2019 Legislative Conference

Raymond G. Farmer
Director

SOUTH CAROLINA
DEPARTMENT of INSURANCE

Overview

- The SCDOI proposes the following legislative recommendations:
  - Accreditation Bill
  - House Keeping Bill
  - JUA Reform Bill

SOUTH CAROLINA DEPARTMENT of INSURANCE

Accreditation Bill

- **Corporate Governance Annual Disclosure Act (NAIC Model #305)**
  - Changes must be in effect on or before January 1, 2020
  - Bill requires an annual corporate disclosure the insurer’s lead regulator
  - In the disclosure, insurers document information about the corporate governance structure framework and disclose policies and practices used by the board of directors on critical issues. This information will enable the director to gain and maintain an understanding of an insurer’s corporate governance framework which should enable the Department to provide more effective oversight.
  - SCDOI is also promulgating a new CG Annual Disclosure Regulation 69-80.

Accreditation Bill (cont'd)

- **Revisions to the Insurance Company Holding Act (NAIC Model #440)**
  - Revisions will clarify the authority and power of the Director to act as a group wide supervisor for internationally active insurance groups.
  - This includes activities such as re questing group level information, assessing enterprise risks affecting the group, compelling the development and implementation of reasonable measures to recognize and mitigate enterprise risks, and communicating and sharing group-wide information with other regulators.
- S.C. Ann. Reg. 69-70 will be amended to add the definition of "internal audit function" and certain internal audit function requirements in accordance with NAIC Model Regulation #205.

SCDOI House Keeping Bill

- **Section 38-7-20. Insurance Premium taxes; allocation**

This amendment exempts bail bond commissions from the total premiums used in calculating premium taxes. It also clarifies the director's authority to issue regulations and orders necessary to carry out the provisions of this section.

- **Section 38-99-70. (South Carolina Insurance Data Security Act)**

This amendment corrects a scrivener's error in the bill that was passed last year. Licensees who qualify for an exemption under 38-99-70 are only exempt from the provisions of 38-99-20 involving the development of their own data security plan. They still must comply with other portions of the Chapter including reporting data security events to the director when they occur. The current language exempts licensees from all provisions of the entire chapter.

SCDOI House Keeping Bill (cont'd)

- **38-43-247. Reporting administrative actions and criminal prosecutions**.

This amendment clarifies language regarding when and what producers are to report to the department when facing a criminal prosecution.

- **38-57-130, 140, and 150**

Statutes will be amended to allow insurers to give policyholders loss mitigation devices without running afoul of our anti-rebating and inducement law.

- **38-75-1200**

This amendment makes Section 38-75-1200 consistent with the language of 38-75-730. It gives the insurer an initial period of 120 days (instead of 90 days) in which the insurer can cancel the policy without cause.

S.C. Medical Malpractice JUA Reform Bill

- The JUA is currently facing a deficit that must be addressed in order for the JUA to remain solvent. This bill:
  - Changes the assessment method for the Joint Underwriting Association. Instead of all liability writers being assessed as currently proposed, writers of medical malpractice insurance coverage would be assessed. This method is similar to the assessment method for other residual market mechanisms.
  - To eliminate the unfunded liability of the JUA, the JUA would assess a surcharge fee per license or license renewal for every person licensed as a medical professional for the purpose of reducing the operating deficit of the JUA that would be collected by the Department of Labor, Licensing and Regulation.
  - A rate increase for the JUA, applied prospectively.

Medical Malpractice JUA Reform (cont'd).

Some key provisions:

- Clarifies the membership for purposes of assessment
  - Clarifies that the members of the JUA that are subject to assessment are insurers that write medical professional liability, hospital professional liability and other healthcare related liability lines on a voluntary market basis
  - Clarifies that among the companies that can be assessed for a JUA deficit are Risk Retention Groups (RRGs) -- both domestic and foreign
  - Also clarifies that companies that write medical or hospital liability on a surplus lines (non-admitted) basis are subject to assessment for the JUA

Medical Malpractice JUA Reform (cont'd).

- Clarifies the JUA deficits must be recouped by **<u>one or more</u>** of the following methods:
  - a surcharge applied to the biannual license renewal for certain categories of licensed healthcare providers (physicians and surgeons, osteopaths, physician assistants, dentists, advanced practice nurses, nurse practitioners, podiatrists and pharmacists); and/or Authorizes a $100 per license surcharge to every physician, osteopath and surgeon to be collected by LLR and remitted for the purpose of reducing the JUA's deficit
  - Imposes similar (but proportionately lesser) surcharges on the licenses of the other health care professionals
  - an assessment against all insurers that are members of the JUA -- in proportion to their share of written premiums in the state (e.g., 15% market share = 15% of the total assessment) and/or a rate increase for the JUA, applied ***prospectively***

Contact Us

doi.sc.gov/consumers

(803) 737-6180

consumers@doi.sc.gov

south_carolina_doi

@scdoi

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