

Arkansas Insurance Department

Asa Hutchinson
Governor



Allen Kerr
Commissioner

August 1, 2017

BULLETIN NO.: 13-2017

TO: All Licensed Foreign, Alien and Domestic Insurers, Accredited/Trusted Reinsurers, Farmers' Mutual Aid Associations, Hospital and Medical Service Corporations, Health Maintenance Organizations, Fraternal Benefit Societies, Insurer Trade Associations, Rate Service or Advisory Organizations, All Insurance Producer Trade Associations, All Third Party Administrators, Adjuster Trade Association, Approved But Not Admitted Surplus Line Insurers, Licensed Managing General Agents and Agencies, Licensed Surplus Line Brokers, the National Association of Insurance Commissioners and Other Interested Parties

FROM: Arkansas Insurance Department

SUBJECT: 2017 ARKANSAS LEGISLATION PERTAINING TO INSURANCE

GENERAL LEGISLATION

[ARKANSAS INSURANCE DEPARTMENT'S GENERAL OMNIBUS, ACT 283 OF 2017](#). Effective August 1, 2017.

Sections 1-3. Ark Code Ann. §§ 23-40-101, *et seq.* These three sections update the prepaid funeral benefits portion of the Arkansas Code to clarify the standards and requirements of licensure in Arkansas. Section 1 addresses the collection of contract proceeds on insurance or annuity-funded contracts. Section 2 adds cash-funded contracts to clarify the collection of proceeds for cash accommodation items. Section 3 adds the words “up to” preceding the \$100 per day penalty for failing to pay regulatory fees, allowing the Department to fine a company less than \$100 in the Commissioner’s discretion.

Section 4. Ark Code Ann. § 23-61-113. This section amends the law regarding the disclosure of nonpublic personal information to add that in the event of a data breach, notification must be given to the Commissioner as prescribed by § 4-110-105, which is a reference to the Personal Information Protection Act (enforced by the Attorney General). The amendment makes clear that this applies only to those engaging in the business of insurance.

- Section 5.** **Ark Code Ann. § 23-61-115.** This section amends the law regarding the rights of policyholders to include a reasonable expectation that nonpublic information will be securely maintained.
- Section 6.** **Ark Code Ann. § 23-61-205.** This section removes inconsistencies in the statute regarding the method of transmitting examination documents to the insurer and is in line with the most current national model.
- Section 7.** **Ark. Code Ann. § 23-61-302.** This section regarding immunity from prosecution is amended to reflect the original intent of the statute.
- Section 8.** **Ark. Code Ann. § 23-63-216.** Currently, Arkansas law requires a market conduct annual statement from insurers writing certain business reporting \$7,000,000 or more in annual premium. The national uniform (NAIC) standard is \$50,000. This section lowers our threshold to \$50,000 in premium by amending Ark. Code Ann. § 23-63-216(b). Companies that sell only pre-paid legal or pre-paid funeral or operate only in this state are exempt from filing the market conduct annual statement pursuant to an amendment to Ark. Code Ann. § 23-63-216(b)(2).
- Section 9.** **Ark Code Ann. § 23-63-1602.** This is a technical correction to a provision regarding captive insurers concerning the statement that must appear on any policy or certificate issued by a captive insurer.
- Section 10.** **Ark. Code Ann. § 23-64-209.** This section clarifies what happens after an adjuster gives notice to the Department within 10 days of working in Arkansas due to a catastrophe. This amendment allows the out of state adjuster 90 days to cease the activity in this state or obtain an Arkansas adjuster’s license.
- Section 11.** **Ark. Code Ann. § 23-64-607.** This statute is amended to remove the annual September 30 licensing deadline for Exchange-related licenses and provide for a two year license.
- Section 12.** **Ark. Code Ann. § 23-65-101.** This section removes reference to Ark. Code Ann. § 23-66-214, regarding immunity from prosecution, which is repealed by Section 13 of this Act.
- Section 13.** **Ark. Code Ann. § 23-66-214.** This section repeals Ark. Code Ann. § 23-66-214, regarding immunity from prosecution.
- Section 14.** **Ark. Code Ann. § 23-66-505.** The section adds language to include the Commissioner’s employees, examiners, investigators, agents or representatives as those with authority to conduct an investigation. This change provides for consistency with the language in Ark. Code Ann. § 23-66-506. This section also adds the relevant statutory citation regarding producer licensing.

