

INSURANCE CODE

TITLE 9. PROVISIONS APPLICABLE TO LIFE AND HEALTH COVERAGES

CHAPTER 1701. POLICY FORMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1701.001. DEFINITION. In this chapter, "use" includes issue and deliver.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.002. APPLICABILITY OF CHAPTER TO FORMS OF CERTAIN DOCUMENTS. This chapter applies to the form of the following document:

- (1) a policy, contract, or certificate of:
  - (A) accident or health insurance, including group accident or health insurance;
  - (B) medical or surgical insurance, including group medical or surgical insurance;
  - (C) life or term insurance, including group life or term insurance;
  - (D) endowment insurance;
  - (E) industrial life insurance; or
  - (F) fraternal benefit insurance;
- (2) an annuity or pure endowment contract, including a group annuity contract;
- (3) an application attached or required to be attached to the policy, contract, or certificate; or
- (4) a rider or endorsement to be attached to, printed on, or used in connection with the policy, contract, or certificate.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.003. APPLICABILITY OF CHAPTER TO CERTAIN INSURERS. (a) Except as provided by Subsection (b), this chapter applies to any insurer that uses a document described by Section [1701.002](#) in this state, including:

- (1) a life, accident, health, or casualty insurance

company;

(2) a mutual life insurance company;

(3) a mutual insurance company other than a mutual life insurance company;

(4) a mutual or natural premium life insurance company;

(5) a general casualty company;

(6) a Lloyd's plan;

(7) a reciprocal or interinsurance exchange;

(8) a fraternal benefit society; and

(9) a group hospital service corporation.

(b) This chapter does not apply to a society, company, or other insurer whose activities are by statute exempt from department control and that is entitled by statute to a certificate from the department showing that exempt status.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.004. CONSTRUCTION OF CHAPTER. This chapter may not be construed to enlarge the powers of an insurer subject to this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.005. EXEMPTIONS. (a) This chapter does not apply to:

(1) a rider or endorsement that is used at the request of the holder of a policy, contract, or certificate subject to this chapter and that relates to:

(A) the manner of distribution of benefits under the policy, contract, or certificate; or

(B) the reservation of rights and benefits under the policy, contract, or certificate; or

(2) the modification of a previously approved insurance policy form for the sole purpose of adding the statement required by Section [154.2021\(a\)\(3\)](#), Finance Code.

(b) The commissioner by written order may exempt a document from the requirements of this chapter for the period the commissioner considers proper if the commissioner determines that:

(1) this chapter may not practically be applied to the document;

(2) the document's preparation, use, and meaning have become routine or commonplace; or

(3) the filing and approval of the form of the document are not desirable, appropriate, required, or necessary for the protection of the public.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1190 (H.B. 3762), Sec. 34, eff. September 1, 2009.

#### SUBCHAPTER B. FILING REQUIREMENT

Sec. 1701.051. FILING REQUIRED. (a) Except as provided by Section 1701.005, an insurer may not use a document described by Section 1701.002 in this state unless the form of the document is filed with the department in accordance with this chapter.

(b) Except as provided by Section 1701.052, the insurer must file the form of the document not later than the 60th day before the date the document is used.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.052. FILE AND USE. (a) An insurer may use a document described by Section 1701.002 immediately after the form of the document is filed if the form, when filed, is accompanied by a certification that meets the requirements of Subsection (b).

(b) The certification accompanying a form must:

(1) be signed by:

(A) an attorney licensed to practice law in this state;

(B) an actuary familiar with the requirements of this code and applicable rules adopted under this code;

(C) the chief executive officer of the insurer;

or

(D) an individual designated by the chief executive officer of the insurer; and

(2) affirm that:

(A) the certification is made on behalf of the insurer filing the form;

(B) the insurer is bound by the certification;

(C) the individual making the certification has reviewed the form; and

(D) to the best knowledge, information, and belief of the individual making the certification, the form complies with this code and rules applicable to the form.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.053. FILING FEE. (a) The department shall collect a fee in an amount determined by the commissioner for the filing of the form of a document under this chapter.

(b) The fee may not exceed:

(1) \$100 for filing the form of a new or amended document that is not exempt from review under Section 1701.005(b); and

(2) \$50 for filing the form of a new or amended document that is exempt from review under Section 1701.005(b).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.054. APPROVAL OF FORM. (a) A form filed under this chapter that is not affirmatively approved or disapproved in a written order of the commissioner on or before the 60th day after the date the form is filed is considered approved on the 61st day after the date of filing unless the approval period is extended under this section.

(b) An insurer may request in writing that the approval period for a form be extended for an additional period not to exceed 45 days.

(c) An extension requested under this section is considered granted on the date the department receives the request.

(d) Only one extension may be granted under this section.

(e) If an extension is granted under this section and the commissioner does not affirmatively approve or disapprove the form before the extended period expires, the form is considered approved

on the day after the date the extended period expires.

(f) If the commissioner approves a form that is filed without a certification meeting the requirements of Section 1701.052(b) before the expiration of the approval period, including any extension, the remaining portion of the period is waived.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.055. DISAPPROVAL OF FORM OR WITHDRAWAL OF APPROVAL OR EXEMPTION. (a) Except as provided by Subsection (d), the commissioner may disapprove or, after notice and hearing, withdraw approval of a form if the form:

(1) violates this code, a rule of the commissioner, or any other law; or

(2) contains a provision, title, or heading that is unjust, encourages misrepresentation, or is deceptive.

(b) A form filed under this chapter that contains a coordination of benefits provision may not be approved for use in this state unless the form provides for the order of benefits determination for insured dependent children. An order of benefits determination provision may not be approved if the provision:

(1) violates this code, a rule of the commissioner, or any other law; or

(2) contains a provision, title, or heading that is unjust, encourages misrepresentation, or is deceptive.

(c) If necessary to accomplish the purpose of Subsection (b), the commissioner may adopt a policy provision and order the inclusion of that provision in a document subject to that subsection.

(d) If a form has been on file with the department for at least 180 days and has previously been affirmatively approved by the commissioner, been considered approved under this chapter, or been exempted from the approval requirements under this chapter, the commissioner may withdraw the approval or exemption only if:

(1) the form violates this code or a rule adopted under this code; or

(2) the commissioner finds proof of gross misrepresentation or fraud to a policyholder.

(e) An order of the commissioner disapproving or withdrawing approval for a form must state the grounds for the disapproval or withdrawal of approval and describe in adequate detail the changes that are necessary to obtain approval.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.056. USE OF DISAPPROVED FORM PROHIBITED. An insurer who receives written notice that a form filed by the insurer has been disapproved by the commissioner shall immediately stop using the form.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.057. WITHDRAWAL OF INDIVIDUAL ACCIDENT AND HEALTH INSURANCE POLICY FORM APPROVAL. (a) Except as provided by Subsection (b), the commissioner may, after notice and hearing, withdraw approval of an individual accident and health insurance policy form if, after consideration of all relevant facts, the commissioner determines that:

(1) the benefits provided under the form are unreasonable in relation to the premium charged; or

(2) the reserve required by Section [862.102](#) is not maintained by the insurer on the policies issued on the form.

(b) If an individual accident and health insurance policy form has been on file with the department for at least 360 days and has been affirmatively approved by the commissioner, been considered approved under this chapter, or been exempted from the approval requirements of this chapter, the commissioner may withdraw the approval or exemption only if:

(1) the form violates this code or a rule adopted under this code; or

(2) the commissioner finds proof of gross misrepresentation or fraud to a policyholder.

(c) To enable the department to determine compliance with Subsection (b), the commissioner:

(1) shall require an insurer to file the rates charged by that insurer for individual accident and health insurance policies; and

(2) may adopt and require an insurer to file in conjunction with the annual statement required under Section 841.255, 982.101, or 982.103 a form for reporting the insurer's experience on individual accident and health insurance policy forms issued by the insurer.

(d) The commissioner shall, in accordance with Section 1201.007, adopt reasonable rules necessary to establish standards under which the approval of an individual accident and health insurance policy form may be withdrawn.

(e) This section does not grant the commissioner the authority to determine, fix, prescribe, or promulgate rates to be charged for an individual accident and health insurance policy.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.058. RECONSIDERATION OF FORM. (a) Not later than the 45th day after the date of an order of the commissioner disapproving or withdrawing approval of a form under Section 1701.055, an insurer may correct the deficiencies described by the order and file the corrected form with the department for reconsideration by the commissioner.

(b) If the commissioner does not approve or disapprove a form filed for reconsideration under this section on or before the 45th day after the date the form is filed, the form is considered approved on the 46th day after the date the form is filed.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.059. REPLACEMENT OR AMENDMENT OF DOCUMENT. The commissioner may order an insurer to replace a document described by Section 1701.002 with a corrected document or to amend and correct the document by endorsement or rider if:

(1) the commissioner disapproves or withdraws approval of the form of the document under Section 1701.055(a); or

(2) the document is used before the form was approved under this chapter and corrections must be made to the document to bring the document into compliance with this code and rules of the commissioner before the commissioner will approve the form of the document.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.060. GENERAL RULEMAKING AUTHORITY. (a) The commissioner may adopt reasonable rules necessary to implement the purposes of this chapter, including, after notice and hearing, rules that establish procedures and criteria under which:

(1) each type of form submitted to the department under this chapter will be reviewed and approved by the commissioner or exempted under Section 1701.005(b); and

(2) particular types of forms designated by the commissioner may be given a summary review and approval if considered appropriate by the commissioner to expedite review and approval of those forms.

