

AN ACT

ENTITLED, An Act to provide a uniform standard for processing of accident and health carrier policy rate and form filings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. Terms used in this Act mean:

- (1) "Accident and health carrier," an entity licensed to offer accident and health insurance in this state, or subject to the insurance laws of this state, or subject to the jurisdiction of the director, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, or any insurer that provides policies of supplemental, disability income, medicare supplement, or long-term care insurance;
- (2) "Director," the director of the Division of Insurance;
- (3) "Health care services," services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease;
- (4) "Policy form," any policy, contract, certificate, rider, endorsement, evidence of coverage, or any amendments thereto that are required by law to be filed with the director for approval prior to their sale or issuance for sale in this state;
- (5) "Supplemental documents," documents required to be filed in support of policy forms that may or may not be subject to approval;
- (6) "Type of insurance," those coverages listed on the NAIC Uniform Life, Accident and Health, Annuity, and Credit Product Coding Matrix under the headings Continuing Care Retirement Communities, Health, Long Term Care, and Medicare Supplement.

Section 2. This Act applies to any individual or group health policy form issued by a carrier as defined in subdivision 58-18B-1(3) required to be filed with the director for review or approval.

Section 3. No policy form subject to the provisions of this Act may be delivered or issued for

delivery in this state, unless it has been filed with and approved by the director.

Section 4. The director shall create a document containing filing requirements for each type of insurance. The document shall contain a list of all product filing requirements contained in the statutes and rules and published bulletins in this state with appropriate citations to each, including the citation for the type of insurance that is required to be filed. The document shall be available on the internet site of the Division of Insurance.

The director shall update the document no less frequently than annually, and within thirty days of any change in any law, rule, or bulletin requiring its amendment.

Section 5. A filer shall submit a copy of the document with a policy form filing, indicating the location within the policy form or supplemental documents for each requirement contained in the document, and certifying that the policy form meets all requirements of state law.

Section 6. The director shall review and approve, provide notice of deficiencies, or disapprove the initial filing within sixty days of receipt. At the end of the review period, the form is deemed approved if the director has taken no action. Any notice of deficiencies or disapproval shall be in writing and based only on the specific provisions of applicable statutes including § 58-11-21, rules, or bulletins published by the director and contained in the document created by the director pursuant to section 4 of this Act. The notice of deficiencies or disapproval shall provide the reasons for the notice of deficiencies or disapproval and sufficient detail for the filer to bring the policy form into compliance, and shall cite any specific statute, rule, or bulletin upon which the notice of deficiencies or disapproval is based.

Section 7. A filer may resubmit a policy form that corrects any deficiencies or resubmit a disapproved policy form, and a revised certification, within thirty days of its receipt of the director's notice of deficiencies or disapproval. Any policy form not resubmitted within thirty days of the notice of deficiencies is deemed withdrawn. Any disapproved policy form not resubmitted within

thirty days is disapproved.

Section 8. The director shall review the resubmitted filing and certification, and shall approve or disapprove it within thirty days. Notice of deficiencies or disapproval shall be in writing and shall provide a detailed description of the reasons for the disapproval and sufficient detail for the filer to bring the policy form into compliance and shall cite any specific statute, rule, or bulletin upon which the disapproval is based. No further extensions of time may be taken unless the filer has introduced new provisions in the resubmission or the filer has materially modified any substantive provisions of the policy form, in which case the director may extend the time for review by an additional thirty days. At the end of the review period, the policy form is deemed approved if the director has taken no action.

Section 9. Except as provided in this section, the director may not disapprove a resubmitted policy form for reasons other than those initially set forth in the original notice of deficiencies or disapproval. The director may disapprove a resubmitted policy form for reasons other than those initially set forth in the original notice of deficiencies or disapproval if:

- (1) The filer has introduced new provisions in the resubmission;
- (2) The filer has materially modified any substantive provisions of the policy form;
- (3) There has been a change in any statute, rule, or published bulletin; or
- (4) There has been reviewer error and the written disapproval fails to state a specific provision of applicable statute, rule, or bulletin that is necessary to have the policy form conform to the requirements of law.

Section 10. The director may return a grossly inadequate filing to the filer without triggering any of the time deadlines set forth in this Act. For purposes of this section, a grossly inadequate filing means a filing that fails to provide key information, including state-specific information, regarding a product, policy, or rate, or that demonstrates an insufficient understanding of what is required to

comply with state statutes or rules.

Section 11. Except in cases of a material error or omission in a policy form that has been approved or deemed approved pursuant to the provisions of this Act, the director may not:

- (1) Retroactively disapprove a filing; or
- (2) With respect to those policy forms, examine the filer during a routine or targeted market conduct examination for compliance with any later-enacted policy form filing requirements. However, the policy forms may be examined for compliance with any later-enacted requirement to the extent that the later-enacted requirement applies to new issues of the policy form or to renewals of policies issued under the policy form.

Section 12. The provisions of this Act do not apply to existing approved or deemed-approved policy forms except upon policy renewal or anniversary date.

Section 13. If a rate filing or marketing material is required to be filed or approved for a specific policy form, the time frames for review, approval or disapproval, resubmission, and re-review of those rates or materials shall be the same as those provided in this Act for the review of policy forms.

Section 14. This Act is effective for health policy forms and rates filed after June 30, 2008.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1213

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1213
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State