

Chapter 80.

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Subchapter 1.

General Provisions.

[Reserved]

Subchapter 2.

Life and Accident and Health Insurance Policy Language Simplification Act.

23-80-201. Title.

This subchapter may be cited as the "Life and Accident and Health Insurance Policy Language Simplification Act".

23-80-202. Purpose.

(a) The purpose of this subchapter is to establish minimum standards for language used in policies, contracts, and certificates of life insurance and annuities, accident and health insurance, credit life insurance, and credit disability insurance delivered or issued for delivery in this state to facilitate ease of reading by insureds.

(b)(1) This subchapter is not intended to increase the risk assumed by insurance companies or other entities subject to this subchapter or to supersede their obligation to comply with the substance of other insurance legislation applicable to life, accident and health, credit life, or credit disability insurance policies or annuities.

(2) This subchapter is not intended to impede flexibility and innovation in the development of policy forms or content or to lead to the standardization of policy forms or content.

23-80-203. Definitions.

As used in this subchapter:

(1) "Commissioner" means the Insurance Commissioner;

(2) "Company" or "insurer" means any life or accident and health insurance company, fraternal benefit society, nonprofit health service corporation, nonprofit hospital service corporation, nonprofit medical service corporation, prepaid health plan, dental care plan, vision care plan, pharmaceutical plan, health maintenance organization, and all similar type organizations; and

(3) "Policy" or "policy form" means any:

(A) Policy, contract, plan, or agreement of life insurance and annuities or accident and health insurance, including credit life insurance and credit disability insurance, delivered or issued for delivery in this state by any company subject to this subchapter;

(B) Certificate, contract, or policy issued by a fraternal benefit society;

(C) Certificate issued pursuant to a group insurance policy delivered or issued for delivery in this state; and

(D) Evidence of coverage issued by a health maintenance organization.

23-80-204. Applicability.

(a) This subchapter shall apply to all policies delivered or issued for delivery in this state by any company on or after the date the forms must be approved under this subchapter.

(b) However, nothing in this subchapter shall apply to:

(1) Any policy which is a security subject to federal jurisdiction;

(2) Any group policy covering a group of one thousand (1,000) or more lives at date of issue, other than a group credit life insurance policy or a group credit disability insurance policy. However, this subdivision shall not exempt any certificate issued pursuant to a group policy delivered or issued for delivery in this state;

(3) Any group annuity contract which serves as a funding vehicle for pension, profit-sharing, or deferred compensation plans;

(4) Any form used in connection with, as a conversion from, as an addition to, or in exchange pursuant to a contractual provision for, a policy delivered or issued for delivery

on a form approved or permitted to be issued prior to the dates the forms must be approved under this subchapter; or

(5) The renewal of a policy delivered or issued for delivery prior to the dates the forms must be approved under this subchapter.

(c) No other statute of this state setting language simplification standards shall apply to any policy forms.

(d) Any non-English language policy delivered or issued for delivery in this state shall be deemed to be in compliance with § 23-80-206(a)(1) if the insurer certifies that the policy is translated from an English language policy which does comply with § 23-80-206(a)(1).

23-80-205. Construction.

Nothing in this subchapter shall be construed to negate any law of this state permitting the issuance of any policy form after it has been on file for the time period specified.

23-80-206. Minimum standards.

(a) In addition to any other requirements of law, no policy forms, except as stated in § 23-80-204, shall be delivered or issued for delivery in this state on or after the dates forms must be approved under this subchapter, unless:

(1) The text achieves a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on any other comparable test as provided in subsection (c) of this section;

(2) It is printed, except for specification pages, schedules, and tables, in not less than ten (10) point type, one (1) point leaded;

(3) The style, arrangement, and overall appearance of the policy give no undue prominence to any portion of the text of the policy or to any endorsements or riders; and

(4) It contains a table of contents or an index of the principal sections of the policy, if the policy has more than three thousand (3,000) words printed on three (3) or fewer pages of text, or if the policy has more than three (3) pages, regardless of the number of words.

