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Texas Insurance News

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Bomer Proposes Agent License Reforms

COMMISSIONER ELTON BOMER has recommended agent license reforms that include eliminating and consolidating 17 license types, testing and continuing education for all individual agents, a five-year license renewal cycle and a major change in credit insurance agent licensing.

Bomer proposed the changes in a report to the 76th Legislature, which convenes January 12, 1999. The report is based largely—but not entirely—on recommendations of the Advisory Committee for the Interim Study of Agents and Agents' Licensing Statutes.

Senate Bill 206 of the 75th Legislature, codified as *Texas Insurance Code* Article 21.15-7, required the Commissioner to review and evaluate the agent licensing statutes and report his findings by January 1, 1999. The bill also required appointment of the advisory committee to assist in the evaluation and provide input from various interested parties.

Bomer's recommendations are subject to the legislative process, including the Governor's action

on any bills that pass. The effective dates of any changes will be set by the Legislature.

The full text of the Commissioner's report will be available on TDI's web site, www.tdi.state.tx.us, in early January.

The Commissioner agreed with the advisory committee that 17 existing license types should be consolidated into two primary licenses. He recommended limited grandfathering for agents whose license types are abolished. The two primary licenses would be:

- A Life, Accident and Health License based on the present Legal Reserve Life/A&H/HMO license (01-01). Among license types rolled into this license would be the combination and industrial life, stipulated premium over \$10,000 and casualty agent selling A&H. Agents for fraternal benefit societies, other than part-timers under some circumstances, would be granted the Life, Accident and Health license but would be required to take the examination within two years.

Please see **License Reforms** on page 3

TDI Legislative Proposals Stress Health Plan Issues

HMO AND EMPLOYER HEALTH plan issues account for more than half of TDI's 14 recommendations to the 76th Legislature, which convenes on January 12, 1999.

Texas Insurance Code Article 1.25 requires the Department to submit a report just before each regular legislative session on "any needed changes" in the state's insurance laws.

Copies of the report may be obtained from TDI's Government Relations Activity, 512 463-6651. The report also will be available on TDI's web site after January 1, 1999.

Summaries of the recommendations follow.

HMOs

Net Worth. Proposed amendments to *Texas Insurance Code* Article 20A.13 would establish a net worth requirement for HMOs. Recognition of

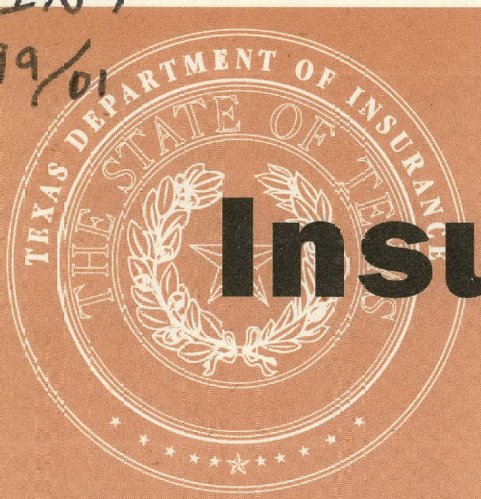
all liabilities would be phased in over several years.

Texas currently has no requirement that HMOs set aside assets to support all of their liabilities. This presents the possibility that an HMO could operate legally in Texas although it is insolvent. Other states do not permit this.

HMOs lost \$322 million in Texas in 1997. The absence of a net worth requirement increases the risk of insolvency. Texas has no guaranty association to protect claimants of insolvent HMOs.

Risk-based Capital. Article 20A.13 would be amended to authorize TDI to adopt rules requiring HMOs to maintain capital and surplus levels exceeding the minimum statutory requirements based on any of the following:

Please see **76th Legislature** on page 4



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The staff that prepares this newsletter has no role in proposing, drafting, editing, or approving TDI rules or policies or interpreting statutes. **Texas Insurance News** should not be construed to represent the policy, endorsement or opinion of the Commissioner of Insurance or the Texas Department of Insurance.

By necessity, summaries of proposed and adopted rules cannot explain their full complexity. Readers interested in complete information about administrative rules should consult the versions published in the Texas Register.

To the best of the staff's ability, information presented in this newsletter is correct as of the publication date, but scheduled dates and proposed rules and amendments may change as the adoption process goes forward.

NewsBriefs

Title Hearings Scheduled

TDI HAS SCHEDULED hearings in February on title insurance rules and rates.

The rulemaking hearing is scheduled for 9 a.m., February 3, in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe, Austin.

At the time of posting, 20 proposed rules were set for consideration. They include proposals by TDI staff, the Texas Land Title Association and Title Underwriters of Texas Inc.

The ratemaking hearing is set for 9 a.m., February 16, in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe, Austin.

The full hearing notice is published at 23TexReg12539, December 4, 1998. ★

Upcoming hearings

- Jan. 5** 9 a.m., TDI, Room 100
- Guidelines for Diabetes Care
- 1 p.m., TDI, Room 102
- Title hearing (prehearing conference)
- Jan. 6** 9 a.m., TDI, Room 100
- Community Mental Health Centers
 - Limited Service HMOs
 - Chemical dependency treatment centers
- Jan. 13** 9 a.m., TDI, Room 102
- Annual and quarterly statement blanks
- Jan. 21** 9 a.m., TDI, Room 100
- Rate rollback and rate credits for TWIA policies.
- Feb. 3** 9 a.m., TDI, Room 100
- Title hearing (rulemaking)
- Feb. 16** 9 a.m., TDI, Room 100
- Title hearing (ratemaking)

Data Call Reminders

(Failure to comply with TDI's reporting requirements may result in disciplinary action)

Quarterly Closed Claims Reports

Reports for claims closed during the fourth quarter of 1998 are due January 10, 1999.

The Texas Closed Claim Reporting Guide was mailed on October 16, 1998, to the closed claim coordinators and reconciliation form contacts who requested the publication. A limited number of hard copies are still available for distribution. The guide may be downloaded from TDI's website.

TDI contact is Paul Vestal, 512 475-3024. E-mail address: paul_vestal@tdi.state.tx.us or Nita Rene Smith, 512 475-1999. E-mail address: nita_rene_smith@tdi.state.tx.us.

Call for Quarterly Experience

The Call for Fourth Quarter 1998 Experience will be mailed the end of December, and will be due February 15, 1999. TDI contact is Vicky Knox, 512 475-1879. E-mail address: vicky_knox@tdi.state.tx.us.

Call for Quarterly Experience, Workers' Compensation Deductible Plans

The Call for Fourth Quarter 1998 Experience will be mailed the end of December, and will be due February 15, 1999. TDI contact is Vicky Knox, 512 475-1879. E-mail address: vicky_knox@tdi.state.tx.us.

Detailed Claim Information (DCI)

Detail Claim Information (DCI) should be submitted to NCCI. NCCI contact is Richard Saltzman at 561 995-1770. TDI contact is Julie Jones 512 475-3030. E-mail address: julie_jones@tdi.state.tx.us. ★

Fraud Unit Prosecutions

Convictions

Galvan, Antonetti Jesse, sentenced in Houston to 10 years' deferred adjudication with community supervision, a \$5,000 fine and \$7,250 in restitution for engaging in organized criminal activity (two cases).

