

# Arkansas Insurance Department

Mike Beebe  
Governor



Jay Bradford  
Commissioner

July 22, 2013

**BULLETIN NO.: 15-2013**

**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: 2013 ARKANSAS LEGISLATION PERTAINING TO INSURANCE**

**-L-** Life & Health   **P** Property & Casualty   **A** Producers

**-L- P A**   **GENERAL OMNIBUS, ACT 355 OF 2013.** Effective August 16, 2013.

**-L- P A**   **Section 1. Ark. Code Ann. § 23-61-112 – Annual Reports:** Currently, the Commissioner is required to deliver an annual report to the Governor. This provision allows the Commissioner to reference the Department's website if the required information is available on the website.

**-L- P**   **Section 2. Ark. Code Ann. § 23-61-206 – Payment of Examination Expenses:** The law currently states that examination expenses shall be paid by the company to the Department for expenses of examiners and other persons assisting with the examination. However, § 23-61-203 authorizes the use of outside professionals, with the cost to be paid directly from the examined company to the outside parties. The addition of subsection (a)(2) resolves that conflict and is consistent with current practice.

Subsection (a)(1) is amended only to modernize the actual name of the handbook currently used in calculating expenses.

**-L-**   **Section 3. Ark. Code Ann. § 23-63-201 – Charitable Annuity Permits:** This bill gives the Commissioner discretion to allow a charitable organization to accept valuable assets other than gifts or money, to which they are now limited, in association with the issuance of a charity gift annuity permit.

-L- P

**Section 4. Ark. Code Ann. §§ 23-63-216(a) – Verification of Annual Statement:** This bill allows an insurance company to have its treasurer sign the Annual Statement when the secretary or actuary is unable or unavailable to do so.

-L- P

**Section 5. Ark. Code Ann. §§ 23-63-216(b) – Market Conduct Functions:** This section revises the language in our statute regarding market conduct examinations of insurers. The change will require less information to be submitted, but will also allow the Commissioner to seek additional information if needed after a review of the market conduct annual statement.

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**Section 6. Ark. Code Ann. § 23-65-503 – Insurance Holding Company Regulation:** This bill returns this section of the Code to its wording prior to the 2011 Legislative Session. During that session, the words “directly or indirectly” that modified “control” for purposes of the Act were inadvertently stricken and have technical meanings that are important for uniformity under the Insurance Regulatory Holding Company Act.

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**Section 7. Ark. Code Ann. § 23-65-303(b) – Nonadmitted Insurers:** This section was amended to cure a technical error, replacing the word “insurer” with “insured.”

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**Sections 8 and 9. Ark. Code Ann. § 23-65-310(b) and (c) – Foreign and Alien Surplus Lines Insurers:** The law currently requires foreign and alien surplus lines insurers to maintain a deposit of \$100,000 in order to be on the Department’s approved list of insurers. In accordance with the federal Non-Admitted and Reinsurance Reform Act of 2010 (NRRRA) made effective on July 21, 2011, the states are restricted from imposing eligibility requirements on a foreign or alien company to be a non-admitted insurer in this state. This legislation removes the requirement of the deposit and other requirements.

-L- P A

**Section 10. Ark. Code Ann. § 23-66-501 – Fraudulent Insurance Acts:** An additional type of conduct was added to the definition of a fraudulent insurance act.

-L-

**Section 11. Ark. Code Ann. § 23-76-104 – Health Maintenance Organizations:** This section of the Act makes Ark. Code Ann. § 23-64-515, which requires notice to the Department of the termination of any appointment, applicable to HMOs.

-L- P

**Section 12. Ark. Code Ann. § 23-79-102 – Delivery of Policies or Contracts:** This section makes minor changes regarding delivery of policies or contracts outside the state on risks located in this state.

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**Section 13. Ark. Code Ann. § 23-81-804 – Life Settlement Agreements:** This section of the Act provides for denial of a license application, or suspension, rev-

ocation, or refusal to renew a license for violation of Ark. Code Ann. §§ 23-81-801, *et seq.*

**-L-** **Section 14. Ark. Code Ann. § 23-81-811 – Life Settlements:** This section removes a procedural requirement in subsection (g)(2). The notice of an executed contract no longer must be sent to the insurer simultaneously with other documents required in Ark. Code Ann. § 23-81-810(a)(2).

