
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1664 Session of
2023

INTRODUCED BY SCOTT, PIELLI, MADDEN, SANCHEZ, HILL-EVANS,
BENHAM, PISCIOTTANO, DALEY, BOROWSKI, CERRATO, CONKLIN,
GREEN, KHAN AND SHUSTERMAN, SEPTEMBER 12, 2023

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JUNE 25, 2024

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, in regulation of insurers and related persons
3 generally, providing for payment choice and for electronic
4 notice of insurance practices; and imposing penalties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 40 of the Pennsylvania Consolidated
8 Statutes is amended by adding chapters to read:

9 CHAPTER 47

10 PAYMENT CHOICE

11 Sec.

12 4701. Definitions.

13 4702. Payment.

14 4703. Regulations.

15 4704. Enforcement.

16 § 4701. Definitions.

17 The following words and phrases when used in this chapter

18 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Commissioner." The Insurance Commissioner of the
3 Commonwealth.

4 "Covered person." A policyholder, subscriber or other
5 individual who is entitled to receive health care services under
6 a health insurance policy.

7 "Credit card payment." A type of electronic funds transfer
8 in which a ~~dental~~ HEALTH insurer or its contracted vendor issues <--
9 a single-use series of numbers associated with the payment of
10 covered ~~dental~~ HEALTH CARE services performed by a ~~dentist~~ <--
11 HEALTH CARE PROVIDER and chargeable at a predetermined rate for <--
12 which the ~~dentist~~ HEALTH CARE PROVIDER is responsible for <--
13 processing the payment by a credit card terminal or Internet
14 portal. The term includes virtual or online credit card payments
15 for which no physical card is presented to the ~~dentist~~ HEALTH <--
16 CARE PROVIDER and the single-use credit card expires upon
17 payment processing.

18 "Dental insurance policy." An insurance policy that pays or
19 provides dental expense benefits for covered dental services and
20 is delivered or issued for delivery by, or through a dental
21 insurer. The term includes coverage for dental benefits issued
22 either on a stand-alone basis or integrated, or otherwise
23 incorporated into the terms and coverage of a health ~~benefits~~ <--
24 ~~plan~~ INSURANCE POLICY. <--

25 "Dental insurer." An entity that offers, issues or renews a
26 dental insurance policy that covers dental services provided by
27 a dentist and that is governed under any of the following:

28 (1) The act of May 17, 1921 (P.L.682, No.284), known as
29 The Insurance Company Law of 1921, including section 630 and
30 Article XXIV.

1 (2) The act of December 29, 1972 (P.L.1701, No.364),
2 known as the Health Maintenance Organization Act.

3 (3) Chapter 61 (relating to hospital plan corporations).

4 (4) Chapter 63 (relating to professional health services
5 plan corporations).

6 "Dentist." A person licensed by the State Board of Dentistry
7 to provide dental services. The term does not include a dental
8 hygienist as defined in section 2 of the act of May 1, 1933
9 (P.L.216, No.76), known as The Dental Law.

10 "Electronic funds transfer." A payment of any method of
11 electronic funds transfer as codified in 45 CFR 162.1601
12 (relating to health care electronic funds transfers (EFT) and
13 remittance advice transaction) and 162.1602 (relating to
14 standards for health care electronic funds transfers (EFT) and
15 remittance advice transaction).

16 "Health care provider." A licensed hospital or health care
17 facility, medical equipment supplier or person who is licensed,
18 certified or otherwise regulated to provide health care services
19 under the laws of this Commonwealth, including a physician,
20 podiatrist, optometrist, psychologist, physical therapist,
21 certified nurse practitioner, registered nurse, nurse midwife,
22 physician's assistant, chiropractor, pharmacist, DENTIST or an <--
23 individual accredited or certified to provide behavioral health
24 services. The term includes an individual providing emergency
25 services under a licensed emergency medical services agency as
26 defined in 35 Pa.C.S. § 8103 (relating to definitions).

27 "Health care service." A covered treatment, admission,
28 procedure, medical supplies and equipment or other service,
29 including behavioral health, prescribed or otherwise provided or
30 proposed to be provided by a health care provider to a covered

1 person for the diagnosis, prevention, treatment, cure or relief
2 of a health condition, illness, injury or disease under the
3 terms of health insurance policy.

4 "Health insurance policy." A policy, subscriber contract,
5 certificate or plan issued by an A HEALTH insurer that provides <--
6 medical or health care coverage, including a dental insurance
7 policy. The term does not include any of the following:

8 (1) An accident only policy.

9 (2) A credit only policy.

10 (3) A long-term care or disability income policy.

11 (4) A specified disease policy.

12 (5) A Medicare supplement policy.

13 (6) A TRICARE policy, including a Civilian Health and
14 Medical Program of the Uniformed Services (CHAMPUS)
15 supplement policy.

16 (7) A fixed indemnity policy.

17 (8) A hospital indemnity policy.

18 (9) A workers' compensation policy.

19 (10) An automobile medical payment policy under 75
20 Pa.C.S. (relating to vehicles).