(b)(1) For the purposes of this section, a Flesch reading ease test score shall be measured by the following method:

(A) For policy forms containing ten thousand (10,000) words or less, the entire form shall be analyzed. For policy forms containing more than ten thousand (10,000) words, the readability of two (2) two-hundred-word samples per page may be analyzed instead of the entire form. The samples shall each be separated by at least ten (10) printed lines;

(B) The number of words and sentences in the text shall be counted, and then the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015;

(C) The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6; and

(D) The sum of the figures computed under subdivisions (b)(1)(B) and (C) of this section subtracted from 206.835 equals the Flesch reading ease score for the policy form.

(2) For purposes of subdivisions (b)(1)(B), (C), and (D) of this section, the following procedures shall be used:

- (A) A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one (1) word;
 - (B) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and
 - (C) A syllable means a unit of spoken language consisting of one (1) or more letters or a word as divided by an accepted dictionary. Where the dictionary shows two (2) or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.
- (3) The term "text" as used in this section shall include all printed matter except the following:
- (A) The name and address of the insurer; the name, number, or title of the policy; the table of contents or index; captions and subcaptions; specification pages, schedules, or tables; and
 - (B) Any policy language which is drafted to conform to the requirements of any federal law, regulation, or agency interpretation; any policy language required by any collectively bargained agreement; any medical terminology; any words which are defined in the policy; and any policy language required by law or regulation; provided, the insurer identifies the language or terminology excepted by this subdivision and certifies, in writing, that the language or terminology is entitled to be excepted by this subdivision.
 - (c) Any other reading test may be approved by the Insurance Commissioner for use as an alternative to the Flesch reading ease test if it is comparable in result to the Flesch reading ease test.
 - (d) Filings subject to this section shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score on the test used or stating that the score is lower than the minimum required but should be approved in accordance with § 23-80-207. To confirm the accuracy of any certification, the commissioner may require the submission of further information to verify the certification in question.
 - (e) At the option of the insurer, riders, endorsements, applications, and other forms made a part of the policy may be scored as separate forms or as part of the policy with which they may be used.

23-80-207. Authorization to use lower score.

The Insurance Commissioner may authorize a lower score than the Flesch reading ease score required in § 23-80-206(a)(1) whenever, in his discretion, he finds that a lower score:

- (1) Will provide a more accurate reflection of the readability of a policy form;
 - (2) Is warranted by the nature of a particular policy form or type or class of policy forms;
- or
- (3) Is caused by certain policy language which is drafted to conform to the requirements of any state law, regulation, or agency interpretation.

23-80-208. Approval of forms.

A policy form meeting the requirements of § 23-80-206(a) shall be approved notwithstanding the provisions of any other laws which specify the content of policies if the policy form provides the policyholders and claimants protection not less favorable than they would be entitled to under such laws.

Subchapter 3.

Property and Casualty Insurance Policy Simplification Act.

23-80-301. Title.

This subchapter may be cited as the "Property and Casualty Insurance Policy Simplification Act".

23-80-302. Purpose.

- (a) The purpose of this subchapter is to establish minimum language and format standards to make property and casualty insurance policies easier to read.
- (b) This subchapter is not intended to increase the risk assumed under policies subject to it. Nor is it intended to impede flexibility and innovation in the development of policy forms or content. It does not grant authority to the Insurance Commissioner to mandate the standardization of policy forms or content.

23-80-303. Definitions.

As used in this subchapter:

- (1) "Casualty insurance" does not include accident and health insurance;
- (2) "Commissioner" means the Insurance Commissioner of this state; and
- (3) "Policy" or "policy forms" means any written contract of property and casualty insurance delivered or issued for delivery in this state by or on behalf of any insurer licensed in this state.

23-80-304. Applicability.

- (a) This subchapter shall apply to all policies with effective dates on or after the implementation date established for policies under § 23-80-306(b).
- (b) No other statute of this state setting simplification standards for language or format shall apply to any policy.
- (c) This subchapter shall not apply to policies in manuscript form or to the following kinds of insurance:
 - (1) Ocean marine;
 - (2) Surety and financial institution bonds;
 - (3) Reinsurance; or
 - (4) Commercial aviation.