**P** **Section 15. Ark. Code Ann. § 23-89-213 -- Proof of Insurance:** The title of this statute was simply changed to reflect the its contents accurately.

### Other Insurance-Related Acts

**P** **REGULATION OF MOTOR CARRIERS, ACT 1166 OF 2013. Effective August 16, 2013.**

This bill does not replace any existing laws. It adds to the Arkansas Workers' Compensation Commission's Code definitions of commercial motor vehicle," driver, motor carrier, and owner-operator.

Employees of an owner-operator are no longer employees of the motor carrier so long as the common carrier provides a commercial motor vehicle and on or more drivers to a motor carrier under a written contract. However, coverage must still be provided by either the owner-operator or by the common carrier if the owner-operator and motor carrier agree in writing and the owner-operator pays the premium.

**A** **TEMPORARY LICENSURE, ACT 8 OF 2013. Effective August 16, 2013.**

This Act allows for temporary professional, trade, or occupational licensure of the spouse of an active duty military service member, while the spouse completes the application process for full licensure.

**-L-** **REIMBURSEMENT OF COLLABORATIVE DENTAL HYGIENISTS, ACT 137 OF 2013. Effective August 16, 2013.**

This Act allows for payment from a health insurer to the patient if a consulting dentist for a collaborative dental hygienist is not a participating provider in the patient's plan.

**-L- P A** **TECHNICAL CORRECTIONS TO TITLE 23, ACT 1133 OF 2013. Effective August 16, 2013.**

This Act makes technical corrections to Title 23 of the Arkansas Code, which concerns public utilities and regulated industries.

**-L- ARKANSAS PREPAID FUNERAL BENEFITS, ACT 476 OF 2013. Effective August 16, 2013.**

This Act amends the law to make the following changes to Arkansas' Prepaid Funeral Benefits law: (1) non-specified prepaid funeral benefit contracts may now be regulated by the Department *via* a Rule to be promulgated; (2) requires all investments of organizations be subject to the investment limitations in Ark. Code Ann. § 23-40-115; and (3) permits bond investments to be allowed that are rated "A" by Moody's or Standard and Poor's.

**-L- EXEMPTION OF HEALTH CARE SHARING MINISTRIES, ACT 1163 OF 2013. Effective August 26, 2013.**

This Act exempts health care sharing ministries from the provisions of the Arkansas Insurance Code and the Department's Rules. Health care sharing ministries facilitate the sharing of medical expenses by the members.

**-L- ARKANSAS HEALTH INSURANCE MARKETPLACE, ACT 1500 OF 2013. Effective April 23, 2013.**

This Act establishes the Arkansas Health Insurance Marketplace Act, to be codified at Ark. Code Ann. §§ 23-61-801, *et seq.* It is intended to promote competition among health insurers and to decrease the cost of health insurance.

**P REGULATION OF CAPTIVE INSURANCE COMPANIES, ACT 461 OF 2013. Effective March 21, 2013.**

This Act decreases the percentage amount of premium taxes paid by captive insurance companies in order to modernize the laws governing captive insurers and become more uniform with the laws of other states. The Act is also intended to encourage the development of more captive companies in Arkansas.

**A REGULATION OF INSURANCE ADJUSTERS, ACT 754 OF 2013. Effective August 16, 2013.**

This Act establishes guidelines with regard to whether an individual is considered an adjuster for purposes of portable electronic insurance claims. It also states that a resident of another state or foreign country may not be licensed in Arkansas as a nonresident independent adjuster unless the person is licensed as an adjuster in another state.

**A TO ESTABLISH LIMITED LINES TRAVEL INSURANCE LICENSURE, ACT 1494 OF 2013. Effective August 16, 2013.**

This Act allows for the issuance of a limited lines producer license for travel insurance, as defined in the Act. It also replaces and modernizes the previous language regarding transportation ticket agents.

**A** **TO ESTABLISH LIMITED LINES LICENSES FOR SELF-SERVICE STORAGE INSURANCE, ACT 588 OF 2013.** Effective August 16, 2013.

This Act provides that the Commissioner may issue a limited lines license authorizing a self-service storage facility that has complied with all applicable laws to offer and sell insurance in connection with the rental of self-service storage and the corresponding rental agreement.