- Section 15.** Ark. Code Ann. § 23-67-223. This section repeals Ark. Code Ann. § 23-67-223, regarding product survey and comparison reports.
- Section 16.** Ark. Code Ann. § 23-67-415. This section repeals Ark. Code Ann. § 23-67-415, regarding the industry reporting of credit information.
- Section 17.** Ark. Code Ann. § 23-76-104. This statute is amended to add the application of Ark. Code Ann. §§ 23-66-501, *et seq.*, to health maintenance organizations. This is the Fraudulent Insurance Acts Prevention section of the Trade Practices Act, which is not currently applicable to HMOs.
- Section 18.** Ark. Code Ann. § 23-90-103. This section removes workers' compensation claims from the \$300,000 cap under the Arkansas Property and Casualty Fund Act, which is consistent with other states' laws.
- Sections 19-21.** Ark. Code Ann. §§ 23-94-201, *et seq.* This section adopts the most current national model for regulation of domestic and foreign risk retention groups, which is a 2017 NAIC accreditation standard.
- Section 22.** Ark. Code Ann. § 23-100-104. This is an amendment to Ark. Code Ann. § 23-100-104 to provide for a June 1 annual deadline for insurers' payment of their antifraud assessments, which should provide efficiencies for both the insurers and the Arkansas Insurance Department.

TO AMEND THE STATUTES OF LIMITATION FOR FRAUDULENT INSURANCE ACTS, ACT 695 OF 2017. Effective August 1, 2017.

This Act amends Ark. Code Ann. § 5-1-109, regarding the statute of limitations for the prosecution of alleged fraudulent insurance acts, including an extended statute of limitation for intentional motor vehicle accidents caused for the purpose of making an insurance claim.

FINANCIAL – INSURER LEGISLATION

TO MODERNIZE THE INSURANCE HOLDING COMPANY REGULATORY ACT, ACT 386 OF 2017. Effective August 1, 2017.

The amendments to Ark. Code Ann. §§ 23-63-501, *et seq.*, bring our Insurance Holding Company Regulatory Act in line with the most current national model. The updates include divestiture provisions in a merger or acquisition of a domestic insurer.

PROPERTY & CASUALTY LEGISLATION

TO AMEND THE PROPERTY AND CASUALTY LAW; TO CLARIFY THE DEPRECIATION APPLICABLE WHEN DETERMINING THE VALUE OF DAMAGED PROPERTY, ACT 279 OF 2017. Effective August 1, 2017.

This Act adds Ark. Code Ann. § 23-88-106 to the Arkansas Insurance Code. This statute applies to expense depreciation, including labor, when determining the value of damaged property under an insurance policy.

CONCERNING THE TYPE OF SERVICE CONTRACTS THAT ARE SUBJECT TO THE MOTOR VEHICLE SERVICE CONTRACT ACT; AND TO ADD THEFT PROTECTION PROGRAM WARRANTIES TO THE MOTOR VEHICLE SERVICE CONTRACT ACT, ACT 364 OF 2017. Effective August 1, 2017.

The Motor Vehicle Service Contract Act, Ark. Code Ann. §§ 4-90-501, *et seq.*, is amended to add additional terms and definitions and additional services, including theft protection.

TO REVISE CERTAIN PROVISIONS RELATED TO FORMATION AND OPERATION OF CAPTIVE INSURANCE COMPANIES, ACT 370 OF 2017. Effective August 1, 2017.

This Act updates the financial regulation standards relative to the captive insurance market and should encourage the formation of domestic captive insurance companies in Arkansas. Arkansas' captive insurance laws were originally adopted in 2001 and were in need of updates to address changes in the market.

This legislation amends Ark. Code Ann. §§ 23-63-1601, *et seq.*, including broadening the definition of what type of companies may form a captive insurance company to any business organization authorized under Arkansas law and approved by the Commissioner. It also adds Ark. Code Ann. § 23-63-1624 to provide regulatory structure for a dormant captive insurer.

TO AMEND THE LAW CONCERNING MOTOR VEHICLE INSURANCE, ACT 1016 OF 2017. Effective January 1, 2019.