(d) Any non-English language policy shall be deemed in compliance with § 23-80-306(a) if it was translated from an English language policy which complies with § 23-80-306(a).

23-80-305. Powers of the commissioner.

- (a) The Insurance Commissioner may, after notice and hearing, issue reasonable rules or regulations implementing §§ 23-80-306 and 23-80-308.
- (b) The commissioner may, at his sole discretion, extend any dates under this subchapter.
- (c) The commissioner shall have sole authority to enforce the provisions of this subchapter or seek remedies for its violation.

23-80-306. Minimum standards.

- (a) All policies which, under subsection (b) of this section, must comply with this subsection shall be simplified, taking into consideration the following factors:
 - (1) Use of simple sentence structure and short sentences;
 - (2) Use of commonly understood words;
 - (3) Avoidance of technical legal terms wherever possible;
 - (4) Minimal reference to other sections or provisions of the policy;
 - (5) Organization of text; and
 - (6) Legibility.
- (b)(1)(A) In addition to any other requirements of law, the Insurance Commissioner shall by regulation specify the dates by which personal lines policies shall comply with subsection (a) of this section.
- (B) The dates established by the commissioner for compliance shall not be less than eighteen (18) months nor more than thirty-six (36) months from the effective date of the regulation.
- (C) "Personal lines policies" are policies:
 - (i) Solely used to provide homeowners' insurance, dwelling fire insurance on one (1) to four (4) family units, or individual fire insurance on dwelling contents; or
 - (ii) Principally used to provide primary insurance on private passenger nonfleet automobiles individually owned and used for personal or family needs.
- (2) In addition to any other requirements of law, the commissioner may by regulations specify which policies, other than those described in subdivision (b)(1) of this section, shall comply with subsection (a) of this section. The dates, if any, established by the commissioner for compliance may not be less than forty-eight (48) months from June 17, 1981, or twenty-four (24) months from the effective date of the regulation establishing the dates, whichever is later.

23-80-307. Compliance with other statutorily required language.

- (a) The requirements of any other laws which specify the language or content of any policy may be met by a policy complying with § 23-80-306(a).
- (b) However, it must provide protection which, considered as a whole, is not less favorable to the insured than is required by the other laws.

23-80-308. Compliance by provision of outline of coverage.

An insurer may comply with § 23-80-306(a) and (b)(2) for not more than twelve (12) months following the implementation date established by the Insurance Commissioner by providing to the policyholder an outline of coverage or a brochure instead of a simplified policy. The outline or brochure shall comply with § 23-80-306(a).

Subchapter 4.
Prescription Drug Paperwork Simplification.

23-80-401. Purpose.

It is the intent of the General Assembly to improve care to patients by minimizing confusion, eliminating unnecessary paperwork, decreasing administrative burdens, and streamlining dispensing of prescription products paid for by third-party payors. This subchapter shall be construed liberally to effectuate this purpose.

23-80-402. Definitions.

As used in this subchapter:

- (1) "Commissioner" means the Insurance Commissioner;
- (2) "Covered person" means a person on whose behalf a health benefit plan is obligated to pay benefits pursuant to the health benefit plan; and
- (3) "Health benefit plan" means any individual, blanket, or group plan, policy, certificate, or contract for health care services issued or delivered in this state, including indemnity plans, managed care plans, plans provided or arranged by fraternal benefit societies, plans provided or arranged by health maintenance organizations, health governmental plans as defined in 29 U.S.C. 1002(32), as in effect January 1, 2001, plans provided through a multiple employer welfare arrangement, or plans provided through another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as in effect January 1, 2001, or by any waiver of or other exception to that act provided under federal law or regulation, as in effect January 1, 2001.

23-80-403. Exemptions.