**A** **EXEMPTIONS FOR INSURANCE PRODUCERS, ACT 534 OF 2013.** Effective August 16, 2013.

This Act concerns a resident producer who was exempt from continuing education requirements under Ark. Code Ann. § 23-64-302. If the exempt producer moves to another state and later returns, he or she may request a reinstatement of the exemption from the Commissioner as long as he or she retained licensure in Arkansas continuously from the time he or she first qualified for the exemption.

**-L-** **MARKETPLACE NAVIGATOR PROGRAMS, ACT 1439 OF 2013.** Effective August 16, 2013.

This Act provides that the Arkansas Insurance Department will license four categories of Navigators and Non-Navigators, as defined in the Act. The Navigators and Non-Navigators will assist the public in understanding what qualified health plans are available, their differences, premium tax credits, cost-sharing provisions, and public programs and their eligibility through the Health Insurance Marketplace. Duties will include facilitating enrollment in a consumer-chosen health insurance plan and referral for post-enrollment dispute resolution. The Act also establishes qualifications for licensure, to include completion of training specific to Navigator/Non-Navigator roles, competency testing, and background checks.

**P** **SUBMISSION OF PREMIUM TAX ON SURPLUS LINES INSURANCE, ACT 157 OF 2013.** Effective August 16, 2013.

This Act concerns payment of premium taxes on surplus lines insurance business. The amendment requires surplus lines brokers that obtain surplus lines insurance from a domestic surplus lines insurer to submit premium taxes as set forth in Ark. Code Ann. § 23-65-315. It also establishes that domestic surplus lines insurers, unless otherwise exempt, are subject to the solvency requirements of this state.

**-L- P** **INTERSTATE INSURANCE PRODUCT REGULATION COMPACT, ACT 1330 OF 2013.** Effective August 16, 2013.

This Act adopts the Interstate Insurance Product Regulation Compact, which allows Arkansas to join other states in order to promote and protect the interests of consumers with regard to annuities, life insurance, disability and long-term care products.

**-L- P**      **REHABILITATION AND LIQUIDATION OF INSURERS, ACT 1327 OF 2013.** Effective August 16, 2013.

This Act establishes a new section in Chapter 68 regarding the early distribution of the assets of an insurer that is in receivership. The Act defines distributable assets and sets the guidelines for when an early distribution may be appropriate.

**-L-**      **REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS, ACT 1433 OF 2013.** Effective August 16, 2013.

This Act removes all responsibilities of the Department of Human Services and the Department of Health with regard to the establishment and regulation of health maintenance organizations. The Insurance Department retains all regulatory oversight of these organizations.

**-L-**      **REGULATION OF HEALTH INSURANCE COMPANIES, ACT 1339 OF 2013.** Effective August 16, 2013.

This Act concerns the rate filings of health insurers and provides that the Commissioner may consider a nonprofit insurer's surplus levels in determining a proposed rate change, with the exception of a nonprofit insurer that offers only limited scope dental benefits.

**-L- P**      **CLARIFICATION OF THE RATE APPROVAL PROCESS, ACT 1187 OF 2013.** Effective August 16, 2013.

This Act revises the guidelines used by the Commissioner to determine whether a proposed rate change is actuarially sound, excessive, inadequate, or unfairly discriminatory. It also provides that if a rate filing is disapproved, the insurer may request all methodology that was reviewed by the Department's staff, including actuarial analysis and interpretation of statistical data.

**-L-**      **PARITY FOR MAMMOGRAPHY SERVICES, ACT 1259 OF 2013.** Effective August 16, 2013.

This Act provides that, after January 1, 2014, accident and health insurers must use the Healthcare Common Procedure Coding System G for digital mammography and reimburse those codes at a minimum of 1.5% the Medicare reimbursement rate until a new code is established.

**-L-**      **DENIALS OF DENTAL CLAIMS, ACT 427 OF 2013.** Effective March 15, 2013.

This Act provides that denial of all or part of a dental claim based on medical necessity shall only be made by a licensed and accredited dentist.