(b) A rule adopted under this chapter may not be repealed or amended until after the first anniversary of the date the rule was adopted unless the commissioner determines that repeal or amendment is in the significant and material interests of the citizens of this state or is necessary as a result of legislative enactment.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.076(a), eff. September 1, 2005.

Sec. 1701.061. NONINSURANCE BENEFITS. (a) In this section, "noninsurance benefit" means a good or service provided or disclosed as part of a policy or certificate of insurance that is reasonably related to the type of policy or certificate being issued. Examples of noninsurance benefits include:

(1) discount cards for health care programs, vision care programs, dental care programs, prescriptions, physical fitness programs or facilities, or other similar programs;

(2) financial planning, will preparation, or similar services; and

(3) contributions for educational savings on behalf of a policyholder or certificate holder.

(b) An insurer may include a noninsurance benefit that is reasonably related to a policy or certificate as part of the policy



or certificate form to be issued to an insured or certificate holder.

(c) A policy form filing that includes a noninsurance benefit shall include:

(1) a description of the noninsurance benefit;

(2) a notice that fully discloses the noninsurance benefit to the policyholder or certificate holder; and

(3) an explanation of any condition on which termination of the noninsurance benefit will occur.

(d) Section [541.061](#) applies to a noninsurance benefit provided as part of a policy or certificate.

(e) Section [1102.002](#) does not apply to a noninsurance benefit provided as part of a policy or certificate.

(f) The commissioner may adopt rules to implement this section, including rules to:

(1) determine which noninsurance benefits are reasonably related to the types of insurance subject to this chapter;

(2) ensure that noninsurance benefits included as part of a policy or certificate are not unfairly deceptive or do not otherwise constitute a prohibited inducement; and

(3) address application of other chapters of this code to noninsurance benefits provided as part of a policy or certificate, including Chapters 82-84, [222](#), [257](#), [463](#), 541-544, [1501](#), and 1506.

Added by Acts 2007, 80th Leg., R.S., Ch. 695 (H.B. [1847](#)), Sec. 1, eff. June 15, 2007.

Sec. 1701.062. DISCRETIONARY CLAUSES PROHIBITED. (a) An insurer may not use a document described by Section [1701.002](#) in this state if the document contains a discretionary clause.

(b) A discretionary clause includes a provision that:

(1) purports or acts to bind the claimant to, or grant deference in subsequent proceedings to, adverse eligibility or claim decisions or policy interpretations by the insurer; or

(2) specifies:

(A) that a policyholder or other claimant may not

contest or appeal a denial of a claim;

(B) that the insurer's interpretation of the terms of a document or decision to deny coverage or the amount of benefits is binding upon a policyholder or other claimant;

(C) that in an appeal, the insurer's decision about or interpretation of the terms of a document or coverage is binding; or

(D) a standard of review in any appeal process that gives deference to the original claim decision or provides standards of interpretation or review that are inconsistent with the laws of this state, including the common law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 560 (H.B. 3017), Sec. 2, eff. June 17, 2011.

#### SUBCHAPTER C. SANCTIONS; APPLICABILITY OF OTHER LAWS

Sec. 1701.101. RESTITUTION. (a) The commissioner may order an insurer to make complete restitution to each insured of this state who is financially damaged by the insurer's use of a form filed and used but not approved under this chapter if, after notice and opportunity for hearing, the commissioner determines:

(1) the form does not comply with this code and the rules of the commissioner;

(2) use of the form resulted in financial damage to an insured of this state; and

(3) the insurer intentionally used the form with the knowledge that it did not comply with this code and the rules of the commissioner.

(b) The commissioner may determine the form and amount of restitution ordered under this section and the period in which the restitution must be made.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.102. LIMIT ON SANCTIONS. Except as provided by Section 1701.101, the commissioner may not impose penalties or other sanctions on an insurer for the issuance of a document the form of which is filed under Section 1701.052.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

Sec. 1701.103. APPLICABILITY OF OTHER LAWS. Except as provided by Section [1701.102](#), this chapter may not be construed to limit the applicability of any other statute.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.

#### SUBCHAPTER D. CERTAIN POLICY APPLICATION FORMS

Sec. 1701.151. POLICY APPLICATION FORM FOR INDIVIDUAL ACCIDENT AND HEALTH POLICY. A policy application form that is required to be or that is attached to an individual accident and health policy shall comply with the rules of the commissioner adopted under Chapter [1201](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 5, eff. April 1, 2005.