Asdrubal, Ramon, sentenced in Houston to four years' deferred adjudication with community supervision, a \$500 fine and 200 hours of community service for engaging in organized criminal activity.

Pulido, Homobono Compean, sentenced in Houston to 10 years' deferred adjudication with community supervision, a \$5,000 fine, restitution of \$7,250 and 1,000 hours of community service for engaging in organized criminal activity (two cases).

Hare, Van E. III, sentenced in Houston to four years' probation, 180 hours of community service, a \$200 fine and restitution of \$536.64 for insurance fraud.

Graves, Simmie L., sentenced in Dallas to five years' probation, a \$500 fine and restitution of \$5,381 for forgery of a title application.

Brown, Carmelita, sentenced in Dallas County to three years' probation, a \$300 fine and restitution of \$4,641 for forgery of a title application.



Auto MAP Phase-in Concludes in January

A TDI INITIATIVE to help good drivers in underserved areas find reasonably priced auto liability insurance was expanded by 215 ZIP codes as of January 1, 1999.

The addition of the 215 ZIP codes concluded the phase-in of the auto insurance Market Assistance Program (MAP), which now serves 383 ZIP codes in 101 counties.

The MAP started in El Paso and Travis counties and the Lower Rio Grande Valley on July 1, Harris County on September 1 and Dallas and Tarrant counties on November 1.

The following table summarizes auto MAP activity through December 7 for all areas where the MAP had been phased in:

Calls received	1,594
Applications placed on Internet	886
Quotes	537
Policies issued	70

ZIP codes added on January 1 include parts of San Antonio, Corpus Christi, Amarillo, Galveston, Odessa, Beaumont and Port Arthur.

"The MAP both helps good drivers in underserved areas statewide pay less for liability insurance and creates good will for the insurance industry," said Commissioner Elton Bomer. "I want to thank participating insurers for helping the program get under way and for their continued support as it expands statewide."

The targeted ZIP codes have higher-than-average concentrations of drivers in non-standard markets.

Insurers voluntarily participating in the auto MAP are Allstate, Farmers, GEICO, Nationwide, Progressive, Prudential Property & Casualty, Safeco, Southern Farm Bureau and State Farm. Each has agreed to charge customers obtained through the MAP the same rates as their other standard and preferred car insurance customers.

License Reforms... from page 1

- A Property and Casualty License based on the present Local Recording Agent's license (05-01). License types consolidated into this license would include those now issued to solicitors, insurance service representatives and Group II county mutual agents. The temporary P&C license would be eliminated.

The license types Bomer recommended for consolidation into the two main types are shown in the tables below.

LIFE, ACCIDENT AND HEALTH VICENSE (01-01)*

01-02	Legal Reserve Combination or Industrial
01-03	Legal Reserve A&H and HMO
02-08	Casualty Selling A&H through Stock Casualty Companies
02-09	U. S. Military Personnel in Foreign Country
02-92	Stipulated Premium Life Over \$10,000
02-93	Stipulated Premium A&H
02-94	Stipulated Premium Life Over \$10,000 Plus A&H
04-00	Variable Contract Agent

PROPERTY AND CASUALTY LICENSE (05-01)

06-00	Solicitor
06-01	Insurance Service Representative
02-06	Group II County Mutual
10-00	Nonresident P&C Agent

In addition to the two primary licenses, Bomer proposed creation of several "limited" licenses as indicated in the table below.

LIMITED LICENSE TYPE

Prepaid Legal Services Agent (Both LAH and P&C)
Funeral Pre-Arrangement Life Insurance Agent (LAH)
Ticket Agent of Public Carrier Selling A&H (LAH)
Job Protection Insurance (LAH)
Stipulated Premium Life Less than \$10,000 (LAH)
Agriculture Agent (P&C)
Local Recording Agent -Motor Vehicle Only (P&C)

Independent Testing

Bomer recommended independent testing as a requirement for all individual agent licenses. Applicants for limited licenses would take an examination limited to general principles of insurance, insurance regulation in Texas and ethics.

License Grandfathering

Agents who obtained their original licenses by examination would receive the applicable primary licenses without further examination. Those licensed without examination also would receive the appropriate consolidated license but would have to pass the license examination within two years.

Continuing Education

Among the recommended changes, individual agents would be required to receive continuing education as a condition for license renewal. For the major licenses, the requirements would be 15 hours per year (rather than 30 hours per renewal cycle), including two hours of ethics. The CE requirement for limited licenses would be five hours per year, including two hours of ethics.

Renewals

Bomer recommended that the Legislature give TDI authority to adopt a five-year renewal cycle in place of the present two years. Agents' licenses would expire on their birthdays. Renewal fees would be adjusted to remain revenue neutral. Agents who miss renewal deadlines could renew within 90 days after their expiration dates without submitting new applications. An agent who renews between 90 days and one year after expiration would have to submit an application and pay both the license fee and a fine equal to half the license fee. An agent who tries to renew more than a year after expiration would have to submit an application and take a new examination.

Specialty Licenses

Licenses to sell credit insurance, travel insurance and rental car insurance would be designated as specialty licenses. As with the present rental car insurance license, these licenses would be held only by businesses—not by individuals.

For example, a travel agency would be licensed to sell travel insurance or an auto dealership, bank or retailer would be licensed to sell credit insurance. None of their employees would need to be licensed. However, a business would be accountable to TDI for assuring that its insurance products are authorized, its sellers are properly trained and its insurance products are marketed fairly and with all the required disclosures.

Unlike individual licenses, specialty licenses would have no examination or continuing education requirements.

Nonresident Licenses

Bomer recommended repeal of the present restrictions that prevent nonresident property and casualty agents from becoming licensed to sell insurance directly to customers in Texas. Non-residents would be expected to meet reasonable requirements, including submission of fingerprint cards in Texas or their home states.

Corporate Agencies

Certain barriers to the licensing of incorporated insurance agencies would be removed. These barriers include the requirement that all officers,

directors and shareholders be licensed individually as agents. Under Bomer's recommendation, individuals owning 10 percent or more of a corporation engaged in the business of insurance would be required to provide biographical information. A uniform financial responsibility requirement would apply equally to life/A&H and P&C agencies, and there no longer would be the option of a cash deposit.

Home Office Employees

Bomer recommended retention of the present law requiring only registration of full-time salaried home office employees of direct writers. He also recommended adding a registration fee.

Life Insurance Counselors

Under the Commissioner's recommendations, the Life Insurance Counselor's license would be redesignated as a Life and Health Insurance Counselor's license. The underlying 01-01 license requirement would be removed. Bomer also recommended abolishing the requirement of three years' prior experience as a licensee. Independent testing and continuing education requirements would be added, however, for counselors who are not licensed agents or Certified Financial Planners.

