

BEFORE THE COMMISSIONER OF INSURANCE

STATE OF GEORGIA

IN THE MATTER OF:

SECTION 120-2-20-.03
UNLAWFUL AGREEMENTS BETWEEN
INSURERS AND PROVIDERS

SECTION 120-2-60-.15
INTERNAL AUDIT FUNCTION
REQUIREMENTS

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DOCKET NUMBER I-15-I-9

ORDER

I. STATEMENT OF PROCEEDINGS

On August 20, 2015, a *Notice of Hearing and Intent To Adopt Rule Changes* was issued regarding the proposed amendments to Regulation Sections 120-2-20-.03 entitled “Unlawful Agreements between Insurers and Providers” and 120-2-60-.15 entitled “Internal Audit Function Requirements.” (Record, Exhibit 1) The primary purpose of the proposed amendments to Regulation Section 120-2-20-.03 is to prohibit the inclusion of “upper limit trigger clauses” in agreements between insurers and providers. The primary purpose of the proposed amendments to Regulation Section 120-2-60-.15 is to incorporate the most recent NAIC revisions of the NAIC’s Model Audit Rule #205 into this Department’s regulations.

By way of background, the NAIC Model Audit Rule #205 placed new internal audit function requirements on large insurers. An “or” instead of an “and” was included by mistake in Model Audit Rule #205. The NAIC later revised that language. This Department proposes amending its regulations to incorporate this revision. By changing the “or” to an “and” in Regulation Section 120-2-60-.15(1)(a), the proposed amendment would require both premium

threshold conditions (legal entity and group) to be met before exempting effected smaller insurers from Regulation Section 120-2-60-.15.

By letter dated September 22, 2015, the Office of the Attorney General opined that the proposed regulations were within this Department's scope of authority. (Record, Exhibit 5) Pursuant to O.C.G.A. §50-13-4(e), the proposed regulations were transmitted to Wayne R. Allen, Legislative Counsel for the General Assembly, for assignment to the appropriate standing committees of the Senate and House of Representatives. (Record, Exhibit 6) The proposed regulations were assigned accordingly. (Record, Exhibit 7)

II. CONSIDERATION OF INTERESTED PARTY COMMENTS

Interested persons were given the opportunity to participate in the proposed rulemaking by submitting their written comments by September 25, 2015, and by making oral comments at the public hearing held on September 29, 2015. No written comments were received. Trey Sivley, Director of the Insurance Financial Oversight Division of this Department, was the only person to offer oral comments at the hearing. (Transcript.)

According to Mr. Sivley, the proposed inclusion of a prohibition against "upper limit trigger clauses" in this Department's regulations would support carriers' and health care providers' capacity to enter into contractual agreements without interference from other carriers. Mr. Sivley also supports the NAIC's revision of the NAIC's Model Audit Rule #205 and the incorporation of that revision into this Department's regulations.

III. DECISION

WHEREAS no written or oral comments were offered in opposition to the proposed amendments to Regulation Sections 120-2-20-.03 and 120-2-60-.15, and **WHEREAS**, this

Department finds Mr. Sivley's comments in support of the proposed amendments persuasive, **IT IS HEREBY ORDERED** that the proposed amendments to Regulation Sections 120-2-20-.03 entitled "Unlawful Agreements between Insurers and Providers" and 120-2-60-.15 entitled "Internal Audit Function Requirements," copies of which are attached hereto and made a part by reference, are **HEREBY ADOPTED**.

Given under my Hand and Seal this 1st day of October, 2015.



RALPH T. HUDGENS
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA

