APPROVED
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BY GOVERNOR

CHAPTER
348
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-FIVE

S.P. 720 - L.D. 1837

An Act to Amend the Laws Affecting Insurance

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24 MRSA §2320-A, sub-§5 is enacted to read:

5. No cost-sharing requirements. A nonprofit hospital and medical care service organization may not impose any cost-sharing requirements on a screening mammogram performed by a provider in accordance with this section. This subsection does not apply to an individual policy offered for use with a health savings account unless the United States Internal Revenue Service determines that the requirements in this subsection are permissible in a high deductible health plan as defined in the United States Internal Revenue Code of 1986, Section 223(c)(2).

Sec. 2. 24-A MRSA §222, sub-§14, ¶C, as enacted by PL 1975, c. 356, §1, is amended by amending subparagraph (2) to read:

(2) ~~After notice and hearing impose by order and administrative forfeiture upon such person, enforceable by such revocation, suspension or refusal to issue, renew or reissue of any such license or licenses or otherwise pursuant to the law of this State, in an amount not to exceed $100~~ Impose civil penalties in accordance with section 12-A for each such violation and for each day's continuance thereof;

Sec. 3. 24-A MRSA §222, sub-§14, ¶C, as enacted by PL 1975, c. 356, §1, is amended by repealing subparagraph (3).

Sec. 4. 24-A MRSA §222, sub-§14, ¶C, as enacted by PL 1975, c. 356, §1, is amended by amending subparagraph (5) to read:

(5) Any or all of the foregoing~~.~~;

Sec. 5. 24-A MRSA §222, sub-§14, ¶D is enacted to read:

D. The superintendent may proceed in a court of competent jurisdiction within or without this State for an injunction to prevent a violation of this section, to reverse or hold invalid any transaction made in violation of this section or in violation of a rule adopted or order issued pursuant to this section, to enforce any order issued pursuant

to this section and for other equitable relief as the nature of the case and the interest of the insurer's policyholders, creditors and shareholders or the public may require.

(1) If the superintendent finds probable cause that a violation of this section constitutes grounds provided for the rehabilitation, conservatorship or liquidation of an insurer, the superintendent may initiate a delinquency proceeding under chapter 57.

(2) The Superior Court may, on the application of an insurer or the superintendent:

(a) Enjoin any offer, request, invitation, agreement or acquisition made in contravention of this section or any rule adopted or order issued by the superintendent pursuant to this section;

(b) Enjoin the voting of any security that is the subject of any agreement or arrangement regarding acquisition or that is acquired or to be acquired in contravention of the provisions of this section or of any rule adopted or order issued by the superintendent and, if appropriate, may void any vote of the security already cast at any meeting of shareholders;

(c) Seize or sequester any voting securities of the insurer owned or controlled directly or indirectly by a person who has acquired or is proposing to acquire a voting security of the insurer in violation of this section or any rule adopted or order issued by the superintendent; and

(d) Issue any other order as may be appropriate to effectuate the provisions of this section.

Sec. 6. 24-A MRSA §222, sub-§14-C is enacted to read:

14-C. Prohibited voting of securities. In regard to a security that is the subject of any agreement or arrangement regarding acquisition or that is acquired or to be acquired in contravention of the provisions of this section or of any rule adopted or order issued by the superintendent, a person may not vote the security at any shareholder's meeting or count the security for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though the securities were not issued and outstanding. An action taken at any meeting at which a security described by this section has been voted is not invalidated by the voting of the security unless the action would materially affect control of the insurer or unless the courts of this State have so ordered.

Sec. 7. 24-A MRSA §414, sub-§4, as amended by PL 1991, c. 828, §13, is further amended to read:

4. Insurers required to file an annual statement must, as a condition to the issuance or continuance of a certificate of authority, provide the National Association of Insurance Commissioners with all information required for participation in the Insurance Regulatory Information System. This filing must contain the insurer's current annual statement convention blank and, if requested by the superintendent or the National Association of Insurance Commissioners, publicly available financial reports of any affiliated insurers or other entities necessary for analyzing any insurer licensed in this State. Each statement furnished by an insurer must be ~~manually~~ executed by those persons who are required by section 423 to verify an annual statement utilizing the prescribed jurat following the practices and procedures prescribed by the National Association of Insurance

Commissioners. Any amendments and addendums to the annual statement subsequently filed with the superintendent must also be filed with the National Association of Insurance Commissioners. Insurers shall provide written certification to the superintendent that they have complied with this subsection when they file their annual statements. This subsection does not apply to any insurer doing business under chapter 51.

In the absence of bad faith, fraud or intentional act, an officer or an employee of the National Association of Insurance Commissioners may not be subject to civil liability for libel, slander or any other cause of action in tort as a result of processing data or other information filed by insurers under this subsection or distribution of reports prepared on the basis of that information to insurance regulatory officials of any state that has subscribed to and used the Insurance Regulatory Information System through the National Association of Insurance Commissioners. Information provided to the superintendent that is held confidential by the National Association of Insurance Commissioners must be held confidential by the superintendent unless that information is relevant to any hearing conducted by the superintendent pursuant to section 229 or an order requiring disclosure is issued by the Superior Court.

Sec. 8. 24-A MRSA §601, sub-§16, ¶A-1, as amended by PL 2009, c. 232, §1, is further amended to read:

A-1. For filing application for authority to self-insure under Title 39-A, section 403, subsection 16, including all documents submitted as part of the application, $500; and

Sec. 9. 24-A MRSA §601, sub-§16, ¶B, as amended by PL 2009, c. 232, §1, is further amended to read:

B. For authorization and each annual continuation, ~~$300~~ $400~~; and~~.

Sec. 10. 24-A MRSA §601, sub-§16, ¶C, as amended by PL 2009, c. 232, §1, is repealed.

Sec. 11. 24-A MRSA §2001-A, as enacted by PL 2011, c. 331, §1 and affected by §§16 and 17, is amended to read:

§2001-A. Scope

~~This~~ Except as provided by section 2002-A, subsection 1, this chapter applies exclusively to transactions when this State is the home state of the applicant or insured. Nothing in this chapter applies to the sale, solicitation, negotiation, placement or writing of contracts of insurance for eligible lines of business for any applicant or insured whose home state is in a jurisdiction other than in this State.

Sec. 12. 24-A MRSA §2002-A, sub-§1, as amended by PL 2019, c. 20, §1, is further amended to read:

1. The following kinds of insurance must be procured from authorized insurers and are not eligible for export in the surplus lines market:

A. Life insurance;

B. Health insurance, except disability insurance; ~~or~~

C. Employee benefit excess insurance~~.~~; or

D. Workers' compensation insurance.

Sec. 13. 24-A MRSA §2002-A, sub-§2, as enacted by PL 1993, c. 153, §16, is amended to read:

2. This surplus lines law may not be used to place reinsurance. ~~Nothing in this~~ This subsection ~~prohibits~~ does not prohibit the cession or assumption of reinsurance, including reinsurance of workers' compensation self-insurers, as otherwise permitted by this Title.

Sec. 14. 24-A MRSA §2003, sub-§8, as enacted by PL 2011, c. 331, §3 and affected by §§16 and 17, is amended to read:

8. "Nonadmitted insurance" means any ~~property and casualty~~ insurance permitted to be placed through a surplus lines ~~broker~~ producer with a nonadmitted insurer eligible to accept that insurance.

Sec. 15. 24-A MRSA §2004, first ¶, as enacted by PL 1969, c. 132, §1, is amended to read:

If certain insurance coverages cannot be procured from authorized insurers, such coverages, hereinafter designated "surplus lines," may be procured from ~~unauthorized~~ nonadmitted insurers, subject to the following conditions:

Sec. 16. 24-A MRSA §2006, sub-§2, as amended by PL 1997, c. 592, §52, is further amended to read:

2. The producer shall file with or as directed by the superintendent a memorandum as to each such coverage placed by the producer ~~in an unauthorized~~ with a nonadmitted insurer, in such form and context as the superintendent may reasonably require for the identification of the coverage and determination of the tax payable to the State relative thereto.