**-L-**      **COMPARABLE CHARGES FOR CERTAIN THERAPIES, ACT 342 OF 2013.** Effective August 16, 2013.

This Act requires health insurers and health benefit plans to provide comparable coverage to services rendered by a licensed physical therapist, occupational therapy, or speech pathologist. It prohibits the insurer from charging more for these services than is charged for the services of a primary care physician or osteopath, including copayment, coinsurance, and office visit deductible.

**-L- HEALTH INSURANCE EXCHANGE POLICIES, ACT 72 OF 2013.**  
**Effective August 16, 2013.**

This Act prohibits health policies issued through the federal partnership and state marketplace Exchange from covering “elective abortions,” defined as abortions other than those to prevent the death of the mother and in a pregnancy resulting from rape or incest. The Act permits participating insurers in the Exchange to issue separate riders for such coverage if segregation requirements are followed as described in the Act.

**-L- PRESCRIPTION DRUG COVERAGE, ACT 1260 OF 2013.** Effective  
**August 16, 2013.**

This Act requires health benefit plans that provide pharmacy benefits through a third party to notify enrollees in the health plan at least 60 days in advance before a pharmacy formulary is changed in a way that affects the enrollee’s co-payment amount.

**-L- COVERAGE OF CERTAIN CORRECTIVE SURGERIES , ACT 1226 OF 2013.** Effective August 16, 2013.

This Act requires health benefit plans to include coverage for corrective surgery and related medical care for a person diagnosed as having a craniofacial anomaly if medically necessary to improve a functional impairment. The coverage must also include dental and vision care related to the anomaly.

**-L- PRIOR APPROVAL FOR EXPERIMENTAL AND INVESTIGATIONAL SURGICAL PROCEDURES AND MEDICAL DEVICES, ACT 464 OF 2013.** Effective August 16, 2013.

This Act concerns health carriers that exclude or deny coverage for a specific surgical product or medical device approved by the United States FDA as experimental and/or investigational. Such carriers must, if such coverage is excluded or denied, develop a process by which a surgeon may present medical evidence and obtain a review of the decision.

**P PORTABLE ELECTRONICS INSURANCE, ACT 340 OF 2013.** Effective  
**August 16, 2013.**

This Act requires a supervising entity, with regard to the sale of portable electronics insurance, to maintain a registry of vendor locations authorized to offer the coverage. The Act further requires that the registry be open for inspection by the Commissioner upon request with 10 days’ notice.

It also sets forth the requirements of an insurer that makes changes to the terms and conditions of the portable electronics insurance policy.

**-L-**      **ARKANSAS LIFE AND HEALTH GUARANTY ASSOCIATION, ACT 456 OF 2013. Effective August 16, 2013.**

This Act amends various provisions of the Arkansas Life and Health Insurance Guaranty Association Act and adds language regarding the assumption of reinsurance policies by the Association.

**-L-**      **COVERAGE FOR ORTHOTICS AND PROSTHETICS, ACT 1233 OF 2013. Effective August 16, 2013.**

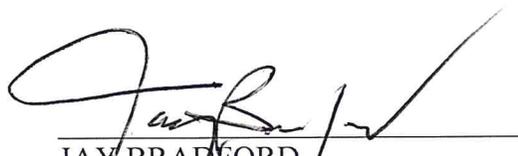
This Act requires all health benefit plans to provide coverage for orthotic and prosthetic devices and services. The limits of coverage are to be not less than 80% of Medicare coverage as defined by the Healthcare Common Procedure Coding System as of January 1, 2009, or a later date if adopted by Rule of the Commissioner.

**-L-**      **PRIOR AUTHORIZATION FORMS, ACT 338 OF 2013. Effective August 16, 2013.**

This Act requires health care insurers to use one, standardized prior authorization form, no more than two pages in length, for prescription drug benefits beginning on January 1, 2014. The form is to be filed with the Department. If any subsequent modifications are made to the form, the revised form must be filed within 15 days prior to its use.

**P**      **ELECTRONIC PROOF OF VEHICLE LIABILITY COVERAGE, ACT 175 OF 2013. Effective August 16, 2013.**

This Act allows for a motor vehicle operator to show proof of insurance electronically for purposes of both motor vehicle registration and proof of insurance generally. The display may be on any portable electronic device with the ability to be read as easily as a paper version.

  
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JAY BRADFORD  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS

7/22/13  
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DATE