are required to register with the Department of Insurance. The Department must issue emergency regulations regarding the approval of the utilization review plans. The Commissioner will review complaints between an insured and the insurer regarding failure to comply with utilization review plans.

A health plan cannot retroactively deny coverage for health care services unless the approval was based on fraud, materially inaccurate, or misrepresented information. A health plan is also prohibited from denying a claim or reducing payment if the insurer fails to provide a timely utilization review decision, or if the provider documents that it attempted to make contact with the insurer with a specified time period and was unable to do so.

Each insurer is required to have an internal appeals process for adverse determinations or coverage denials. Insurers must provide decisions regarding the appeals within 30 days of receipt, except for expedited appeals, which decisions shall be rendered in three business days. Expedited appeals are permitted when the member is hospitalized or otherwise requires immediate medical attention. The decision of the internal appeals process regarding adverse determinations must be reviewed by a licensed physician that did not initially review the claim, and shall, if requested, be reviewed by a board eligible or certified physician of the particular specialty in question.

A member may also request the Department to review a coverage denial by an insurer. If the Department determines that the coverage denial is not limited by the certificate, the insurer may pay the claim or place the appeal in the external appeals program.

The bill also establishes an Independent External Review Process. A person who was enrolled in the health plan the date the service was provided, and who has exhausted the insurer's internal appeal process, may appeal medical necessity or experimental decisions to the external review process, if the claim exceeds \$100. The covered person must appeal to the external review process within 60 days of receiving the decision of the internal review process. The covered person shall be assessed a one time filing fee of \$25. The fee may be waived if the fee creates a financial hardship. The fee will be refunded if the external review agency finds in favor of the covered person. The insurer is responsible for all other costs.

To utilize the external review process, the member submits a complaint to the Department of Insurance. Within five days, the Department assigns an independent review agency to conduct the external review. The external review agency has 21 calendar days to make a decision, except for expedited reviews. In such case the decision must be made within 24 hours.

The bill also requires that the Department certify the independent review agency and specify the qualification requirements of the independent review entity. The independent review agency cannot be affiliated with any insurer, provider or policyholder.

The finding of the independent review agent shall be binding on the insurer. The bill also amends the unfair trade practices act to include noncompliance with the external review process, clarifies the definition of emergency medical condition to include beliefs of a prudent layperson, provisions for authorization of an emergency admission at a non-participating hospital, and specify that benefits for "special circumstances" must be paid for under certain conditions.

The bill also permits a primary care physician to provide up to a 12-month referral to a specialist.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 405 – Emergency Medical Services – This bill amends KRS 304.39-020 (5)(a) to provide that charges for reasonably needed licensed ambulance services are to be covered as a medical expense under motor vehicle no-fault insurance. This bill also amends KRS 304.17A-580 to require all health benefit plans that utilize a network of providers to cover emergency medical services and supplies. This does not apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, disability income, or other limited benefit health insurance policies.

Contact: Property and Casualty Division, (502) 564-6046

Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 415 – Cancellation/Nonrenewal of Personal Automobile Policy; Consumer Protection; Use of Credit for Commercial Risks – This bill amends KRS 304.20-040 to clarify when and how a personal auto liability policy may be declined, cancelled or nonrenewed. It expands from four (4) days to seven (7) days the time frame for an insured to request the Commissioner to review a cancellation or nonrenewal. Finally, the bill amends KRS 304.20-042, which restricts the use of credit histories in underwriting property and casualty insurance contracts covering personal risks.

Contact: Property and Casualty Division, (502) 564-6046

Consumer Protection and Education Division, (502) 564-6034

House Bill 443 – Salvage Motor Vehicle Titles – This bill provides that owners of hail-damaged vehicles may obtain a "Hail Damaged" branded title when the damage exceeds 75% of the vehicle's retail value and is solely the result of hail damage. In addition to the verification from the insurance company that the damage exceeds 75% of the vehicle's retail value, the insured must supply a statement from the sheriff of the insured's county of residence that the vehicle is safe to operate, and the insured must sign an affidavit stating that he or she will retain ownership of the vehicle.

Contact: Consumer Protection and Education Division, (502) 564-6034

Division of Motor Vehicle Licensing, (502) 564-5301

House Bill 453 – Viaticals - This bill addresses viatical settlements and life settlements. The statute specifies the requirements for licensure of viatical settlement broker license. Solicitation of materials must be filed and approved by the Department for approval. Financial responsibility is required for the viatical settlement provider and viatical settlement broker. A fiduciary relationship between the viatical settlement broker and viator is established. A provider must notify the insurer within ten days of a policy viatification. A broker is prohibited from receiving a finder's fee and commission. The

viatical settlement payment to the viator must be completed by an independent third-party trustee who is a custodial bank.

Contact: Life Insurance Division, (502) 564-6071

House Bill 517 – Kentucky Access – This bill addresses several issues.