Internet and Telemarketing

Bomer recommended legislation authorizing TDI to issue rules governing Internet and telemarketing solicitations. Internet solicitations would be required to display the name, address and insurance license number of the agent responsible for the web page. ★



76th Legislature... from page 1

- The nature and types of risks insured.
- Premium volume.
- The composition, quality, duration or liquidity of an HMO's investments.
- The adequacy of reserves.
- Number of enrollees.
- Other business risks.

These criteria are similar to those already in place for companies that sell life and health insurance.



Withdrawal Plans. This proposal would repeal Article 20A.13(f) and add a new reference to Article 21.49-2C to require HMOs to file a withdrawal plan if they discontinue operations in a service area or in the state as a whole. An HMO's withdrawal plan would have to describe how the HMO would meet its contractual obligations and provide continuity of service to enrollees and claimants.

Complaints. The complaints and appeals procedures required of HMOs and utilization review agents are inconsistent with one another. TDI recommends amending Articles 20A.12, 21.58A and 21.58C to achieve consistency.

Small and Large Employer Health Plans

Discontinuance of Plans. Articles 26.24(d) (small employers) and 26.87(d) (large employers) require carriers to give employers at least 90 days' notice before discontinuing coverage. Many carriers observe that deadline but wait until much later to comply with the law requiring them to offer other plans that they currently are selling. Many businesses and their employees seek new coverage without knowing that the discontinuing carrier must offer them some type of health plan. TDI recommends changing these statutes to clarify that carriers must provide at least 90 days' notice of the availability of alternative coverage.

Annual elections. Articles 26.07 (small employers) and 26.82 (large employers) require carriers to certify each year whether they are offering small or large employer health benefit plans. Because annual certification is not necessary, TDI recommends changing these statutes to require an initial notification of whether carriers are offering these plans, with subsequent notification only if a carrier changes its election.

Yearly certifications. Article 26.07 requires carriers to list each year the plans they are selling to small employers and identify which ones are and are not subject to the small employer law. TDI recommends repealing this portion of the statute.

Minimum dependent participation. Article 26.83 does not say explicitly whether insurers may require minimum participation by dependents in a large-employer plan. TDI staff attorneys have advised that the companies cannot impose such a requirement. The Department recommends revising this statute to clarify that minimum dependent participation requirements are not allowed.

Residential Property MAP

Article 21.49-12 allows TDI to accept applications for coverage through the residential property insurance Market Assistance Program (MAP) only from agents. Applicants who contact TDI directly must be referred to originating agents. Agents take an average of about 30 days to return completed applications to TDI.

TDI recommends deleting the requirement that applicants go through an originating agent so that the Department may partially complete applications and refer them directly to the participating companies.

Fraud

The statutory definition of engaging in the business of insurance sometimes makes it difficult to determine whether a particular act amounts to unauthorized insurance. As a consequence, it may be more difficult for district attorneys to prosecute unlicensed and revoked agents for selling insurance without a license.

TDI proposes amendments to Article 1.14-1, Sections 2, 3 and 13, to clarify the definition and to specify that it is an offense to engage in the business of insurance

- Without a valid TDI certificate of authority, license, authorization or exemption or
- After the Commissioner has revoked or suspended one's certificate of authority, license or other authorization.

Property/Casualty Guaranty Association

Texas Insurance Code Article 21.28-C, Section 8(d), provides for claim filing deadlines for covered claims. TDI recommends clarification of this statute by specifically referencing Article 21.28, Section 3(b), which authorizes the receivership court, at its discretion, to accept claims after the claim filing deadline. This would harmonize these sections and give them their intended effect of

providing guaranty association coverage to policyholders whose claims have been accepted by the court. Under TDI's proposal, the claim filing deadline under Article 21.28-C, Section 8(d) would be clarified to specifically include any filing deadline established under Article 21.28, Section 3(b).

Title

Annual Audit. The Department recommends repealing the section of Article 9.39 that requires title insurance companies to examine and analyze audit reports furnished by their agents and direct operations and report their findings to the Department on TDI Form T-19.

This requirement is obsolete because TDI staff reviews every audit report received and no longer needs analysis by the companies. Repealing the requirement would spare companies and TDI from processing 1,456 Form T-19s every year.

Also recommended is legislation giving title companies 30 days to notify TDI when their agents or direct operations fail to submit audit reports to underwriters on time. Agents and direct operations would have 90 days from the close of their fiscal years to submit the audit reports.

Title Company Audits. Proposed changes to Article 9.48 Section 14(c)(13) would authorize TDI's title insurance auditors to audit title agent and direct operation records held in title company offices. Although TDI's title insurance auditors do not normally audit records of title underwriters, some of these companies maintain accounting records about agents and direct operations in their corporate offices. The Department believes it should have access to these records on an as-needed basis.

State Fire Marshal's Office

Because residential burglar alarm keypads include a fire alarm button, installers have been required to get fire alarm licenses. Since some are not licensed to install fire alarms, they cannot connect the fire alarm button when installing the burglar keypad. A homeowner who is unaware of this fact could encounter a delay in summoning firefighters in the event of a fire. To eliminate this problem, TDI proposes an amendment to *Texas Insurance Code* Article 5.43-2, exempting licensed burglar alarm installers from fire alarm licensing requirements when installing burglar alarm systems with a fire alarm panic button in one- and two-family residences. The installation of smoke detectors and other fire alarm equipment would still require a license through the State Fire Marshal's Office unless otherwise exempted by the article. ★

"Be Prepared" Should Guide Insurance Fraud Prosecutions

By Linda Bayless, Associate Commissioner, Insurance Fraud Unit

STATE INSURANCE FRAUD UNITS should follow the Boy Scout motto, "Be Prepared," if they want prosecutors to accept their cases and carry them through to conviction.

That message came through consistently when fraud unit directors and key personnel from 24 states gathered at TDI headquarters in Austin in October for what we expect to be the first of a series of annual meetings to learn from each other's experiences.

Information sharing is essential because we're in a relatively new area for state insurance departments. Most of the 33 fraud units have been legislatively created since 1990. Our work is highly specialized. We investigate some or all of the following types of insurance fraud: claimant fraud, provider fraud, health care fraud, workers' compensation fraud, insurer fraud (both agent and company) and unauthorized insurance.

One of the most important discussions took place during a discussion on "Working with Prosecutors," led by a panel consisting of Danny Broaddrick, Arkansas, Marty Nevrla, Arkansas and John Tull, New Mexico.

Working successfully with prosecutors is essential because the goal of most fraud units is to get their cases to court and convict the defendants. Due in part to the variety of statutes creating fraud units, each state has a different approach to prosecuting insurance fraud cases. In some states, the attorney general assigns prosecutors to the insurance fraud unit, and they prosecute insurance fraud cases in the counties where offenses occurred. In other states, fraud unit staff attorneys must be ap-

pointed by a local district attorney or U. S. Attorney as "special prosecutors," who then prepare cases and actually try them in court. Still other states rely on local prosecutors or U. S. Attorneys, whom the fraud units must ask to accept their cases.