Sec. 17. 24-A MRSA §2007, sub-§2, as amended by PL 1997, c. 592, §54, is further amended to read:

2. The superintendent shall from time to time publish a list of all surplus lines insurers determined by the superintendent to be eligible currently, and shall mail a copy of such list to each producer at the producer's office last of record with the superintendent. This subsection may not be construed to cast upon the superintendent the duty of determining the actual financial condition or claims practices of any ~~unauthorized~~ nonadmitted insurer; and the status of eligibility, if granted by the superintendent, may indicate only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the superintendent has no credible evidence to the contrary. While any such list is in effect, the producer shall restrict to the insurers so listed all surplus lines business placed by the producer.

Sec. 18. 24-A MRSA §2007, sub-§3, ¶A, as enacted by PL 2011, c. 331, §4 and affected by §§16 and 17, is amended to read:

A. Is authorized to write such insurance in its domiciliary jurisdiction; and

Sec. 19. 24-A MRSA §2007, sub-§3, ¶B, as enacted by PL 2011, c. 331, §4 and affected by §§16 and 17, is repealed.

Sec. 20. 24-A MRSA §2007, sub-§5, as enacted by PL 2011, c. 331, §4 and affected by §§16 and 17, is amended to read:

5. A non-United States insurer is considered eligible to write insurance on ~~an unauthorized~~ a nonadmitted basis in this State if it is listed on the quarterly listing of alien insurers maintained by the National Association of Insurance Commissioners.

Sec. 21. 24-A MRSA §2008, sub-§2, as amended by PL 1997, c. 592, §55, is further amended to read:

2. A producer may not issue any such certificate or any cover note, or purport to insure or represent that insurance will be or has been granted by any ~~unauthorized~~ nonadmitted insurer, unless the producer has prior written authority from the insurer for the insurance, or has received information from the insurer in the regular course of business that such insurance has been granted, or an insurance policy providing the insurance actually has been issued by the insurer and delivered to the insured.

Sec. 22. 24-A MRSA §2009, as amended by PL 1997, c. 592, §56, is repealed and the following enacted in its place:

§2009. Identification and notice on contract and application

The surplus lines licensee shall give a consumer notice to every person applying for insurance with a nonadmitted insurer. The notice must be printed in 16-point type on a separate document affixed to the application. The applicant shall sign and date a copy of the notice to acknowledge receiving it. The surplus lines licensee shall maintain the signed notice in its file for a period of 5 years from expiration of the policy. The surplus lines licensee shall send a copy of the signed notice to the insured at the time of delivery of each policy the licensee transacts with a nonadmitted insurer. The copy must be a separate document affixed to the policy. The notice must read as follows:

"**Notice:** A nonadmitted or surplus lines insurer is issuing the insurance policy that you have applied to purchase. These insurers do not participate in insurance guaranty funds. The guaranty funds will not pay your claims or protect your assets if the insurer becomes insolvent and is unable to make payments as promised. For additional information about the above matters and about the insurer, you should ask questions of your insurance agent, broker or surplus lines broker. You may also contact your insurance department consumer helpline."

An insurance contract procured and delivered as a surplus lines coverage under this chapter must contain or be accompanied by a notice in a form acceptable to the superintendent, a copy of which must be maintained by the licensee or the surplus lines producer with the records of the contract and available for possible examination, that includes a statement that:

1. The insurer with which the licensee places the insurance is not licensed by this State and is not subject to its supervision; and

2. In the event of the insolvency of the surplus lines insurer, losses will not be paid by any state insurance guaranty association.