Hospitalist – The bill defines a hospitalist and provides that a contract between a managed care plan and a physician shall not require the use of a hospitalist.

Kentucky Health Care Improvement Authority – The bill creates the Authority that is required to disburse certain monies from the Tobacco Master settlement Agreement. Specifically, 70% of the monies in the fund will be placed in the Kentucky Access Fund, 20% of the monies in the fund be spent on collaborative partnership between University of Kentucky and University of Louisville for lung cancer, and 10% of the monies be spent to discourage the use of harmful substances by minors.

Kentucky Access – The bill creates a high-risk pool that will be administered by the Department of Insurance. Individuals who have been denied insurance by two carriers, have a high cost condition, are current GAP qualified individuals or individuals whose insurance premiums are higher than Kentucky Access premiums may enroll in Kentucky Access as of January 1, 2001.

The Department will retain a third party administrator to administer Kentucky Access. The Department will establish the rates that will be charged to Kentucky Access enrollees. Initial premium rates cannot exceed 150% of the applicable individual standard risk rates. Subsequent premium rates cannot exceed 175% of the applicable individual standard risk rates.

The enrollees of Kentucky Access will be offered the standard health benefit plan, as well as other plans. The other plans may have a \$2 million life time benefit.

The Department may continue to access insurers to fund GAP losses, as well as other losses for Kentucky Access. Current GAP enrollees may continue to stay enrolled with Anthem or Humana, and Anthem and Humana will be reimbursed for GAP losses.

Rates – Rates in the individual market may vary from the index rate by more than 50% for two years after the high-risk pool is implemented. Rates in the small group and employer organized associations market may vary from the index rate by more than 50% for two years after the high-risk pool is implemented.

Minimum Loss Ratios – Bill permits minimum loss ratios to be filed and insurers will be required to refund premiums necessary to meet minimum loss ratios.

Taxes – Bill exempts insurance companies selling health insurance to individuals or Kentucky Access from taxes. (HMOs are currently exempt.)

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 525 – Medical Directors – This bill amends KRS 304.17A-525 to require the medical director of a managed care plan be a physician licensed in Kentucky, in good standing, and who has never had his or her license revoked or suspended. Further, medical directors must now sign any denial of coverage. (See, HB 608 which clarifies that signature is only required on specific denial letters.)

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 541 – Corporate Income Tax - This bill clarifies a statute that pertains to consolidated corporate income tax. The 1994 General Assembly amended KRS 141 permitting the filing of consolidated corporate income tax returns rather than separate returns. This bill provides that no assessment of additional tax due may be made by the state and no claim for a refund or credit of a tax overpayment may be made by the taxpayer based on a change in tax liability from the filing of a consolidated return or to amend an initially filed separate return.

THIS BILL HAS AN EMERGENCY CLAUSE MAKING THE LEGISLATION EFFECTIVE JULY 1, 2000.

Contact: Revenue Cabinet, Department of Law, (502) 564-9544

House Bill 571 – Uniform Electronic Transfer Act (UETA) - This bill is the adoption of the Uniform Electronic Transactions Act ("UETA"). The bill defines electronic signatures and automatic transactions and applies only when both parties have agreed to an electronic transaction. The legal effect of a document, record or signature cannot be denied if subject to UETA.

Contact: Commissioner's Office, (502) 564-6026

House Bill 583 – Proceeds from the Tobacco Master Settlement Agreement - HB 583 allocates 25% of the tobacco settlement money to the Kentucky Health Care Improvement Fund. This fund is established for the purpose of receipt and expenditure of moneys to improve health care and access to health insurance for residents of the

Commonwealth. The initiatives for which these funds are allocated, one of which is Kentucky Access, are provided for in HB 517.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 595 – Credit Insurance Agents - This bill addresses the Department's regulation of "specialty credit insurance producer." A new license was created for specialty credit insurance producer. The license may be issued to an individual, a firm, partnership, corporation, or limited liability company to sell credit life, credit health, credit personal property, credit involuntary employment and any other credit-related insurance approved by the Commissioner. The insurer must appoint the producer. The business entity must maintain at least one managing employee that is licensed, and who trains or

supervises the unlicensed employees selling credit insurance. Consumer disclosures must be provided. Banks licensed to do business in Kentucky are exempt from specialty credit insurance license.

Contact: Agent Licensing Division, (502) 564-6004

House Bill 608 – Health Insurance Technical Amendments; Unfair Trade Practices Related to Health Benefit Plans; Prepaid Dental Plans – This bill was initially proposed by the Department to address technical interpretations. Amendments expanded the initial draft.

Technical amendments – Defines "at the time of enrollment."

Prepaid Dental plans – Clarifies the type of rates and forms prepaid dental plans are required to file.