In a few instances, fraud units do not need to work with prosecutors because their cases conclude primarily with administrative or civil actions and do not need the assistance of criminal prosecutors.

Prosecutors want criminal referrals from insurance fraud units to neatly package all the facts and evidence from an investigation. This is where "Be Prepared" is so essential.

District attorneys and other criminal prosecutors need brief synopses of the elements of the fraud and facts of the case. They need investigators who know and understand the crime and can explain it in a simple and concise manner. And they need the documentary evidence arranged and labeled in a logical sequence. These principles also apply to special investigative unit referrals to TDI's Fraud Unit. We will focus on the elements of a successful SIU referral at the January meeting of the Property and Casualty and Health Care Fraud Working Group (see sidebar).

In our discussions, we concluded that prosecutors also have a reasonable expectation that fraud unit investigators will lend any support necessary to gain convictions. This means tying up loose ends of the investigation, preparing witnesses for trial, serving subpoenas, gathering further evidentiary documents for trial and locating witnesses.

Another discussion dealt with conducting successful fraud investigations. The panel members were Dave Lattin, Utah, Dave Roff, Arkansas, and Dick Ross, California.

Since all fraud units have finite resources of money, time and people to work cases, directors must set investigative priorities. Because of the time necessary to conduct a thorough investigation and produce a complete referral package for prosecutors, some units focus time and resources on investigating one type of offense that is being perpetrated statewide. Investigators complete a substantial number of investigations of this type of offense, then file the cases with the district attorney, get arrest warrants and arrest all the defendants simultaneously. This can generate press coverage that sends a message to others contemplating the same type of fraud.

The directors agreed that experienced white-collar crime investigators were their greatest asset when it comes to good fraud investigations. Experienced investigators generally have extensive law enforcement and insurance industry contacts who often provide information and other assistance that can speed up the investigative process.

Fraud units are a relatively new component of state insurance departments, meaning that fraud directors have very little precedent to follow and can benefit from sharing information about how we manage our units. We agreed unanimously, therefore, to meet each October in a different state to share information about trends and specific cases, enhance our working relationship, and further refine our investigative techniques. ★

Fraud Working Group to Study Case Preparation

THE DEPARTMENT'S Property/Casualty and Health Care Fraud Working Group will meet January 28-29, 1999, for two days of training on developing insurance fraud cases for referral to law enforcement agencies.

The working group includes representatives of government agencies and insurance company special investigative units (SIUs). The meetings are open to any SIU. For information on attending, call Janet Brewster of TDI's Insurance Fraud Unit at 512 322-5094. ★

TDI Proposes TWIA Premium Credits

TDI HAS PROPOSED premium credits for Texas Windstorm Insurance Association policies on homes built under the new *Building Code for Windstorm Resistant Construction*. A hearing will be held January 21, 1999.

The proposed credits would be as follows:

- In the Seaward area east of the Intracoastal Canal—26 percent for dwelling coverage and 20 percent for personal property coverage.
- In the Inland I area extending 25 miles back from the Intracoastal Canal—24 percent for dwellings and 19 percent for personal property.
- For Inland I homes built to Seaward standards—29 percent for dwellings and 23 percent for personal property.

- For homes in the Inland II area (more than 25 miles from the coast) built to Inland I standards—27 percent for dwelling and 21 percent for personal property.
- For structures in the Inland II area built to Seaward standards—32 percent for dwelling and 25 percent for personal property.
- In any of the designated areas for homes retrofitted to protect all exterior openings from windborne debris—10 percent for dwelling and 10 percent for personal property.

The credits are proposed as new 28 TAC § 5.4700, to be published in the December 18, 1998, Texas Register. ★

RuleMaking

AGENTS

APA Adoption

Home Office Salaried Employees

- Commissioner Elton Bomer has adopted new 28 TAC §§ 19.3001–19.3006, concerning the registration of fulltime home office salaried employees who solicit or receive insurance applications.

The rules implement *Texas Insurance Code* Article 21.14 §20A, which the 75th Legislature enacted, in part, to assure a more equitable application of licensing provisions among all persons engaged in the solicitation of insurance.

The rules require registration of all fulltime home office salaried employees who solicit insurance through oral, written or electronic communication or receive information to complete insurance applications. Home office is defined to include regional offices.

Registration is not required of clerical and administrative employees who do not solicit or accept insurance applications, even though they might occasionally take information from customers and receive premium payments.

As defined in the rule, salaried home office employees do not include people who receive commissions for selling insurance.

To register, a person must submit a completed application accompanied by a certification from an insurance carrier whose general plan of operation includes the use of fulltime home office salaried employees to solicit or receive insurance applications. The carrier must cer-

tify that the applicant qualifies for registration and receives at least 15 hours per year of continuing education.

Continuing education requirements include at least four hours of instruction on insurance regulation and ethics within the first two years of registration. Subject matter must include the necessity of disclosing to prospective customers that the person soliciting business or taking an application is a registered employee, not a licensed agent.

Home office salaried employees who registered previously as special agents under *Texas Insurance Code* Articles 21.09 and 21.14 §20(a) must re-register under the new rules.

A registered fulltime home office salaried employee may represent only one carrier and its affiliated insurers at any one time. A carrier must notify TDI within 30 days after the termination of a full-time home office salaried employee.

Carriers that intend to use full-time home office salaried employees to solicit or receive insurance applications must show this intent in the general plan of operation filed with the company's certificate of authority or expressed in a board resolution submitted to TDI. A company may amend its general plan of operation to include the use of such employees.

Publication: 23TexReg12395, December 4, 1998

Effective date: December 8, 1998

Further information: 512 463-6327

FINANCIAL

APA Proposals

Annual and Quarterly Statements

- The Department proposes new 28 TAC § 7.68, concerning requirements for filing 1998 annual statements and 1999 quarterly statements. Significant changes from the instructions of prior years are summarized below.

All companies would be required to describe their readiness for the Year 2000 in the Management Discussion and Analysis section.

The Medicare Supplement Experience Exhibit would be removed from the annual statement. Instead, it would be filed as a supplement only with the NAIC.

Likewise, Schedule DC (insurance options and futures) no longer would be part of the annual statement. Rather, it would become a supplement filed only with the NAIC.

Life insurance companies would report Administrative Services Only (ASO) revenue as fees instead of premiums.

Form ALT/P/WC, Application for Alternative Excess Statutory Over Statement Reserves for workers' comp insurance, would be omitted from the 1999 forms. Insurers would apply to the chief property and casualty actuary of the Financial Program for an exemption or alternative calculation of these reserves.

The proposed rules would clarify that title insurers must submit an actuarial opinion.

Major changes would be made to the HMO Supplement filing. Some of the exhibits in the supplement would be eliminated, reorganized and renamed. The proposed rule also would require information to help TDI monitor HMOs' statutory deposits on a quarterly basis.

