**STATE OF UTAH**

# INSURANCE DEPARTMENT

\*\*\*

UHIA Education Meeting December 4, 2013

* **Definitions (31A-1-301)**
  + Rebating - adds new definition of “rebating”, a term currently used in statute but not defined.
  + Small employer – expands the current definition to comply with the Affordable Care Act (ACA), which requires the definition of small employer to include an employer who employees at least one employee for purposes of health insurance.
* **Insurance Fraud Investigators (31A-2-104 and 53-13-103))**
  + Changes the status of the 11 fraud investigators from special function law enforcement officers to full law enforcement officers. The change enhances their ability to react as law enforcement and puts them on law enforcement retirement, which can be supported by the Fraud Division’s Budget. *Will seek amendment for permissive authority for the fraud investigators to participate in public safety retirement*. This change will enhance the Fraud Division’s ability to recruit and retain top investigators.
* **Captives** 
  + 31A-3-304 - Moves forward by 20 days, to June 1st, the annual fee paid by captive insurers to alleviate administrative and accounting issues related to the current proximity to FY end on 7/1.
  + 31A-37-501 – Clarifies that all types of captive insurers must file an annual report with the commissioner.
* **Health** - Various changes to health insurance laws primarily based on the requirements of the ACA. Revisions will need to be made to allow for policy extensions.
  + With the closing of the HIPUtah program, the bill revises the $50,000 withdrawal fee to be payable to the Insurance Department, rather than HIPUtah, which is consistent with withdrawals from other lines of insurance.
  + Revises renewal provisions for individual and small employers for compliance with the ACA.
  + Effective January 1, 2014, the ACA requires small employer and individual insurers to accept all persons applying for coverage. The proposed changes remove Utah’s prior HIPAA alternative mechanism which is no longer applicable. Removal of reference to HIPUtah in various statutes due to that program being phased out beginning January 1, 2014.
  + Removal of reference in various places to preexisting condition limitations on medical plans offered on or after January 1, 2014, which are prohibited by the ACA.
  + Removes reference to conversion policies, which are no longer a requirement effective January 1, 2014 under the ACA.
  + Removes the provisions related to enrollment caps in the individual market due to guarantee issuance requirements in the ACA effective January 1, 2014.
  + Removes requirement that a person be a resident of Utah for 12 months, which is prohibited by the ACA.
  + Removes the provisions related to enrollment caps in the individual market due to guarantee issuance requirements in the ACA effective January 1, 2014.
  + Prohibits certain rating practices after January 1, 2014 based on health status, gender and clarifies insurers may rate for geographic area, family status and age.
  + 31A-22-625 – Codify existing practice to ensure compliance with the federal Mental Health and Substance Abuse Parity Act by small employer and individual plans, as required under the ACA. Previously only large employer plans were subject to the Mental Health and Substance Abuse Parity Act.
  + 31A-22-635 – Update statutes to prohibit insurers from collecting health information and using that information to calculate rates based on health status, consistent with requirements of the ACA.
  + Clarifies “lasering” is transferring the risk of the individual’s claims back to the employer, rather than transferring the risk for an individual.
  + Requires stop-loss insurer to consider claims paid within 12 months after the expiration of the stop-loss contract, rather than claims submitted.
  + Revises requirements for rating by requiring stop-loss insurers to file rating methodologies with each filing and demonstrate compliance on an annual basis.
  + Requires the Department to adopt rules for the transparency of health rating practices.
* **Life (31A-22-428)**
  + Implements as a floor or minimum the Two Year Treasury Constant Maturity Rate for purposes of calculating a death benefit under a life policy, if the policy is otherwise silent as to the applicable rate.
* **Producer Licensing –** Numerous changes, the majority of which are technical changes and clean-up that codify existing practices and/or clarify confusing or problematic provisions.
  + Adds rule making authority for the definition of resident to address enforcement issues related to producers engaged in cross border sales.
  + 31A-23a-105 - changes requirement from state of “residence” to “home” state for producer licensing to allow for a designated home state to be used when a producer’s home state does not issues a particular license or line of authority (like adjusters).
  + 31A-23a-112 – Expands authority to allow the commissioner to place a licensee on probation upon renewal of a license, currently the law only allows the commissioner to put a licensee on probation pursuant to a new license application.
  + 31A-26-207 – adds requirements that crop insurance licensees complete one of two education courses, as required by federal crop insurance standards.
  + Changes the requirement for a producer to be “appointed” by the insurance department to sell on the SHOP exchange, AvenueH, to be “credentialed” by the exchange and requires producers to attend Health Insurance Exchange training on an annual basis in order for the Health Insurance Exchange to consider credentialing a producer.
  + Allows a producer to provide a client a summary plan description wrap-around product.
* **Adjusters**
  + Various changes in Chapter 26 of the Insurance Code to conform to uniform licensing standards set collectively by the states. Drivers for these changes include: electronic licensing forms that are being rolled out by the states; accommodate reciprocity between states in accordance with the Gramm-Leach-Bliley Act, to ensure continued state based regulation of insurance; and to recognize that not all states license adjusters and make appropriate accommodations related to that fact.
    - * **Miscellaneous**
  + Updates definition of a PEO issued policy from a “multiple coordinated” to a “master” policy to be consistent with definition and terms used by the Labor Department.
    - * + 31A-27a-102 - Clarifies that the term “receiver” means the commissioner or designee.
        + 31A-27a-107 - Updates receivership statutes to require claimants to provide contact information including a physical address, fax number and email and allows the receiver to provide notice electronically, to conform with Utah courts’ electronic filing requirements.
        + 31A-27a-201 – In the receivership and liquidation chapter, makes technical changes to clarify that: 1) an insurer seized pursuant to an ex parte court order has a right to a hearing to review the basis of the seizure order, not just the seizure order; 2) gives some flexibility to the court to hold said hearing as soon as the court may allow, instead of the current language that it *must* be held within 15 days; and 3) clarifies that the receiver appointed by the commissioner has his/her fees paid by the estate of the insurer.
* **Navigators**
  + 31A-23b-202 – Changes the licensing requirement for a navigator, as provided in the ACA, to a 1 year license from the current 2 year license. The training required by the U.S. Department for Health & Human Services (HHS) training and certification for navigators is an annual process. This change is consistent with the education and certification requirements of CCIO.
  + 31A-23b-205 – Establishes that a person applying for the first time for a navigator license must complete 21 hours of training before licensure, including a 1 hour course on Avenue H.
  + 31A-23b-206 – For navigator licensees, changes the number of required continuing education hours from 24 in a two year period to 12 hours each year, consistent with the annual training and certification required by HHS for navigators.
  + Anticipate the Health System Reform Task Force bill will allow for a separate class of Navigator licenses to accommodate Certified Application Counselors.