21 (11) A homeowner's insurance policy.

22 (12) Any other similar policies providing for limited
23 benefits.

24 "Health insurer." An entity, including a dental insurer,
25 that offers, issues or renews a health insurance policy that is
26 offered or governed under any of the following:

27 (1) The act of May 17, 1921 (P.L.682, No.284), known as
28 The Insurance Company Law of 1921, including section 630 and
29 Article XXIV.

30 (2) The act of December 29, 1972 (P.L.1701, No.364),

1 known as the Health Maintenance Organization Act.

2 (3) Chapter 61 (relating to hospital plan corporations).

3 (4) Chapter 63 (relating to professional health services
4 plan corporations).

5 "Merchant servicer." Any of the following, as defined in 26
6 U.S.C. § 6050W(b) (relating to returns relating to payments made
7 in settlement of payment card and third party network
8 transactions):

9 (1) A payment settlement entity.

10 (2) A merchant acquiring entity.

11 (3) A third-party settlement organization.

12 "Participating health care provider." A health care provider
13 that has entered into a contractual or operating relationship
14 with a health insurer to participate in one or more designated
15 networks of the health insurer and to provide health care
16 services to covered persons under the terms of the health
17 insurer's administrative policy.

18 § 4702. Payment.

19 (a) Payment.--A health insurer or its contracted vendor may
20 not restrict the method of payment to a ~~dentist or participating~~ <--
21 health care provider so that the exclusive payment method is a
22 credit card payment.

23 (b) Changing payment.--If initiating or changing payments to
24 a ~~dentist or participating~~ health care provider using electronic <--
25 funds transfer payments, including credit card payments, a
26 health insurer or its contracted vendor shall:

27 (1) Advise the health care provider of all available
28 payment methods.

29 (2) Notify the health care provider that fees imposed by
30 the health insurer or its contracted vendor may apply to

1 electronic funds transfer payments, including credit card
2 payments, and provide instructions and contact information so
3 that the health care provider may obtain the exact amount of
4 the fees. Fees charged by a financial institution or merchant
5 servicer chosen by the health care provider shall not be
6 included for the purposes of this paragraph.

7 (3) Provide clear instructions to the health care
8 provider for the process of selecting a payment method.

9 (4) Not charge a fee solely to transmit the payment to
10 the health care provider, unless the health care provider has
11 consented to the fee.

12 (c) Waiver prohibited.--The provisions of this section may
13 not be waived by contract, and any contractual clause in
14 conflict with the provisions of this section or that purport to
15 waive any requirements of this section are void.

16 § 4703. Regulations.

17 The department may promulgate regulations necessary to
18 implement this chapter.

19 § 4704. Enforcement.

20 (a) Penalties.--Upon satisfactory evidence of the violation
21 of this chapter by a health insurer or any other person, one or
22 more of the following penalties may be imposed at the
23 commissioner's discretion:

24 (1) A fine of not more than \$5,000 for each violation of
25 this chapter.

26 (2) A fine of not more than \$10,000 for each willful
27 violation of this chapter.

28 (b) Limitations.--

29 (1) Fines imposed against an individual insurer under
30 this chapter may not exceed \$500,000 in the aggregate during

1 a single calendar year.

2 (2) Fines imposed against any other person under this
3 chapter may not exceed \$100,000 in the aggregate during a
4 single calendar year.

5 (c) Additional remedies.--The enforcement remedies imposed
6 under this section are in addition to any other remedies or
7 penalties that may be imposed under any other applicable law of
8 this Commonwealth, including:

9 (1) The act of July 22, 1974 (P.L.589, No.205), known as
10 the Unfair Insurance Practices Act. Violations of this
11 chapter shall be deemed to be an unfair method of competition
12 and an unfair or deceptive act or practice under that act.

13 (2) The act of December 18, 1996 (P.L.1066, No.159),
14 known as the Accident and Health Filing Reform Act.

15 (3) The act of June 25, 1997 (P.L.295, No.29), known as
16 the Pennsylvania Health Care Insurance Portability Act.

17 (d) Administrative procedure.--The administrative provisions
18 of this section shall be subject to 2 Pa.C.S. Ch. 5 Subch. A
19 (relating to practice and procedure of Commonwealth agencies). A
20 party against whom penalties are assessed in an administrative
21 action may appeal to Commonwealth Court as provided in 2 Pa.C.S.
22 Ch. 7 Subch. A (relating to judicial review of Commonwealth
23 agency action).

24 CHAPTER 49

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25 ELECTRONIC NOTICE OF INSURANCE PRACTICES

26 Sec.

27 4901. Scope of chapter.

28 4902. Definitions.

29 4903. Electronic delivery of insurance notices or documents.

30 4904. Changes in hardware or software requirements.