This subchapter shall not apply to:

- (1) Accidental injury insurance plans;
- (2) Dental insurance plans;
- (3) Vision insurance plans;
- (4) Specified disease insurance plans;
- (5) Disability income plans;
- (6) Credit insurance plans;
- (7) Insurance coverage issued as a supplement to liability insurance;
- (8) Medical payments under automobile or homeowners insurance plans;

(9) Health benefit plans provided pursuant to Arkansas Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et seq., and the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

(10) Insurance under which benefits are payable with or without regard to fault and the benefits that are statutorily required to be contained in any liability policy or equivalent self-insurance; and

(11) Plans that only provide indemnity for hospital confinement.

23-80-404. Uniform card requirement.

(a) Every health benefit plan that provides coverage for prescription drugs or devices and issues a card or other technology for claims processing and every administrator of such plans, including third-party administrators for self-insured plans, pharmacy benefit managers, and administrators of state plans, shall issue to all covered persons a uniform card or other technology containing uniform prescription drug information as required under this subchapter.

(b) The uniform prescription drug information card or other technology shall:

(1)(A) Be in a format approved by the National Council for Prescription Drug Programs, in which case the card or other technology shall include all fields of information required by the council and conform to the most recent pharmacy information card or other technology implementation guide produced by the council.

(B) In the alternative, the card or other technology shall conform to a national format established in an administrative rule by the Insurance Commissioner;

(2) Include in a clear, readable, and understandable manner all information, exclusive of information provided on the prescription as required by law or regulation, that is necessary to process a claim for prescription drug benefits under the health benefit plan;

(3) Format and arrange all information on the card or other technology in a manner that corresponds both in content and format to the content and format required by the health benefit plan to process the claim for prescription drug benefits;

(4) Conform all information on the card or other technology not specified by the council to a content and format established in an administrative rule by the commissioner; and

(5) If the health benefit plan requires a conditional or situational field as defined by the council, conform the conditional or situational field to the most recent pharmacy information card or other technology implementation guide produced by the council or to a national format established in an administrative rule by the commissioner.

23-80-405. Enrollment.

(a) Upon enrollment of a covered person, a health benefit plan shall issue a uniform prescription drug information card or other technology in accordance with the requirements of § 23-80-404.

(b) Upon any change in a covered person's coverage that impacts in content or format any information contained on a uniform prescription drug information card or other technology, a health benefit plan shall issue new uniform prescription drug information cards or other technology to all covered persons in accordance with the requirements of § 23-80-404.

(c)(1) A newly issued uniform prescription drug information card or other technology shall be updated with the latest coverage information and shall conform to the National Council for Prescription Drug Programs standards then in effect, and to the implementation guide then in use, or a national format established in an administrative rule by the Insurance Commissioner.

(2) However, a health benefit plan may issue stickers to covered persons to update cards as may be established in an administrative rule by the commissioner.

23-80-406. Required fields.

(a) This subchapter does not require a health benefit plan that provides coverage for prescription drugs or devices to issue a card or other technology separate from any identification card issued to a covered person to evidence coverage under the health benefit plan, if the card or other technology contains all of the required fields of information established by the National Council for Prescription Drug Programs, as in effect January 1, 2001, that are necessary to process a claim for prescription drug benefits under the health benefit plan.

(b) The required fields of information shall be included on the card in a substantially similar format to that established by the council, as in effect January 1, 2001, and shall be printed in a clear, readable, and understandable manner.

23-80-407. Compliance date.

All prescription drug information cards or other technologies, including dual-use identification cards described in § 23-80-406, that are executed, delivered, issued, modified, extended, or renewed by a health benefit plan shall comply with the requirements of this subchapter within two (2) years after April 9, 2001.

23-80-408. Scope of authority.

The Insurance Commissioner shall have all the powers to enforce this subchapter that are granted to the commissioner elsewhere in the Arkansas Insurance Code.

23-80-409. Enabling clause.

The Insurance Commissioner shall promulgate regulations necessary to implement this subchapter and shall look for guidance to the standards and implementation guides produced by the National Council for Prescription Drug Programs.