Continuation and conversion coverage. Continuation coverage will be treated the same as COBRA coverages, and will be offered the same coverage as other past employees. Conversion coverage cannot have a lifetime maximum benefit less than \$500,000 and the Department, through regulation, will specify the benefits.

State employees health coverage – A catastrophic benefit plan will be offered to state employees that earn at or below 100% of poverty level.

Hospitalist – Managed care plans cannot require the use of a hospitalist.

Large group rating – Plans filing rates for groups in excess of 50 members shall file only the rating methodology with the Commissioner and the Attorney General's Office.

Explanation of benefits – Insurers must provide explanation of benefits provided that the financial responsibility of the enrollee is more than the co-payment, or the insurer commits an unfair trade practices act.

All products clause – Insurers are prohibited from requiring providers to contract with them for all of the products offered by the insurer.

Claims Processing – Insurers may deny claims only if the insurers know that another insurer is primary, information is fraudulent, retrospective review is required, or premium has not been paid. If additional information is required, the insurer must state the specific information. Insurers must provide providers with a list of information that must be attached to process claims.

Medical director must sign all denials – Medical directors must sign denials of claims letters required under KRS 304.17A-540.

Manslaughter – A person is guilty of manslaughter in the second degree if death results from the person's operation of a motor vehicle or leaving a child under 8 years old.

Municipal colleges – Third and fourth class cities may establish municipal colleges.

Lung Cancer Fund – The resources of UK and UL are utilized regarding developing lung cancer research.

Medicaid benefits – FDA approved drugs that are similar to FDA approved drugs on the Kentucky Medicaid nonprior-authorized file shall be placed on the Medicaid nonprior-authorized file.

Adult day centers – Required to be licensed by CHS.

Medicaid prescription costs – Requires CHS to do a study to determine the average cost of dispensing prescription drugs and cost of acquiring the drugs for Medicaid recipients.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 618 – Physical Therapists - This bill establishes an impaired physical therapy practitioners' committee to assist with treatment of substance abuse problems with physician therapists and their assistants.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 619 – Proof of Motor Vehicle Insurance – This bill amends KRS 186A.040 to allow the Department of Vehicle Regulation ("DVR") to make a determination as to the notification of insured when the DVR is notified by an insurer of cancellation or nonrenewal. The Department of Vehicle Regulation will no longer accept proof of insurance and reinstatement fees. This is now solely the responsibility of the county clerks.

Motorcycle helmets. Also, this bill eliminates the requirement that a motorcyclist must have proof of health insurance to ride without a helmet.

Contact: Division of Motor Vehicle Licensing, (502) 564-5301

House Bill 634 – Model Investments of Insurers - This bill adopts the NAIC Model Investments of Insurers Act, Defined Limits Version. The bill will provide clearer guidelines for insurers to determine what they may invest in, and how diversified their investments must be. The investment guidelines are similar to Kentucky's current investment statute. However, the Model Act includes new types of investments not in common use at the time the current statute was adopted. The Model Act is designed to be flexible enough to anticipate investment products not yet on the market. The Act will apply only to Kentucky domestic insurers and alien insurers entering the U.S. through Kentucky.

Contact: Financial Standards and Examination Division, (502) 564-6082

House Bill 662 – Liability Coverage for Posting Ten Commandments – This bill provides that if a public school posts a copy of the ten commandments as an historical document pursuant to KRS 158.195, no insurer may use the grounds that the insured committed an illegal act to avoid payment under the terms of the policy.

Contact: Property and Casualty Division, (502) 564-6046

House Bill 709 – Consumer Protections; Expedited Hearings for Agents - This bill requires licensees to respond to the Department's response for a written complaint within 15 calendar days of the

Commissioner's letters. Health insurers are prohibited from claiming reimbursements for overpayments within 2 years after the claim was filed (certain exceptions apply).

Contact: Consumer Protection and Education Division, (502) 564-6034

The Commissioner may suspend or place conditions on licenses if the licensee is indicted for fraud, dishonesty, breach of trust, violation of Subtitle 47, or 18 USC 1033, for sworn consumer complaints against the licensee showing clear and convincing evidence of misappropriation of premium in excess of \$300, or for the suspension or revocation of any other professional license in Kentucky or elsewhere. Appeals to the

order must be filed within 60 days of the order, and a hearing must be held within 10 days of the request of the appeal of the order.

Contact: Agent Licensing Division, (502) 564-6004

House Bill 736 – Railroad Employees – An engineer or crew member shall not be required to produce a Kentucky driver's license, and the police are prohibited from requesting such, following an accident on a railroad. Motor vehicle insurers of an engineer or crew member are prohibited from obtaining accident reports involving their operation of a train, and from raising rates solely because the policyholder is a train engineer or a crew member involved in an accident on the railroad.

Contact: Property and Casualty Division, (502) 564-6046

House Bill 757 – Patient Protections – This bill requires managed care plans to comply with certain provisions.