1 ~~4905. Affect, validity and enforceability of insurance notices~~
2 ~~or documents.~~

3 ~~4906. Withdrawal of consent.~~

4 ~~4907. Prior consent for electronic delivery of insurance~~
5 ~~notices or documents.~~

6 ~~4908. Alternative methods of delivery.~~

7 ~~4909. Limitation on civil liability.~~

8 ~~4910. Delivery of insurance policies and endorsements.~~

9 ~~4911. Construction.~~

10 ~~§ 4901. Scope of chapter.~~

11 ~~This chapter relates to electronic notice of insurance~~
12 ~~practices.~~

13 ~~§ 4902. Definitions.~~

14 ~~The following words and phrases when used in this chapter~~
15 ~~shall have the meanings given to them in this section unless the~~
16 ~~context clearly indicates otherwise:~~

17 ~~"Covered person." An individual who is entitled to receive~~
18 ~~health care services under a health benefit plan.~~

19 ~~"Deliver by electronic means." Any of the following:~~

20 ~~(1) The delivery to an email address at which a covered~~
21 ~~person has consented to receive a notice or document from an~~
22 ~~insurer.~~

23 ~~(2) A post on an electronic network or website~~
24 ~~accessible via the Internet, mobile device or application,~~
25 ~~tablet or any other electronic device, including a separate~~
26 ~~notice of the post by delivery to an email address at which a~~
27 ~~covered person has consented to receive a notice or document~~
28 ~~or by any other delivery method that has been consented by~~
29 ~~the covered person, which contains the Internet address at~~
30 ~~which the notice or document is posted. For purposes of this~~

~~1 definition, delivery shall be effective upon the post or
2 actual delivery of the separate notice of the post as
3 specified under this paragraph.~~

~~4 "ERISA." Employee Retirement Income Security Act of 1974
5 (Public Law 93-406, 88 Stat. 829).~~

~~6 "Health benefit plan." A policy, contract, certificate or
7 agreement entered into, offered by or issued by an insurer to
8 provide, deliver or arrange for, pay for or reimburse any of the
9 costs of health care services, including a vision or dental
10 benefit plan or a self-insured plan not subject to ERISA.~~

~~11 "Insurer." An insurance company, association or exchange or
12 any other entity subject to the jurisdiction of the department.~~

~~13 "Plan sponsor." A person or entity who establishes, adopts
14 or maintains a health benefit plan on behalf of a covered
15 person.~~

~~16 § 4903. Electronic delivery of insurance notices or documents.~~

~~17 (a) Transactions. Subject to the requirements of this
18 section, an insurer may deliver by electronic means a notice to
19 a covered person or any document required by Federal or State
20 law in a transaction with the insurer or in a manner that serves
21 as evidence of insurance coverage in accordance with the act of
22 December 16, 1999 (P.L.971, No.69), known as the Electronic
23 Transactions Act.~~

~~24 (b) Effect of delivery. The delivery of a notice or
25 document in accordance with this section shall be considered the
26 equivalent to and having the same effect as a delivery method
27 required by Federal or State law, including delivery by first-
28 class mail, first class mail with postage prepaid, certified
29 mail, certificate of mail or certificate mailing.~~

~~30 (c) Consent from covered persons. An insurer may deliver by~~

1 ~~electronic means a notice or document to a covered person in~~
2 ~~accordance with this section if all of the following apply:~~

3 ~~(1) The covered person has affirmatively consented~~
4 ~~electronically or confirmed consent electronically in a~~
5 ~~manner that reasonably demonstrates that the covered person~~
6 ~~can access information in the electronic form that will be~~
7 ~~used for a notice or document delivered by electronic means,~~
8 ~~and the covered person has not withdrawn the consent.~~

9 ~~(2) Before the covered person gives the consent required~~
10 ~~under paragraph (1), the insurer provides the covered person~~
11 ~~with a clear and conspicuous statement informing the covered~~
12 ~~person of all of the following:~~

13 ~~(i) The hardware and software requirements for~~
14 ~~access to and retention of a notice or document delivered~~
15 ~~by electronic means.~~

16 ~~(ii) The types of notices and documents for which~~
17 ~~the covered person may consent to receive by delivery by~~
18 ~~electronic means.~~

19 ~~(iii) The right of the covered person to withdraw~~
20 ~~consent to having a notice or document delivered by~~
21 ~~electronic means at any time and the conditions or~~
22 ~~consequences imposed in the event consent is withdrawn.~~

23 ~~(iv) The procedures necessary for the covered person~~
24 ~~to withdraw consent to having a notice or document~~
25 ~~delivered by electronic means, which shall be no more~~
26 ~~burdensome than the procedures required to provide~~
27 ~~consent under paragraph (1), and the manner in which the~~
28 ~~covered person can update the covered person's email~~
29 ~~address for the purposes of this subsection.~~

30 ~~(v) The right of a covered person to have a notice~~

1 ~~or document delivered by the insurer upon request in~~
2 ~~paper form.~~

3 ~~(vi) The right of a covered person to request~~
4 ~~personal health information to be treated and~~
5 ~~communicated confidentially and the process by which a~~
6 ~~covered person may receive confidential communication of~~
7 ~~personal health information delivered by electronic~~
8 ~~means.~~

9 ~~(d) Consent from plan sponsors. A plan sponsor may, on~~
10 ~~behalf of each covered person, provide consent to the delivery~~
11 ~~by electronic means of communications related to the plan from~~
12 ~~an insurer.~~

13 ~~(e) Duties of plan sponsors. Before consenting on behalf of~~
14 ~~a covered person under subsection (d), a plan sponsor shall have~~
15 ~~the following duties:~~

16 ~~(1) To the extent applicable, confirm that the covered~~
17 ~~person routinely uses electronic communications during the~~
18 ~~normal course of employment and is able to access and retain~~
19 ~~electronic communications that may be delivered by an insurer~~
20 ~~to a personal email address used by a covered person.~~

21 ~~(2) Inform the covered person that the consent will be~~
22 ~~provided and a notice or document related to the health~~
23 ~~benefit plan may be delivered by electronic means unless the~~
24 ~~covered person affirmatively opts out of delivery by~~
25 ~~electronic means or provides an alternative email address.~~

26 ~~(f) Duties of insurers for health benefit plans. Before~~
27 ~~providing delivery by electronic means of a notice or document~~
28 ~~related to a health insurance plan, an insurer for the plan~~
29 ~~shall have the following duties:~~

30 ~~(1) Provide a clear and conspicuous statement informing~~

1 ~~a covered person enrolled in the plan of all of the~~
2 ~~following:~~

3 ~~(i) The types of notices and documents that may be~~
4 ~~delivered by electronic means to the covered person.~~

5 ~~(ii) The right of the covered person to withdraw~~
6 ~~consent to having a notice or document delivered by~~
7 ~~electronic means at any time without charge.~~

8 ~~(iii) The procedures necessary for the covered~~
9 ~~person to withdraw consent to having a notice or document~~
10 ~~delivered by electronic means and the manner in which the~~
11 ~~covered person can update the covered person's email~~
12 ~~address for the purposes of this subsection.~~

13 ~~(iv) The right of the covered person to have a~~
14 ~~notice or document delivered by the insurer upon request~~
15 ~~in paper form without charge.~~

16 ~~(2) Provide an opportunity for a covered person enrolled~~
17 ~~in the plan to opt out of delivery by electronic means.~~

18 ~~(3) Certify that the insurer is complying with the~~
19 ~~applicable provisions of this chapter, the Electronic~~
20 ~~Transactions Act, 45 CFR 164.530(c) (relating to~~
21 ~~administrative requirements) and other applicable provisions~~
22 ~~of Federal law regarding technical safeguards such as~~
23 ~~encryption.~~

24 ~~§ 4904. Changes in hardware or software requirements.~~

25 ~~After a covered person provides consent in accordance with~~
26 ~~section 4903 (relating to electronic delivery of insurance~~
27 ~~notices or documents), if a change in the hardware or software~~
28 ~~requirements necessary to access or retain a notice or document~~
29 ~~to be delivered by electronic means creates a material risk such~~
30 ~~that the covered person will not be able to access or retain the~~

1 ~~notice or document for which the consent applies, an insurer may~~
2 ~~not deliver by electronic means a notice or document to the~~
3 ~~covered person unless the insurer complies with the requirements~~
4 ~~of section 4903 and provides the covered person with a statement~~
5 ~~that describes all of the following:~~

6 ~~(1) The revised hardware and software requirements for~~
7 ~~access to and retention of a document delivered by electronic~~
8 ~~means.~~

9 ~~(2) The right of the covered person to withdraw consent~~
10 ~~without the imposition of a condition or consequence that was~~
11 ~~not disclosed at the time of initial consent.~~

12 ~~§ 4905. Affect, validity and enforceability of insurance~~
13 ~~notices or documents.~~

14 ~~(a) Content of notices or documents. Nothing in this~~
15 ~~chapter shall be construed to affect requirements related to~~
16 ~~content of an insurance notice or document or the timing related~~
17 ~~to the notice or document required under any other provision of~~
18 ~~Federal or State law.~~

19 ~~(b) Confirmation receipts. If any other applicable Federal~~
20 ~~or State law requires confirmation of the receipt of a notice or~~
21 ~~document from a covered person or plan sponsor of a health~~
22 ~~benefit plan, an insurer shall only deliver by electronic means~~
23 ~~a notice or document if the method for delivery provides for an~~
24 ~~active confirmation receipt by the covered person or plan~~
25 ~~sponsor.~~

26 ~~(c) Prior consent. This chapter shall not apply to a notice~~
27 ~~or document delivered by electronic means by an insurer before~~
28 ~~the effective date of this subsection to a covered person who,~~
29 ~~prior to the effective date of this subsection, provided consent~~
30 ~~to the insurer to receive a notice or document delivered by~~