Projected publication date: December 18, 1998

Further information: 512 463-6327

Appeal of Examination Reports

- The Department has proposed new 28 TAC §7.83 concerning the filing and adoption of examination reports of insurance companies. The existing §7.83 would be repealed. The purpose of the proposal is to streamline the appeals process while giving examined companies ample opportunity for review to make sure their examination reports are fair and accurate.

A report would be considered final and subject to appeal after it has been reviewed by the chief examiner or, in the case of quality of care examinations, the deputy commissioner for HMOs and Utilization Review Agents (HMO/URA).

The proposal would establish a two-level system of appeals from a final exam report.

Companies would have 14 days after receiving a report to file a first-level appeal. An appeal would go to the chief examiner or, for quality of care exams, the deputy commissioner for HMO/URA. An appeal would have to include documentation of the alleged error or bias contained in the report. A company also could request an informal hearing before the chief examiner or deputy commissioner for HMO/URA. TDI would have 14 days after receiving a written rebuttal or conducting an informal hearing to act on the appeal.

HOW APA WORKS

The Administrative Procedure Act (APA) requires agencies to publish both proposed and adopted rules in the Texas Register.

The entire text of a proposed rule will appear in the Texas Register after an agency's governing body or officer approves it for publication. This appearance marks the first day of a mandatory 30-day comment period. Only after that period has elapsed may the agency adopt the proposed rule unless it is an emergency rule.

After adopting a rule, the Agency must publish notice of its action in the Register. Rules become effective 20 days after the date on which they are filed with the Register.

RuleMaking

After receiving the outcome of the first-level appeal, a company would have 14 days to file a second-level appeal with the associate commissioner of the Financial Program or, in the case of quality of care examinations, the associate commissioner for life, health and managed care. A company could request an informal hearing. The appropriate associate commissioner would have 14 days after receiving a written rebuttal or conducting an informal hearing to rule on the appeal.

An exam report would be deemed adopted if not appealed or following the outcome of the appeal process outlined above. Unlike the present version of 28 TAC § 7.83, there would be no further appeal to the Commissioner of Insurance. Under current TDI practices, such appeals are treated as contested cases under the Administrative Procedure Act (APA). The proposed new rule would eliminate the practice of a contested case hearing before the Commissioner. The Department believes that neither *Texas Insurance Code* Article 1.15 nor the Texas Constitution requires a formal contested case hearing, nor is such a hearing necessary to protect a company's interest in an accurate and complete examination report. The proposed process would sufficiently protect a company's interest.

If the Department initiates regulatory action against a company as a result of information and findings in an examination report, the company is entitled to a contested case hearing under the APA.

Each company's board of directors would be required to show in its minutes that each member had reviewed the exam report.

As under the existing rule, other states' examination reports on foreign and alien companies would be deemed adopted when filed with TDI.

Publication: 23TexReg12179, December 4, 1998
Earliest possible adoption: January 3, 1999
Further information: 512 463-6327

HEALTH CARE

APA Proposals

Diabetes Coverage Standards

- The Department has proposed amendments to 28 TAC §§ 21.2601-21.2607, setting required benefits and minimum standards for coverage of health plan enrollees with diabetes. The required benefits include coverage for supplies, equipment and self-management

training associated with diabetes treatment. The minimum standards require coverage for office visits, inpatient services, lab testing and certain immunizations. The proposed amendments implement Senate Bills 162 and 163 of the 75th Legislature.

Commissioner Elton Bomer has scheduled a January 5, 1999, hearing on the proposed rules. The hearing will be at 9 a.m. in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe, Austin.

Provisions of the rules would:

- Define "diabetes supplies" as test strips for glucose monitors, visual reading and urine test strips, lancets and lancet devices, insulin and insulin analogs, injection aids, syringes, prescription and non-prescription oral agents for controlling blood sugar levels and glucagon emergency kits.
- Require coverage for "diabetes equipment," which includes blood glucose monitors (including those designed for the blind), insulin pumps and associated equipment, insulin infusion devices and up to two pair of therapeutic footwear per year to prevent diabetes complications.
- Define "self-management training" as instruction enabling an enrollee and/or a caretaker to understand the care and management of diabetes, including nutritional counseling and proper use of diabetes equipment and supplies.
- Call for an enrollee's doctor, rather than predetermined plan limits, to determine the number of lancets, test strips, syringes and units of insulin needed each month.
- Establish minimum benefit requirements for enrollees with diabetes.
- Provide by January 1, 2001, for self-management training through **1)** Certified Diabetes Educators (CDEs) certified by the National Certification Board for Diabetes Educators, **2)** a multidisciplinary team under the direction of a CDE or **3)** a diabetes self-management training program recognized by the American Diabetes Association.
- Prohibit these benefits from being subject to deductibles, coinsurance or copayments that exceed those applicable to similar chronic medical conditions.
- Base minimum standards on those adopted by the Texas Diabetes Council and the American Diabetes Association.

The minimum standards have been adopted by most HMOs and will be included under non-HMO plans as medically necessary services that reflect prevailing national standards for treatment of diabetes.

A required service not currently offered by HMOs would provide an annual retinal camera examination by an ophthalmologist or therapeutic optometrist for diabetic enrollees under age 18.

Required services not now provided by non-HMO plans include certain immunizations.

Publication: 23TexReg12184-90, December 4, 1998
Earliest possible adoption: January 3, 1999
Further information: 512 463-6326

Childbirth Benefits Under Small Employer Plans

- The Department has proposed an amendment to 28 TAC § 26.14, requiring small employer health benefit plans to comply with *Texas Insurance Code* Article 21.53F if a plan provides maternity coverage, including benefits for childbirth.

The rule implements provisions of House Bill 102 of the 75th Legislature and a federal law requiring that new mothers and their babies receive post-delivery inpatient care of at least 48 hours following an uncomplicated normal delivery and 96 hours following an uncomplicated caesarian birth.

Publication: 23TexReg12191, December 4, 1998
Earliest possible adoption: January 3, 1999
Further information: 512 463-6327

Mandatory Benefits Under Large Employer Health Plans

- The Department has proposed an amendment to 28 TAC § 26.305 requiring large employer health plans to provide certain benefits. The amendment is necessary to implement House Bill 864, Senate Bill 54 and Senate Bill 258 of the 75th Legislature.

If a large employer plan conditions coverage of children 21 and older on enrollment in an educational institution, it must comply with *Texas Insurance Code* Article 21.24-2.

A large employer plan that covers diagnostic medical procedures must provide male enrollees benefits for an annual prostate cancer examination, in accordance with *Texas Insurance Code* Article 21.53F.

An HMO large employer plan must allow female patients direct access to obstetrical or

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gynecological care without the necessity of a gatekeeper, in accordance with *Texas Insurance Code* Article 21.53D.

Publication: 23TexReg12192, December 4, 1998

Earliest possible adoption: January 3, 1999

Further information: 512 463-6327

Drug Formularies

- The Department has proposed an amendment to 28 TAC § 11.506, concerning changes in HMO drug formularies. The proposal resulted from enrollee complaints that they chose particular HMOs because they covered specific drugs, only to be left without coverage for those drugs when the HMOs changed their formularies.