Sec. 23. 24-A MRSA §2009-A, as enacted by PL 1989, c. 172, §1, is amended to read:

§2009-A. Cancellation ~~and~~ or nonrenewal of surplus lines coverage

1. Notice. Cancellation ~~and~~ or nonrenewal by an insurer of surplus lines coverage subject to this chapter ~~shall~~ is not ~~be~~ effective unless received by the named insured ~~at least~~

~~14 days prior to the effective date of cancellation or, when the cancellation is for nonpayment of premium, at least 10 days prior to the effective date of cancellation~~ on or before the date specified in this subsection. A postal service certificate of mailing to the named insured at the insured's last known address ~~shall be~~ is conclusive proof of receipt on the 5th calendar day after mailing. The notice must be received:

A. No later than the 30th day before policy expiration for any nonrenewal;

B. No later than the 10th day before the effective date of cancellation if the cancellation is for nonpayment of premium; or

C. No later than the 14th day before the effective date of any cancellation other than a cancellation for nonpayment of premium, or no later than the 20th day if required by section 3050.

2. Exemption. Cancellation ~~and~~ or nonrenewal by an insurer of surplus lines coverage subject to this chapter ~~shall~~ is not ~~be~~ subject to sections 2908 and 3007. Cancellation or nonrenewal by an insurer of surplus lines coverage for risks identified in section 3048 is subject to chapter 41, subchapter 5, except those provisions of chapter 41, subchapter 5 that, by their terms, apply to authorized insurers or the admitted market.

Sec. 24. 24-A MRSA §2010, as enacted by PL 1969, c. 132, §1, is amended to read:

§2010. Surplus lines insurance valid

Insurance contracts procured as surplus line coverage from ~~unauthorized~~ nonadmitted insurers in accordance with this chapter ~~shall be~~ are fully valid and enforceable as to all parties, and ~~shall~~ must be given recognition in all matters and respects to the same effect as like contracts issued by authorized insurers.

Sec. 25. 24-A MRSA §2011, as amended by PL 1997, c. 592, §57, is further amended to read:

§2011. Insurer's liability for losses and unearned premiums

1. As to a surplus lines risk that has been assumed by ~~an unauthorized~~ a nonadmitted insurer pursuant to this chapter, and if the premium has been received by the producer with surplus lines authority who placed such insurance, in all questions arising under the coverage as between the insurer and the insured the insurer is deemed to have received the premium due to it for such coverage; and the insurer is liable to the insured as to losses covered by such insurance, and for unearned premiums that may become payable to the insured upon cancellation of such insurance, whether or not in fact the producer is indebted to the insurer with respect to the insurance or for any other cause.

2. Each ~~unauthorized~~ nonadmitted insurer assuming a surplus lines risk under this chapter is deemed to have subjected itself to the terms of this section, and any policy terms or conditions contrary to this section are void.

Sec. 26. 24-A MRSA §2019, sub-§1, as enacted by PL 1969, c. 132, §1, is amended to read:

1. ~~An unauthorized~~ A suit in this State against a nonadmitted insurer ~~shall be sued~~, upon any cause of action arising in the State under any contract issued by it as a surplus lines contract pursuant to this law, must be brought in the Superior Court.

Sec. 27. 24-A MRSA §2019, sub-§3, as amended by PL 1997, c. 592, §64, is further amended to read:

3. ~~An unauthorized~~ A nonadmitted insurer issuing ~~such~~ a policy subject to this chapter is deemed thereby to have authorized service of process against it in the manner and to the effect as provided in this section. Any such policy must contain a provision stating the substance of this section, and designating the person to whom process must be served as provided in subsection 2.

Sec. 28. 24-A MRSA §2159-A, as amended by PL 2021, c. 348, §36, is further amended by amending the section headnote to read:

§2159-A. Insurance discrimination solely on account of ~~blindness~~ physical or mental disability prohibited

Sec. 29. 24-A MRSA §2263, sub-§1-A is enacted to read:

1-A. Ancillary service provider. "Ancillary service provider" means a person that is not a licensee and that contracts with a 3rd-party service provider or with another ancillary service provider to maintain, process or store nonpublic information obtained from the licensee or is otherwise permitted access to nonpublic information obtained from the licensee through its provision of services to the 3rd-party service provider or other ancillary service provider.

Sec. 30. 24-A MRSA §2264, sub-§6, as enacted by PL 2021, c. 24, §1, is amended to read:

6. Oversight of 3rd-party service provider arrangements. A licensee shall:

A. Exercise due diligence in selecting its 3rd-party service providers; ~~and~~

B. Require each 3rd-party service provider to implement appropriate administrative, technical and physical safeguards to protect and secure the information systems and nonpublic information that are accessible to or held by the 3rd-party service provider~~.~~; and

C. No later than January 1, 2027, require each 3rd-party service provider to notify the licensee when the 3rd-party service provider becomes aware of any cybersecurity event affecting nonpublic information obtained from the licensee that has occurred in an information system maintained by the 3rd-party service provider or by an ancillary service provider if the cybersecurity event has a reasonable likelihood of materially harming any consumer or any material part of the normal operations of the licensee.

Sec. 31. 24-A MRSA §2266, sub-§4, as enacted by PL 2021, c. 24, §1, is amended to read:

4. Notice regarding cybersecurity events of 3rd-party service providers and ancillary service providers. In the case of a cybersecurity event in an information system maintained by a 3rd-party service provider or ancillary service provider of which the licensee has become aware:

A. The licensee shall respond to the cybersecurity event as described under subsection 1; and

B. The computation of the licensee's deadlines for notification under this section begins on the day after the 3rd-party service provider notifies the licensee of the

cybersecurity event or the day after the licensee otherwise has actual knowledge of the cybersecurity event, whichever is sooner.

~~Nothing in this~~ This chapter may not be construed to prevent or abrogate an agreement between a licensee and another licensee, a 3rd-party service provider or any other party to fulfill any of the investigation requirements imposed under section 2265 or notice requirements imposed under this subsection.

Sec. 32. 24-A MRSA §2849, sub-§3, ¶A, as repealed and replaced by PL 1993, c. 349, §53, is amended to read:

A. Request that the person provide or otherwise seek to obtain evidence of individual insurability. This ~~in no way limits~~ does not limit the insurer's right to require information concerning the health of the individuals in the group to the extent that the information is relevant to determine ~~whether the group as a whole is insurable or to determine~~ rates for the group ~~as a whole~~;

Sec. 33. 24-A MRSA §4302, sub-§2, ¶E, as enacted by PL 1995, c. 673, Pt. C, §1 and affected by §2, is amended to read:

E. The ~~percentage~~ number of disenrollments by enrollees and providers from the health plan within the previous 12 months and the reasons for the disenrollments. With respect to enrollees, the information provided in this paragraph must differentiate between voluntary and involuntary disenrollments; and

Sec. 34. 24-A MRSA §4303-E, sub-§5 is enacted to read:

5. Confidentiality. Except as provided in this subsection, all records of the bureau or an independent dispute resolution entity relating to an independent dispute resolution request or proceeding are confidential and not a public record under Title 1, chapter 13.

Sec. 35. 24-A MRSA §4312, sub-§6, as enacted by PL 1999, c. 742, §19, is amended to read:

6. Binding nature of decision. An external review decision is binding on the carrier. An enrollee or the enrollee's authorized representative may not file a request for a subsequent external review involving the same adverse health care treatment decision for which the enrollee has already received an external review decision pursuant to this section. An external review decision made under this section is not considered final agency action pursuant to Title 5, chapter 375, subchapter ~~II~~ 7.

Sec. 36. 24-A MRSA §4377, sub-§1, as enacted by PL 1969, c. 132, §1, is amended to read:

1. If upon the entry of an order of liquidation under this chapter or at any time thereafter during liquidation proceedings the insurer is not clearly solvent, the court shall, upon hearing after such notice as it ~~deems~~ considers proper, make and enter an order adjudging the insurer to be ~~solvent~~ insolvent.

Sec. 37. 24-A MRSA §4433, sub-§2, ¶I, as enacted by PL 2001, c. 478, §4 and affected by §11, is amended to read:

I. ~~Insurance~~ Other than coverages that may be set forth in a cybersecurity insurance policy, insurance of warranties or service contracts, including insurance that provides for the repair, replacement or service of goods or property, or indemnification of repair,

replacement or service; for the operational or structural failure of the goods or property due to a defect in materials, workmanship or normal wear and tear; or for reimbursement for the liability incurred by the issuer of agreements or service contracts that provide such benefits;

Sec. 38. 24-A MRSA §4435, sub-§4, as amended by PL 2001, c. 478, §5 and affected by §11, is further amended to read:

4. Covered claim. "Covered claim" means an unpaid claim, including one for unearned premiums but excluding one for punitive damages, arising under and within the coverage and applicable limits of a policy of a kind of insurance referred to in section 4433 to which this subchapter applies issued by an insurer that becomes an insolvent insurer after May 9, 1970, and where:

A. The claimant or insured is a resident of this State at the time of the insured event; or

B. The property from which the claim arises is permanently located in this State.

"Covered claim" includes claim obligations that arose through the issuance of an insurance policy by a member insurer, which are later allocated, transferred, merged into, novated, assumed by or otherwise made the sole responsibility of a member or nonmember insurer if: the original member insurer has no remaining obligations on the policy after the transfer; a final order of liquidation with a finding of insolvency has been entered against the insurer that assumed the member's coverage obligations by a court of competent jurisdiction in the insurer's state of domicile; the claim would have been a covered claim if the claim had remained the responsibility of the original member insurer and the order of liquidation had been entered against the original member insurer, with the same claim submission date and liquidation date; and, in cases for which the member's coverage obligations were assumed by a nonmember insurer, the transaction received prior regulatory or judicial approval.

"Covered claim" does not include any amount due any insurer, reinsurer, affiliate, insurance pool or underwriting association, as subrogation recoveries or otherwise, except that any payment made to the workers' compensation residual market pool pursuant to section 4438, subsection 1, paragraph A-1 must be included as a covered claim. "Covered claim" does not include any first-party claims by an insured whose net worth exceeds $25,000,000 on December 31st of the year prior to the year in which the member insurer becomes an insolvent insurer. An insured's net worth on that date is deemed to include the aggregate net worth of the insured and all its subsidiaries as calculated on a consolidated basis.

Sec. 39. 24-A MRSA §4435, sub-§4-A is enacted to read:

4-A. Cybersecurity insurance. "Cybersecurity insurance" means first-party or 3rd-party coverage, in a policy or endorsement, written on a direct, admitted basis for losses and loss mitigation arising out of or relating to data privacy breaches, unauthorized information network security intrusions, computer viruses, ransomware, extortion through electronic means, identity theft and similar exposures.

Sec. 40. 24-A MRSA §4438, sub-§1, ¶A, as amended by PL 2009, c. 129, §1 and affected by §13, is further amended by amending subparagraph (2) to read:

(2) An amount not exceeding $25,000 per policy for a covered claim for the return of an unearned premium; ~~or~~

Sec. 41. 24-A MRSA §4438, sub-§1, ¶A, as amended by PL 2009, c. 129, §1 and affected by §13, is further amended by enacting a new subparagraph (2-A) to read:

(2-A) An amount not exceeding $500,000 for covered claims arising out of a single insured event under a policy or endorsement of cybersecurity insurance, regardless of the number of claims made or the number of claimants; or

Sec. 42. 24-A MRSA §4438, sub-§2, ¶A, as enacted by PL 1969, c. 561, is amended to read:

A. Employ or retain such persons as are necessary to handle claims, provide covered policy benefits and services and perform other duties of the association;