1 ~~electronic means from the insurer.~~

2 ~~(d) Validity or enforceability. The validity or~~
3 ~~enforceability of a contract or policy of an insurer executed by~~
4 ~~a covered person shall not be denied solely because of the~~
5 ~~failure of the insurer to obtain electronic consent or~~
6 ~~confirmation of consent of the covered person in accordance with~~
7 ~~this chapter if the notice or document is delivered in paper~~
8 ~~form.~~

9 ~~§ 4906. Withdrawal of consent.~~

10 ~~(a) Procedures. No later than 30 days after the effective~~
11 ~~date of this subsection, an insurer shall develop procedures by~~
12 ~~which a covered person may withdraw consent to receive a notice~~
13 ~~or documents delivered by electronic means.~~

14 ~~(b) Legality. Withdrawal of consent by a covered person to~~
15 ~~receive a notice or document delivered by electronic means from~~
16 ~~an insurer shall not affect the legality or enforceability of a~~
17 ~~notice or document delivered by electronic means to the covered~~
18 ~~person before the withdrawal of consent takes effect.~~

19 ~~(c) Effect. Withdrawal of consent by a covered person to~~
20 ~~receive a notice or document delivered by electronic means from~~
21 ~~an insurer shall take effect within a reasonable period of time~~
22 ~~after the insurer receives notice of the covered person's~~
23 ~~withdrawal.~~

24 ~~(d) Noncompliance. Failure by an insurer to comply with any~~
25 ~~provision of section 4903 (relating to electronic delivery of~~
26 ~~insurance notices or documents) or 4904 (relating to changes in~~
27 ~~hardware or software requirements) may be treated at the~~
28 ~~election of a covered person as a withdrawal of consent for~~
29 ~~purposes of this chapter.~~

30 ~~§ 4907. Prior consent for electronic delivery of insurance~~

1 ~~notices or documents.~~

2 ~~If an insurer has a documented record from a covered person~~
3 ~~indicating approval by the covered person for a notice or~~
4 ~~document to be delivered by electronic means from the insurer~~
5 ~~before the effective date of this section and the insurer~~
6 ~~intends to deliver by electronic means an additional notice or~~
7 ~~document under this chapter, prior to providing the additional~~
8 ~~notice or document for delivery by electronic means, the insurer~~
9 ~~shall comply with sections 4903 (relating to electronic delivery~~
10 ~~of insurance notices or documents) and 4904 (relating to changes~~
11 ~~in hardware or software requirements) and provide the covered~~
12 ~~person with a statement that describes the following:~~

13 ~~(1) A list of each notice or document that will be~~
14 ~~delivered by electronic means that was not previously~~
15 ~~delivered by electronic means.~~

16 ~~(2) The covered person's right to withdraw consent for~~
17 ~~the delivery by electronic means of a notice or document~~
18 ~~without imposition of a condition or consequence that was not~~
19 ~~previously disclosed to the covered person.~~

20 ~~§ 4908. Alternative methods of delivery.~~

21 ~~(a) Alternative methods. An insurer shall deliver a notice~~
22 ~~or document to a covered person by any other method that was~~
23 ~~authorized by Federal or State law before the effective date of~~
24 ~~this subsection other than delivery by electronic means if~~
25 ~~either of the following occurs:~~

26 ~~(1) The insurer attempts to deliver the notice or~~
27 ~~document by electronic means and has a reasonable basis for~~
28 ~~believing that the notice or document has not been received~~
29 ~~by the covered person.~~

30 ~~(2) The insurer becomes aware that the email address~~

1 ~~provided by the covered person to the insurer is no longer~~
2 ~~valid.~~

3 ~~(b) Confidentiality. Nothing in this chapter shall be~~
4 ~~construed to preclude the ability of a covered person to request~~
5 ~~confidential communication of the covered person's protected~~
6 ~~health information as permitted by the Health Insurance~~
7 ~~Portability and Accountability Act of 1996 (Public Law 104 191,~~
8 ~~110 Stat. 1936).~~

9 ~~(c) Construction. Nothing in this chapter shall be~~
10 ~~construed to preclude the ability of an insurer to deliver a~~
11 ~~notice or document to a covered person by any method authorized~~
12 ~~by Federal or State law.~~

13 ~~§ 4909. Limitation on civil liability.~~

14 ~~An insurer shall not be civilly liable for any harm or injury~~
15 ~~that occurs due to a covered person electing to receive a notice~~
16 ~~or document for delivery by electronic means or due to any of~~
17 ~~the following:~~

18 ~~(1) The insurer's failure to deliver by electronic means~~
19 ~~a notice or document if the insurer has a reasonable belief~~
20 ~~that the covered person does not require an alternative~~
21 ~~method of delivery under section 4908 (relating to~~
22 ~~alternative methods of delivery).~~

23 ~~(2) The covered person's failure to receive a notice or~~
24 ~~document delivered by electronic means.~~

25 ~~§ 4910. Delivery of insurance policies and endorsements.~~

26 ~~(a) Authorization. An insurer may mail, deliver or, if the~~
27 ~~the insurer obtains a separate specific consent, post on the~~
28 ~~insurer's publicly accessible Internet website an insurance~~
29 ~~policy and endorsement that does not contain any personally~~
30 ~~identifiable information.~~