The rule change would require HMOs to give 90 days' notice to affected enrollees, physicians and providers before removing a prescription drug from their formularies. The notice would have to contain information about using the appeal process prescribed in *Texas Insurance Code* Article 20A.12 to seek continued coverage of the drug in question. The notice could be sent separately to individuals or it could be included in a regular publication of the HMO, such as an enrollee newsletter, if prominently displayed and titled to indicate a potential change in drug benefits.

Publication: 23TexReg12632, December 11, 1998

Earliest possible adoption: January 10, 1999

Further information: 512 463-6327

Chemical Dependency Cost Control and Utilization Review

- The Department has proposed changes to 28 TAC §§ 3.8001–3.8002, 3.8004–3.8005, 3.8007, 3.8019 and 3.8022 and the addition of new 28 TAC §§ 3.8023–3.8030 concerning utilization review of treatment for chemical dependency. The Department also proposes the repeal of 28 TAC § 3.8006.

The proposed rules and rule amendments would make UR standards for chemical dependency treatment consistent with the standards issued by TDI under *Texas Insurance Code* Article 21.58A.

Commissioner Elton Bomer will hold a public hearing on the proposals on January 6, 1999, under Docket Number 2392. The hearing will be at 9 a.m. in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe, Austin.

Following is a summary of the proposals.

Definitions

The rules would define "qualified credentialed counselor" as an individual who either meets the definition established by the Texas Commission on Alcohol and Drug Abuse (TCADA) or is employed outside Texas and is licensed, certified or registered in a profession corresponding to those described in TCADA's definition of qualified credentialed counselor.

Admission and Monitoring

The rules would require each admission to a 24-hour residential chemical dependency treatment center, partial hospitalization program, detoxification program or outpatient program to be approved in writing by a qualified credentialed counselor. This would include a determination of the appropriateness for admission and the application of TDI standards and criteria to determine the appropriate level of treatment. A qualified credentialed counselor would need to make an assessment before discharge from treatment or a change in the level of treatment.

Utilization Review

Payors as well as providers would be required to provide for utilization review and make a qualified credentialed counselor available, if necessary, to discuss the appropriateness of treatment.

Admission Criteria

The criteria for admission to inpatient detoxification services would be expanded to include the failure of two previous episodes of outpatient detoxification. However, the failure of outpatient detoxification could not be required for admission of a person who meets other clinical criteria for inpatient detoxification.

People would be eligible for outpatient treatment if their diagnoses meet certain standard definitions of chemical dependence or alcohol/drug abuse and there is evidence that some symptoms have persisted for at least a month or have occurred repeatedly over a longer period. In addition, a person must:

- Have no medical complications that would hamper his or her participation in outpatient treatment.
- Live in a family or other social environment supportive of recovery or at least have the social skills to obtain a support system or to become involved in a self-help fellowship.

- Be coherent, rational and oriented for treatment; have a documented interest in rehabilitation; and be mentally able to understand the materials presented and participate in his or her treatment and rehabilitation.

Outpatient Continued Stay Criteria

A patient would be considered eligible for continuation of outpatient treatment if the patient:

- Demonstrates an insight and understanding into his or her relationship with mood-altering chemicals yet does not deal effectively with work and relationships without the use of such chemicals, or
- Abstains from drugs and/or alcohol but has a preoccupation with them that interferes with success at work and in relationships. At the same time, there are indications that continued treatment will address these issues.

In addition to these requirements, there would have to be documentation in the record that a medical or psychiatric event interrupted rehabilitation or treatment but the patient again is making progress.

Outpatient Discharge Criteria

A patient would be considered eligible for discharge from outpatient treatment when he or she meets any one of the following conditions:

- A documented assessment that the patient no longer meets the diagnostic criteria of alcohol/drug dependence or abuse.
- Documentation that a psychiatric or medical condition should be treated in another setting or that such a condition is interfering with alcohol/drug recovery but is not being treated.
- The patient functions adequately in work and relationships or demonstrates understanding of the nature and severity of his or her drug/alcohol problem and applies the essential coping skills to deal with the problem and maintain abstinence.
- The patient's lack of cooperation makes further progress unlikely, and intensifying treatment or transferring the patient to another provider would not have a positive impact on the problem.

Outpatient Length of Stay

The recommended stay in an outpatient treatment program would be up to six months, meeting at least one hour every two weeks, based on the admission criteria in these rules

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and subject to utilization review based on the continued stay criteria.

Outpatient Detoxification Admission Criteria

The rules would establish detailed medical, social, emotional and behavioral criteria for admission, including motivation for recovery and the absence of risk of harm to the patient or others if treated as an outpatient.

Outpatient Detoxification Continued Stay Criteria

A patient would be considered eligible for a continued stay at an outpatient detoxification center if he or she had:

- Chemical substance withdrawal complications—as indicated by physical or psychological cravings or significant drug levels—or
- Psychiatric or medical complications serious enough to interrupt detoxification, but the patient again is progressing in his or her treatment.

Outpatient Detoxification Length of Stay

The recommended stay is five to 10 days, subject to utilization review and with the understanding that a longer period may be necessary if the patient is dependent on high doses of sedative hypnotics, has been taking high doses of opiates or is pregnant.

Publication: 23TexReg12172, December 4, 1998
Earliest possible adoption: January 3, 1999
Further information: 512 463-6327

Limited Service HMOs

- The Department has proposed new 28 TAC §§ 11.2401–11.2405 to implement Senate Bill 382 of the 75th Legislature, which provides for the creation of limited service HMOs.

Limited service HMOs will provide services in an HMO format for conditions that require a broader range of treatment than is available through a single service HMO but do not require the extensive range of services that basic service HMOs must provide.

The rule would require a limited service HMO to provide uniquely described services. Its schedule of enrollee copayments would have to appropriately describe the covered services and benefits and could specify recognized procedure codes or other information used for statistical purposes. If an evidence of coverage uses mental health procedure codes, it must use those specified in the current version of CDT.

Evidences of coverage would be required to include a glossary defining the terms used.

In the event of a conflict between the new subchapter and other provisions of 28 TAC Chapter 11 (relating to HMOs), the new subchapter prevails with respect to limited service HMOs.

A limited service HMO would be prohibited from:

- Excluding services required for pre-existing conditions that would otherwise be covered under the plan.
- Establishing waiting periods for coverage of pre-existing conditions.
- Imposing a lifetime coverage maximum for any covered service or benefit.
- Limiting or otherwise interfering with an enrollee's right to terminate his or her membership in the plan before the end of the enrollment year.
- Limiting coverage for emergency services.
- Charging an emergency fee in addition to a copayment for emergency services.
- Counting medication-related services against the outpatient visit total for either serious or basic mental illness.

A limited service HMO providing mental health coverage would be required to cover court-ordered mental health treatment. It could, if clearly disclosed, require the enrollee to have such treatment completed by a participating provider in its network or as otherwise arranged by the HMO.

A limited service HMO providing coverage for mental health care would be required to provide primary mental health care services and benefits, including:

- Up to 45 inpatient days per year and up to 60 outpatient visits per year for treatment of serious mental illness.
- Up to 30 inpatient and 30 outpatient days per year for treatment of non-serious mental illness.
- Any other mental health services necessary and appropriate to treat mental illness/chemical dependency or required by the *Texas Insurance Code*, *Health and Safety Code* and other applicable laws and regulations.

Publication: 23TexReg12182, December 4, 1998
Earliest possible adoption: January 3, 1999
Further information: 512 463-6327

Community Mental Health Centers

- The Department has proposed new 28 TAC §§ 11.2101–11.2104, concerning standards for community mental health centers. The rules are necessary to implement House Bill 587 of the 75th Legislature.

This legislation enables community centers to create nonprofit corporations to provide health care services through health maintenance organizations (HMOs). It also directs the Department to establish procedures and standards for an entity seeking to obtain a certificate of authority as a limited health care service plan providing behavioral health care services.

Commissioner Elton Bomer has scheduled a public hearing on the proposed rules for January 6, 1999. The hearing will be at 9 a.m. in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe, Austin.

The new subchapter will, in part, enable entities to increase availability and accessibility to mental health/mental retardation services in settings other than large residential facilities.

Under the proposed rule, a community health maintenance organization (CHMO) would have to:

- Comply with all requirements for a limited health care service plan.
- Provide coverage for work in progress.
- Clearly specify that an enrollee must agree to have the work completed by a participating provider in the HMO delivery network or as otherwise arranged by the limited service HMO.

Before obtaining a certificate of authority, an applicant CHMO would have to comply with each requirement for issuance of such a certificate that Texas law and TDI regulations impose on limited health care service plans.

Projected publication date: December 18, 1998
Further information: 512-463-6327

PROFESSIONAL LIABILITY

APA Repeals

Patient Safety and Risk Training

- Commissioner Elton Bomer has repealed obsolete 28 TAC §§ 5.1401 and 5.1402, relating to patient safety and risk reduction training for health care professionals.

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The rules were part of TDI's implementation of the Omnibus Health Care Rescue Act, which expired on September 1, 1997.

Publication: 23TexReg 11810, November 20, 1998
Effective date: November 24, 1998
Further information: 512 463-6327

Standard and Uniform Rates

- Commissioner Elton Bomer has repealed 28 TAC § 5.1521, which established procedures for promulgating standard and uniform rates for professional liability insurance. The 73rd Legislature rendered the rule obsolete by enacting House Bill 1461, which established a file-and-use rating system for miscellaneous professional liability insurance.

Publication: 23TexReg 11811, November 20, 1998
Effective date: November 24, 1998
Further information: 512 463-6327

PROPERTY

APA Repeals

Commercial Property Rating Forms

- Commissioner Elton Bomer has repealed 28 TAC §§ 5.3301, which specified forms to be used in commercial property rating. The property inspection function was privatized effective September 1, 1994, and companies must now file and use their own commercial schedules and rating forms and certificates.

Publication: 23TexReg 11812, November 20, 1998
Effective date: November 24, 1998
Further information: 512 463-6327

Inland Marine Rules

- Commissioner Elton Bomer has repealed 23 TAC § 5.5003, the savings clause in the rules defining and classifying inland marine insurance. Staff has determined that a savings clause is unnecessary.

Publication: 23TexReg 11812, November 20, 1998
Effective date: November 24, 1998
Further information: 512 463-6327

WORKERS' COMPENSATION

APA Repeal

Agreement to Participate in Workers' Compensation Facility

- Commissioner Elton Bomer has repealed obsolete 28 TAC § 5.6401, which adopts by reference the Agreement to Participate in the Texas Workers' Compensation Assigned Risk Pool. The pool (later named the Texas Workers' Compensation Insurance Facility) no longer exists.

Publication: 23TexReg 11812, November 20, 1998
Effective date: November 24, 1998
Further information: 512 463-6327

LegalNotes

Supreme Court Interprets Pollution Exclusion

By Ann Bright, Section Chief, Agency Counsel Section, Legal and Compliance Division

THE JANUARY 1998 ISSUE of *Texas Insurance News* summarized a case interpreting the pollution exclusion provision of a commercial general liability insurance policy. *Highlands Insurance Company v. Kelley-Coppedge*, 950 S.W. 2d 415 (Tex. App.—Fort Worth 1997). This case was appealed to the Texas Supreme Court, which issued its opinion in November.

Kelley-Coppedge, Inc. v. Highlands Insurance Company

Kelley-Coppedge Inc. entered a contract with Natural Gas Pipeline Company of America (NGP) under which Kelley-Coppedge agreed to lay a natural gas pipeline for NGP. Before beginning the project, Kelley-Coppedge obtained a commercial general liability insurance policy from Highlands Insurance Co. (Highlands).

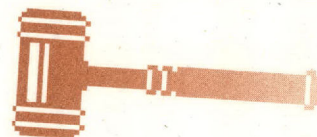
Paragraphs f(1)(a) and f(1)(d) of the policy excluded coverage for property damage arising from the release of pollutants

- (a) At or from any premises, site or location that is or was at any time owned or occupied by... any insured....
- (d) At or from any premises, site or location on which any insured... [is] performing operations... if the pollutants are brought on or to the premises, site or location in connection with such operations by such insured...

(Emphasis added) The term "pollutants" was defined to mean "any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste."

While laying the pipeline for NGP, an employee of Kelley-Coppedge inadvertently struck a crude oil pipeline owned by Mobil Oil. Approximately 1,600 barrels of crude oil were released. Much of the oil was recovered. The release of crude oil damaged property owned by A.L. Peterson. Kelley-Coppedge filed a claim on its policy with Highlands. Highlands paid for the cost of repairing the damaged pipeline. Highlands also paid Mobil for the loss of oil and for labor costs. However, Highlands did not pay the costs of repairing damage to the property of A.L. Peterson. Highlands argued that Kelley-Coppedge *occupied* the property at the time the pollutants were released. Therefore, Highlands argued that damage to the property was excluded by paragraph f(1)(a) of the pollution exclusion. Kelley-Coppedge sued Highlands.

The trial court ruled in favor of Kelley-Coppedge and ordered Highlands to pay \$435,910 in damages and \$23,885 in attorneys' fees. Highlands appealed. The Fort Worth Court of Appeals determined that the pollution exclusion clause excluded coverage for damage to the property. Kelley-Coppedge appealed.



The issue presented to the Texas Supreme Court (the court) concerned whether Kelley-Coppedge *occupied* the property on which the oil was released. Highlands argued that Kelley-Coppedge *occupied* the property merely because of its presence on the property.

Kelley-Coppedge, on the other hand, argued that such a broad definition would render part of the policy meaningless. Kelley-Coppedge noted that paragraph f(1)(d) excluded coverage for certain operations by the insured on another's property. If paragraph f(1)(a) was intended to exclude coverage for the insured's operations on another's property, then paragraph f(1)(d) would be unnecessary and meaningless.