Provider Agreements -Managed care agreements with providers must have certain provisions, such as hold harmless clauses and a continuity of care provision that requires the provider to continue to provide care during hospitalization, active course of treatment, or pregnancy if the contract is terminated with the health plan.

Risk Sharing Arrangements - The Department will review risk-sharing arrangements between providers and managed care plans. The term "risk-sharing" arrangement is defined as "any agreement that allows an insurer to share the financial risk of providing health care services to enrollees or insureds with another entity or provider where there is a chance of financial loss to the entity or provider as a result of the delivery of a service."

Drug Formularies - The bill also requires health plans to provide a summary of the drug formulary at the time of enrollment. If the health plan has a formulary, the health plan must have an exception policy through which the health plan may cover a prescription not included on the formulary.

Accessibility Requirements - Health plan accessibility requirements were modified. The 30-minute/30-mile rule for PCP's hospitals, and pharmacies continues, but in rural areas, health plans must have access to specialists within 50 minutes or 50 miles within the place of residence or work, to the extent available.

Emergency medical condition - Emergency conditions include those conditions that a prudent layperson would reasonably believe is an emergency condition.

Denial letters - Insurers denying claims that require prior approval must provide specific reasons for the denial if the denial is for reasons of medical necessity.

Cancellation letters - Health plans must provide the policyholder with a 45-day advance written notice of cancellation, except for nonpayment of premium. The notice for nonpayment shall be 14 days. This does not apply to individual policyholders paying on a monthly basis.

Contact: Health Insurance Policy and Managed Care Division, (502) 564-6088

House Bill 765 – Policy and Inspection Fees – This bill provides that any policy fee related to underwriting expenses incurred by a property or casualty managing general agent shall be deemed fully earned, and that the fee may be collected only if the coverage is provided. Such policy fees are subject to prior approval.

Contact: Property and Casualty Division, (502) 564-6046

House Bill 875 – Model Producer Licensing - This bill is substantially similar to the NAIC Model Producer Licensing Act. The bill sets up standard application processes and provides for reciprocity with other states for non-resident individual and business entity licensees. Nonresident limited lines licensees receive the same scope and authority as in their home state. Commissioner and agent must be notified if the agent is terminated for cause or for non-cause. Commissioner is permitted to share information with other regulators if cooperating with regard to investigation.

Contact: Agent Licensing Division, (502) 564-6004

Surplus Lines - This bill also amends KRS 304.10 to increase the surplus requirements for surplus lines insurers from \$3,000,000 to \$6,000,000 and clarifies other sections. It also increases the evidence of financial responsibility requirements for surplus lines brokers and redefines the formula for calculating the 3% surplus lines taxes.

Contact: Property and Casualty Division, (502) 564-6046

Motorcycle Helmets - The bill also deletes the requirement that individual show proof of health insurance to county clerk when registering motorcycle.

Contact: Division of Motor Vehicle Licensing, (502) 564-5301

House Bill 992 – Workers' Compensation Insurance – This bill revises some of the workers' compensation reforms enacted in 1996. Briefly, the changes include:

- Eliminates the arbitrators; increases the number of ALJ's from 16 to 19, expands the ALJ authority and provide for benefit review conferences; and reinstates the Workers' Compensation Board (which was scheduled to be abolished effective July 1, 2000).

- Removes the \$2,000 cap on attorney fees at the arbitration level. Attorney fees for both plaintiff and defense are capped at \$12,000. Allows defense fees to be paid periodically subject to final approval.
- Allows motions for claim reopening within 1 year of a previous motion rather than 2 years.
- Eases the restrictions on lump sum settlements for awards less than \$100 per week. Over that amount, lump sums are not approved unless there is reasonable assurance the worker will have an adequate source of income during disability. The discount rate for lump sums is revised to one-half of one percent (0.5%) below the interest rate paid upon ten (10) year U.S. Treasury Notes.
- The multipliers for the impairment factors used to determine permanent partial disability are revised to increase multipliers for persons who have returned to work, and to take into consideration the age and education of the injured worker.
- Increases the penalty paid by employers for injuries resulting from employer's intentional failure to comply with workplace-safety laws from 15% to 30% of compensation payment. (Paid to the employee.)
- Increases the lump sum death benefit to \$50,000.

THE EFFECTIVE DATE OF THIS LEGISLATION IS JULY 1, 2000.

Contact: Department of Workers' Claims, (502) 564-5550

House Bill 944 – Driver Training Schools – This bill amends KRS 332.030 so that any person seeking a license to operate a driver training school may request the Justice Cabinet review their application and provide a letter confirming that the proposed school has met all preliminary requirements for approval, except the required liability insurance. The letter may be used by the applicant to help secure the liability insurance coverage needed.

Contact: Property and Casualty Division, (502) 564-6046