1 ~~(b) Internet website posting requirements. If an insurer~~
2 ~~elects to post an insurance policy and endorsement on the~~
3 ~~insurer's publicly accessible Internet website, in lieu of~~
4 ~~mailing or delivering the policy and endorsement to the plan~~
5 ~~sponsor, the insurer shall have the following duties:~~

6 ~~(1) The insurer shall ensure that the policy and~~
7 ~~endorsement are accessible to the plan sponsor and producer~~
8 ~~of record and remains accessible while the policy is in~~
9 ~~effect.~~

10 ~~(2) After the expiration of the policy, the insurer~~
11 ~~shall do one of the following:~~

12 ~~(i) Make the expired policy and endorsement~~
13 ~~available upon request for a period of no less than five~~
14 ~~years.~~

15 ~~(ii) If the insurer continues to make the expired~~
16 ~~policy or endorsement available on the insurer's publicly~~
17 ~~accessible Internet website, keep the plan sponsor's user~~
18 ~~identification active for a period of no less than five~~
19 ~~years.~~

20 ~~(c) Printable format. If an insurer elects to post an~~
21 ~~insurance policy and endorsement on the insurer's publicly~~
22 ~~accessible Internet website in lieu of mailing or delivering the~~
23 ~~policy and endorsement to the covered person, the insurer shall~~
24 ~~post the policy and endorsement in a manner that enables the~~
25 ~~plan sponsor and producer of record to print and save the policy~~
26 ~~and endorsement using a program or application that is widely~~
27 ~~available on the Internet and free to use.~~

28 ~~(d) Description. The insurer shall provide the following~~
29 ~~information to the plan sponsor in or simultaneous with each~~
30 ~~declaration page provided at the time of issuance of an initial~~

1 ~~insurance policy and each renewal of the policy:~~

2 ~~(1) A description of the exact policy and endorsement~~
3 ~~form purchased by the plan sponsor.~~

4 ~~(2) A description of the plan sponsor's right to receive~~
5 ~~upon request and without charge an electronic or paper copy~~
6 ~~of the policy and endorsement.~~

7 ~~(3) The publicly accessible Internet website at which~~
8 ~~the policy and endorsement are posted by the insurer.~~

9 ~~(e) Paper copies. Upon request by the plan sponsor, the~~
10 ~~insurer shall mail a paper copy of the plan sponsor's insurance~~
11 ~~policy and endorsement. The insurer shall mail the first paper~~
12 ~~copy of the insurance policy and endorsement to the plan sponsor~~
13 ~~without charge, but may impose a fee on each subsequent request~~
14 ~~for a paper copy.~~

15 ~~(f) Notice of change. An insurer shall provide a notice,~~
16 ~~via electronic means or in writing at the plan sponsor's option,~~
17 ~~of all of the following to the plan sponsor:~~

18 ~~(1) A change to the insurance policy and endorsement.~~

19 ~~(2) The plan sponsor's right to obtain, upon request and~~
20 ~~without charge after receipt of the initial copy, a paper~~
21 ~~copy of the insurance policy and endorsement and the publicly~~
22 ~~accessible Internet website at which the policy and~~
23 ~~endorsement are posted.~~

24 ~~(g) Construction. Nothing in this section shall be~~
25 ~~construed to affect or change any of the following pertaining to~~
26 ~~the time or content of a disclosure or document required to be~~
27 ~~provided to a plan sponsor under Federal or State law.~~

28 ~~§ 4911. Construction.~~

29 ~~Nothing in this chapter shall be construed as a requirement~~
30 ~~on health benefit plans subject to ERISA.~~

ELECTRONIC NOTICE OF INSURANCE PRACTICES

SEC.

4901. SCOPE OF CHAPTER.

4902. DEFINITIONS.

4903. ELECTRONIC DELIVERY OF INSURANCE NOTICES OR DOCUMENTS.

4904. CHANGES IN HARDWARE OR SOFTWARE REQUIREMENTS.

4905. AFFECT, VALIDITY AND ENFORCEABILITY OF INSURANCE NOTICES
OR DOCUMENTS.

4906. RESCISSION OF DELIVERY BY ELECTRONIC MEANS.

4907. PRIOR CONSENT FOR ELECTRONIC DELIVERY OF INSURANCE
NOTICES OR DOCUMENTS.

4908. ALTERNATIVE METHODS OF DELIVERY.

4909. LIMITATION ON CIVIL LIABILITY.

4910. DELIVERY OF INSURANCE POLICIES AND ENDORSEMENTS.

4911. CONSTRUCTION.

4912. REGULATIONS.

4913. VIOLATIONS.

§ 4901. SCOPE OF CHAPTER.

THIS CHAPTER RELATES TO ELECTRONIC NOTICE OF INSURANCE
PRACTICES.

§ 4902. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
CONTEXT CLEARLY INDICATES OTHERWISE:

"COVERED PERSON." AN INDIVIDUAL WHO IS ENTITLED TO RECEIVE
HEALTH CARE SERVICES UNDER A HEALTH BENEFIT PLAN.