This Act establishes the Arkansas Online Insurance Verification System Act, Ark. Code Ann. §§ 27-22-201, *et seq.* Authorized persons and entities may access the system to determine the insurance status of a motor vehicle.

LIFE & HEALTH LEGISLATION

TO MAKE TECHNICAL CORRECTIONS TO TITLE 23 OF THE ARKANSAS CODE, ACT 334 OF 2017. Effective August 1, 2017.

Section 7 of this Act amends Ark. Code Ann. § 23-92-201 to add or amend the definitions of pharmacy benefits and third-party administrators.

TO CLARIFY THE TYPE OF ANNUITY CONTRACTS SUBJECT TO THE UNCLAIMED LIFE INSURANCE BENEFITS ACT, ACT 368 OF 2017. Effective August 1, 2017.

This Act amends Ark. Code Ann. § 23-81-903 make clear that, for purposes of the Unclaimed Life Insurance Benefits Act, an annuity used to fund a funeral or related expense or a prepaid funeral benefits contract is not included with the definition of “contract” or “policy.”

CONCERNING COVERAGE OF MAMMOGRAMS UNDER AN INSURANCE POLICY, ACT 708 OF 2017, ACT 708 OF 2017. Effective August 1, 2017.

This Act amends Ark. Code Ann. § 23-79-140 to provide a definition for “breast ultrasound” and amends the existing definitions of “mammography” and “diagnostic mammography.” It also amends this statute to require accident and health providers to offer coverage for a screening mammography and breast ultrasound based on the conditions set forth in subsection (b).

TO PROVIDE PARITY IN HEALTH BENEFIT PLAN COVERAGE BETWEEN ORALLY AND INTRAVENOUSLY ADMINISTERED ANTICANCER MEDICATION, ACT 534 OF 2017. Effective August 1, 2017.

This Act adds Ark. Code Ann. § 23-79-161, which provides definitions and prohibits payment for orally administered anticancer medication that exceeds the cost of injected or intravenously administered anticancer medication.

TO CREATE THE MEDICAID PROVIDER-LED ORGANIZED CARE ACT, ACT 775 OF 2017. Effective March 31, 2017.

This Act establishes the Medicaid Provider-Led Organized Care Act, Ark. Code Ann. §§ 20-77-2701, *et seq.*, and adds Ark. Code Ann. § 23-61-117. These organizations will be licensed by the Arkansas Insurance Department. This Act also amends Ark. Code Ann. §§ 26-57-603, 26-57-604 and 26-57-610 regarding premium tax upon these organizations.

TO CLARIFY CERTAIN PROVISIONS OF THE PRIOR AUTHORIZATION TRANSPARENCY ACT, ACT 815 OF 2017. Effective August 1, 2017.

This Act amends various provisions of the Prior Authorization Transparency Act, Ark. Code Ann. §§ 23-99-1101, *et seq.* It supplements Arkansas Insurance Department Rule 115, which became effective January 1, 2017.

TO AMEND THE REQUIREMENTS FOR HEALTH INSURANCE COVERAGE FOR MEDICALLY NECESSARY FOODS IN THE TREATMENT OF INBORN ERRORS OF METABOLISM, ACT 1096 OF 2017. Effective August 1, 2017.

This Act amends Ark. Code Ann. § 23-79-703 to require coverage of necessary foods for the treatment of certain inherited metabolic disorders listed in subsection (a).

FUNERAL LEGISLATION

TO CREATE THE STATE BOARD OF EMBALMERS, FUNERAL DIRECTORS, CEMETERIES AND BURIAL SERVICES; ACT 788 OF 2017. Effective August 1, 2017.

This Act abolishes the State Board of Embalmers and Funeral Directors, the Burial Association Board, and the Arkansas Cemetery Board and creates a single board under the Arkansas Insurance Department that would perform the functions of the former boards. On July 1, 2018, the three boards will be abolished and their powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds will be transferred to the Department. The Commissioner, or his designee, will be a voting member of the new board, the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services of the Arkansas Insurance Department.



**ALLEN KERR
INSURANCE COMMISSIONER
ARKANSAS INSURANCE DEPARTMENT**

**JULY 31, 2017
DATE**