The court noted that in interpreting an insurance contract, it must "attempt to give effect to all contract provisions so that none will be rendered meaningless." The court stated that if "any presence, no matter how transitory, constitutes occupancy under section f(1)(a), then f(1)(d) is rendered meaningless." As a result, the court found that Kelley-Coppedge's cleanup costs were not excluded by the policy. The court therefore ruled in favor of Kelley-Coppedge.

Kelley-Coppedge, Inc. v. Highlands Insurance Company, 42 Tex. Sup. Ct. J. 130 (Tex. 1998). ★

Company Licensing

Applications Pending

For admission to do business in Texas

COMPANY NAME	LINE	HOME OFFICE
KBM Management Inc.	TPA	Syracuse, NY
Kemper Auto & Home Insurance Co.	P/C	Long Grove, IL
Kemper Independence Insurance Co.	P/C	Long Grove, IL
Paco Assurance Co. Inc.	P/C	Champaign, IL

For incorporation

COMPANY	LINE	HOME OFFICE
Cook Children's Health Plan	HMO	Fort Worth, TX
Mark Hatcher, (doing business under the assumed name of Cordata)	TPA	Dallas, TX
U.S. Renal-Texas, Inc.	HMO	Dallas, TX

Application to use the assumed name

COMPANY	ASSUMED NAME	LINE	LOCATION
Methodistcare Star Health	Methodist care Inc.	HMO	Houston, TX
Methodistcare 65 Plus	Methodist care Inc.	HMO	Houston, TX

For name change in Texas

FROM	TO	LINE	LOCATION
Amerihealth HMO of North Texas Inc.	Amerihealth of Texas Inc.	HMO	Dallas, TX
Gan North American Insurance Co.	Western Continental Insurance Co.	P/C	Houston, TX
Health Care Services Corp. (Legal Reserve Company)	Blue Cross and Blue Shield	Life	Chicago, IL
Seguros Monterrey Aetna, S.A.	Seguros Monterrey Aetna, S.A. Grupo Financiero Bancomer	Casualty	Mexico City, Mexico

Applications Approved

For admission to do business in Texas

COMPANY NAME	LINE	HOME OFFICE
Southland National Insurance Corp.	Life	Tuscaloosa, AL
Zurich American Insurance Company of Illinois	Fire/Casualty	Schaumburg, IL

For name change in Texas

FROM	TO	LINE	LOCATION
Chrysler Life Insurance Co.	Forethought Life Assurance Co.	Life	Southfield, MI
Minnesota Mutual Life Insurance Co., The	Minnesota Life Insurance Co.	Life	St. Paul, MN
Providian Fire Insurance Co.	Worldwide Casualty Insurance	Fire/Casualty Co.	Louisville, KY
Providian Property and Casualty Insurance Co.	Worldwide Direct Auto Insurance Co.	Fire/Casualty	Louisville, KY

Disciplinary Actions

Editor's Note: Copies of individual orders may be obtained by calling TDI's Public Information Office, 512 463-6425.

AGENTS & AGENCIES	NAME	CITY	ACTION TAKEN	VIOLATION	ORDER	DATE
	Ali, Manzoor	League City	Group I and Variable Contract Agent's Licenses Revoked	Felony Conviction; Fraudulent and Dishonest Practices	98-1175	10/13/98
	Danback, Stacy M.	Garland	\$500 Fine and \$250 Investigative Cost	Material Misstatement on License Application	98-1367	11/24/98
	Fernandez, David	El Paso	Group I and Local Recording Agent's Licenses Revoked	Misappropriation and Conversion	98-1245	10/27/98
	Lynn County Abstract & Title Inc.	Tahoka	\$600 Fine	Late Filing of Escrow Audit Report	98-1312	11/12/98
	Title Resources of Denton County	Denton	\$5,000 Fine	Commingle of Funds	98-1292	11/4/98
	Wiley, Desiree Lamont	Stafford	Group I Agent's License Revoked	Failure to Pay Administrative Penalty	98-1298	11/5/98
	Williams, Billy Wade	Houston	License Denied	Alleged Embezzlement Conviction	98-1275	11/3/98

Continued on Page 12

Disciplinary Actions (continued)

COMPANIES	NAME	CITY	ACTION TAKEN	VIOLATION	ORDER	DATE
American Bankers Insurance Group Inc.	Miami, FL	Participation in \$12 Million Multi-State Fine. Texas' Share \$597,580	Market Conduct Violations	98-1373	11/24/98	
John Alden Life Insurance Co.	Miami, FL	\$10,000 Fine and a Requirement to Offer Dependent Coverage, With Waiver of Premium	Exclusion of Eligible Dependents from Small Employer Health Plans	98-1327	11/16/98	
Memorial Service Life Insurance Co.	Austin	\$15,000 Fine	Affiliate Transactions Without Notice to TDI	98-1342	11/19/98	

Bomer Reduces Auto Benchmark Rates by 5.5 Percent

COMMISSIONER ELTON BOMER has reduced private passenger auto insurance benchmark rates by a statewide average of 5.5 percent, effective February 15, 1999.

Bomer left commercial auto benchmark rates unchanged, as recommended by the administrative law judges (ALJs) who heard the rate case.

Insurance companies have 30 days from February 15 to file their own rates. The Department plans to issue its "machine letter," including detailed filing instructions, in early January 1999. The bulletin is available at TDI's web site, www.tdi.state.tx.us.

Companies may use their new rates immediately after filing them. By law, however, they may delay implementation for up to 60 days after filing their rates.

The Commissioner's benchmark rate order assumes a return on equity of 11.25 percent to 11.75 percent.

Average statewide benchmark rate changes by subline of coverage are as follows:

Bodily injury (BI) liability	-19.5 %
Property damage (PD) liability	+8.1 %
BI and PD liability combined	-7.8 %
Personal Injury Protection (PIP)	-3.2 %
Uninsured/Underinsured motorists	-25.0 %
Medical payments	+25.0 %
Comprehensive	-20.2 %
Collision	+25.0 %
Total All Coverages	-5.5 %

The benchmark rate changes apply only to vehicles insured by rate-regulated insurance companies. At the end of 1997, about 23 percent of the insured private passenger cars in Texas were covered by county mutual insurers, which, by law, are exempt from rate regulation.

At an April 7-9, 1998, hearing before ALJs, the Texas Insurance Organization recommended a 5.9 percent increase, the Office of Public Insurance Counsel a 6.5 percent decrease and an outside actuary representing TDI staff a 2.2 percent reduction. The ALJs recommended reductions averaging 4.0 percent.

In his rate order, Bomer also revised the current year model relativity table for collision and comprehensive coverages by changing the base year (1.00) from 1990 to 1998. Relatives for other years will be established in increments of 0.04 up or down, with 199 and earlier models having a relativity of 0.68. The order applied an off-balance factor of 1.04 to collision and comprehensive rates to assure that the change in model year relativities is revenue neutral. ★



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