"DELIVER BY ELECTRONIC MEANS." ANY OF THE FOLLOWING:

- (1) THE DELIVERY TO AN EMAIL ADDRESS AT WHICH A COVERED
PERSON HAS CONSENTED TO RECEIVE A NOTICE OR DOCUMENT FROM AN

1 INSURER.

2 (2) A POST ON AN ELECTRONIC NETWORK OR WEBSITE
3 ACCESSIBLE VIA THE INTERNET, MOBILE DEVICE OR APPLICATION,
4 TABLET OR ANY OTHER ELECTRONIC DEVICE, ADMINISTERED BY AN
5 INSURER, INCLUDING A SEPARATE NOTICE OF THE POST BY DELIVERY
6 TO AN EMAIL ADDRESS AT WHICH A COVERED PERSON HAS CONSENTED
7 TO RECEIVE A NOTICE OR DOCUMENT OR BY ANY OTHER DELIVERY
8 METHOD THAT HAS BEEN CONSENTED BY THE COVERED PERSON, WHICH
9 CONTAINS THE INTERNET ADDRESS AT WHICH THE NOTICE OR DOCUMENT
10 IS POSTED. FOR PURPOSES OF THIS DEFINITION, DELIVERY SHALL BE
11 EFFECTIVE UPON THE POST OR ACTUAL DELIVERY OF THE SEPARATE
12 NOTICE OF THE POST AS SPECIFIED UNDER THIS PARAGRAPH.

13 "ERISA." EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974
14 (PUBLIC LAW 93-406, 88 STAT. 829).

15 "HEALTH BENEFIT PLAN." A POLICY, CONTRACT, CERTIFICATE OR
16 AGREEMENT ENTERED INTO, OFFERED BY OR ISSUED BY AN INSURER TO
17 PROVIDE, DELIVER OR ARRANGE FOR, PAY FOR OR REIMBURSE ANY OF THE
18 COSTS OF HEALTH CARE SERVICES, INCLUDING A VISION OR DENTAL
19 BENEFIT PLAN OR A SELF-INSURED PLAN NOT SUBJECT TO ERISA.

20 "HEALTH INSURER." AN ENTITY LICENSED BY THE DEPARTMENT WITH
21 AUTHORITY TO ISSUE A HEALTH BENEFIT PLAN THAT IS GOVERNED UNDER
22 ANY OF THE FOLLOWING:

23 (1) THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS
24 THE INSURANCE COMPANY LAW OF 1921, INCLUDING SECTION 630 AND
25 ARTICLE XXIV.

26 (2) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364),
27 KNOWN AS THE HEALTH MAINTENANCE ORGANIZATION ACT.

28 (3) CHAPTER 61 (RELATING TO HOSPITAL PLAN CORPORATIONS).

29 (4) CHAPTER 63 (RELATING TO PROFESSIONAL HEALTH SERVICES
30 PLAN CORPORATIONS).

1 "PLAN SPONSOR." A PERSON OR ENTITY THAT ESTABLISHES, ADOPTS
2 OR MAINTAINS A HEALTH BENEFIT PLAN ON BEHALF OF A COVERED
3 PERSON.

4 § 4903. ELECTRONIC DELIVERY OF INSURANCE NOTICES OR DOCUMENTS.

5 (A) TRANSACTIONS.--SUBJECT TO THE REQUIREMENTS OF THIS
6 SECTION, AN INSURER MAY DELIVER BY ELECTRONIC MEANS A NOTICE TO
7 A COVERED PERSON OR ANY DOCUMENT REQUIRED BY FEDERAL OR STATE
8 LAW IN A TRANSACTION WITH THE INSURER THAT SERVES AS EVIDENCE OF
9 INSURANCE COVERAGE IN ACCORDANCE WITH THE ACT OF DECEMBER 16,
10 1999 (P.L.971, NO.69), KNOWN AS THE ELECTRONIC TRANSACTIONS ACT.

11 (B) EFFECT OF DELIVERY.--THE DELIVERY OF A NOTICE OR
12 DOCUMENT IN ACCORDANCE WITH THIS SECTION SHALL BE CONSIDERED THE
13 EQUIVALENT TO AND HAVING THE SAME EFFECT AS A DELIVERY METHOD
14 REQUIRED BY FEDERAL OR STATE LAW, INCLUDING DELIVERY BY FIRST
15 CLASS MAIL, FIRST CLASS MAIL WITH POSTAGE PREPAID, CERTIFIED
16 MAIL, CERTIFICATE OF MAIL OR CERTIFICATE MAILING.

