An Act

ENROLLED HOUSE
BILL NO. 1968

By: Mulready of the House

and

Brown of the Senate

An Act relating to insurance; amending 36 O.S. 2011, Section 1250.5, which relates to unfair claims settlement practices; adding certain denials, refusals, or modifications of coverage to list of prohibited actions; amending 36 O.S. 2011, Section 4024, which relates to insurance policy liability limitations; prohibiting insurer refusals or modifications based upon certain travel of insured claimants; specifying limitations and exceptions; and specifying certain action shall be an unfair claims settlement practice.

SUBJECT: Life insurance polices

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2011, Section 1250.5, is amended to read as follows:

Section 1250.5 Any of the following acts by an insurer, if committed in violation of Section 1250.3 of this title, constitutes an unfair claim settlement practice exclusive of paragraph 16 of this section which shall be applicable solely to health benefit plans:

1. Failing to fully disclose to first party claimants, benefits, coverages, or other provisions of any insurance policy or insurance contract when the benefits, coverages or other provisions are pertinent to a claim;

2. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages at issue;

3. Failing to adopt and implement reasonable standards for prompt investigations of claims arising under its insurance policies or insurance contracts;

4. Not attempting in good faith to effectuate prompt, fair and equitable settlement of claims submitted in which liability has become reasonably clear;

5. Failing to comply with the provisions of Section 1219 of this title;

6. Denying a claim for failure to exhibit the property without proof of demand and unfounded refusal by a claimant to do so;

7. Except where there is a time limit specified in the policy, making statements, written or otherwise, which require a claimant to give written notice of loss or proof of loss within a specified time limit and which seek to relieve the company of its obligations if the time limit is not complied with unless the failure to comply with the time limit prejudices the rights of an insurer;

8. Requesting a claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment;

9. Issuing checks or drafts in partial settlement of a loss or claim under a specified coverage which contain language releasing an insurer or its insured from its total liability;

10. Denying payment to a claimant on the grounds that services, procedures, or supplies provided by a treating physician or a hospital were not medically necessary unless the health insurer or administrator, as defined in Section 1442 of this title, first obtains an opinion from any provider of health care licensed by law and preceded by a medical examination or claim review, to the effect that the services, procedures or supplies for which payment is being denied were not medically necessary. Upon written request of a claimant, treating physician, or hospital, the opinion shall be set forth in a written report, prepared and signed by the reviewing physician. The report shall detail which specific services, procedures, or supplies were not medically necessary, in the opinion of the reviewing physician, and an explanation of that conclusion. A copy of each report of a reviewing physician shall be mailed by

the health insurer, or administrator, postage prepaid, to the claimant, treating physician or hospital requesting same within fifteen (15) days after receipt of the written request. As used in this paragraph, "physician" means a person holding a valid license to practice medicine and surgery, osteopathic medicine, podiatric medicine, dentistry, chiropractic, or optometry, pursuant to the state licensing provisions of Title 59 of the Oklahoma Statutes;

11. Compensating a reviewing physician, as defined in paragraph 10 of this subsection, on the basis of a percentage of the amount by which a claim is reduced for payment;

12. Violating the provisions of the Health Care Fraud Prevention Act;

13. Compelling, without just cause, policyholders to institute suits to recover amounts due under its insurance policies or insurance contracts by offering substantially less than the amounts ultimately recovered in suits brought by them, when the policyholders have made claims for amounts reasonably similar to the amounts ultimately recovered;

14. Failing to maintain a complete record of all complaints which it has received during the preceding three (3) years or since the date of its last financial examination conducted or accepted by the Commissioner, whichever time is longer. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. For the purposes of this paragraph, "complaint" means any written communication primarily expressing a grievance;

15. Requesting a refund of all or a portion of a payment of a claim made to a claimant or health care provider more than twenty-four (24) months after the payment is made. This paragraph shall not apply:

a. if the payment was made because of fraud committed by the claimant or health care provider, or

b. if the claimant or health care provider has otherwise agreed to make a refund to the insurer for overpayment of a claim; ~~or~~

16. Failing to pay, or requesting a refund of a payment, for health care services covered under the policy ~~of~~ if a health benefit plan, or its agent, has provided a preauthorization or precertification and verification of eligibility for those health care services. This paragraph shall not apply if:

a. the claim or payment was made because of fraud committed by the claimant or health care provider,

b. the subscriber had a preexisting exclusion under the policy related to the service provided, or

c. the subscriber or employer failed to pay the applicable premium and all grace periods and extensions of coverage have expired; or

17. Denying or refusing to accept an application for life insurance, or refusing to renew, cancel, restrict or otherwise terminate a policy of life insurance, or charge a different rate based upon the lawful travel destination of an applicant or insured as provided in Section 4024 of this title.

SECTION 2. AMENDATORY 36 O.S. 2011, Section 4024, is amended to read as follows:

Section 4024. A. No policy of life insurance shall be delivered or issued for delivery in this state if it contains a provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

1. Death as a result of a declared war or military action.

2. Death resulting from violations of the conditions of the policy relating to service, travel, or flight in any species of aircraft, other than as a fare-paying passenger in a licensed passenger aircraft, piloted by a licensed passenger pilot on a regular passenger route between definitely established airports.

3. Death within two (2) years from the date of issue of the policy as a result of suicide, while sane or insane; provided, that in the event of death as a result of suicide within two (2) years

from the date of issue of the policy the insurer shall return the amount of all premiums paid.

B. A policy which contains any exclusion or restriction pursuant to ~~subsection A,~~ paragraphs 1 and 2~~,~~ of subsection A of this section~~,~~ shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the reserve valuation method and upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit.

C. A life insurance company doing business within this state shall not deny or refuse to accept an application for life insurance or refuse to renew, cancel, restrict, or otherwise terminate a policy of life insurance, or charge a different rate for the same life insurance coverage, based upon the lawful travel destinations of the applicant or the insured. Nothing in this subsection shall prohibit a life insurance company from denying an application for life insurance, or restricting or charging a different premium or rate for coverage under such a policy based on a specific travel destination where the denial, restriction, or rate differential is based upon sound actuarial principles or is related to actual or anticipated experience. A violation of this subsection shall be an unfair trade practice pursuant to Section 1250.5 of this title. The provisions of this subsection shall apply to any life insurance policy issued on or after the effective date of this act.

D. This section shall not apply to group life insurance, accident and health insurance, reinsurance, or annuities, or to any provision in a life insurance policy relating to disability benefits or to additional benefits in the event of death by accident or accidental means, except as provided in subsection C of this section.

Passed the House of Representatives the 27th day of February, 2012.

Presiding Officer of the House of Representatives

Passed the Senate the 16th day of April, 2012.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 17th

day of April, **20** 12,

at 1:08 **o'clock** P **M.**

By: Jessica R. Pryor

Approved by the Governor of the State of Oklahoma the 23rd **day of**

April, **20** 12, **at** 10:22 **o'clock** A **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

23rd **day of** April, **20** 12,

at 2:25 **o'clock** P. **M.**

By: Audrelle R. Day