17 (C) CONSENT FROM COVERED PERSONS.--NOTWITHSTANDING
18 SUBSECTION (D), AN INSURER MAY DELIVER BY ELECTRONIC MEANS A
19 NOTICE OR DOCUMENT TO A COVERED PERSON IN ACCORDANCE WITH THIS
20 SECTION IF ALL OF THE FOLLOWING APPLY:

21 (1) THE COVERED PERSON HAS AFFIRMATIVELY CONSENTED
22 ELECTRONICALLY OR CONFIRMED CONSENT ELECTRONICALLY IN A
23 MANNER THAT REASONABLY DEMONSTRATES THAT THE COVERED PERSON
24 CAN ACCESS INFORMATION IN THE ELECTRONIC FORM THAT WILL BE
25 USED FOR A NOTICE OR DOCUMENT DELIVERED BY ELECTRONIC MEANS,
26 AND THE COVERED PERSON HAS NOT WITHDRAWN THE CONSENT.

27 (2) BEFORE THE COVERED PERSON GIVES THE CONSENT REQUIRED
28 UNDER PARAGRAPH (1), THE INSURER PROVIDES THE COVERED PERSON
29 WITH A CLEAR AND CONSPICUOUS STATEMENT INFORMING THE COVERED
30 PERSON OF ALL OF THE FOLLOWING:

1 (I) THE HARDWARE AND SOFTWARE REQUIREMENTS FOR
2 ACCESS TO AND RETENTION OF A NOTICE OR DOCUMENT DELIVERED
3 BY ELECTRONIC MEANS.

4 (II) THE TYPES OF NOTICES AND DOCUMENTS FOR WHICH
5 THE COVERED PERSON MAY CONSENT TO RECEIVE BY DELIVERY BY
6 ELECTRONIC MEANS.

7 (III) THE RIGHT OF THE COVERED PERSON TO WITHDRAW
8 CONSENT TO HAVING A NOTICE OR DOCUMENT DELIVERED BY
9 ELECTRONIC MEANS AT ANY TIME AND THE CONDITIONS OR
10 CONSEQUENCES IMPOSED IN THE EVENT CONSENT IS WITHDRAWN.

11 (IV) THE PROCEDURES NECESSARY FOR THE COVERED PERSON
12 TO WITHDRAW CONSENT TO HAVING A NOTICE OR DOCUMENT
13 DELIVERED BY ELECTRONIC MEANS, WHICH SHALL BE NO MORE
14 BURDENSOME THAN THE PROCEDURES REQUIRED TO PROVIDE
15 CONSENT UNDER PARAGRAPH (1), AND THE MANNER IN WHICH THE
16 COVERED PERSON CAN UPDATE THE COVERED PERSON'S EMAIL
17 ADDRESS FOR THE PURPOSES OF THIS SUBSECTION.

18 (V) THE RIGHT OF A COVERED PERSON TO HAVE A NOTICE
19 OR DOCUMENT DELIVERED BY THE INSURER UPON REQUEST IN
20 PAPER FORM.

21 (VI) THE RIGHT OF A COVERED PERSON TO REQUEST THAT
22 PERSONAL HEALTH INFORMATION BE TREATED AND COMMUNICATED
23 CONFIDENTIALLY AND THE PROCESS BY WHICH A COVERED PERSON
24 MAY RECEIVE CONFIDENTIAL COMMUNICATION OF PERSONAL HEALTH
25 INFORMATION DELIVERED BY ELECTRONIC MEANS.

26 (D) CONSENT FROM PLAN SPONSORS.--A PLAN SPONSOR MAY, ON
27 BEHALF OF EACH COVERED PERSON, PROVIDE CONSENT TO THE DELIVERY
28 BY ELECTRONIC MEANS OF COMMUNICATIONS RELATED TO THE PLAN FROM
29 AN INSURER.

30 (E) DUTIES OF PLAN SPONSORS.--BEFORE CONSENTING ON BEHALF OF

1 A COVERED PERSON UNDER SUBSECTION (D), A PLAN SPONSOR SHALL HAVE
2 THE FOLLOWING DUTIES:

3 (1) TO THE EXTENT APPLICABLE, CONFIRM THAT THE COVERED
4 PERSON ROUTINELY USES ELECTRONIC COMMUNICATIONS AND IS ABLE
5 TO ACCESS AND RETAIN ELECTRONIC COMMUNICATIONS THAT MAY BE
6 DELIVERED BY AN INSURER TO AN EMAIL ADDRESS USED BY A COVERED
7 PERSON.

8 (2) INFORM THE COVERED PERSON NO LESS THAN 30 DAYS PRIOR
9 THAT CONSENT WILL BE PROVIDED AS AUTHORIZED UNDER SUBSECTION
10 (D) AND A NOTICE OR DOCUMENT RELATED TO THE HEALTH BENEFIT
11 PLAN MAY BE DELIVERED BY ELECTRONIC MEANS UNLESS THE COVERED
12 PERSON AFFIRMATIVELY OPTS OUT OF DELIVERY BY ELECTRONIC MEANS
13 PRIOR TO THE EXPIRATION OF THE 30-DAY PERIOD.

14 (F) DUTIES OF INSURERS FOR HEALTH BENEFIT PLANS.--AT LEAST
15 30 DAYS BEFORE PROVIDING DELIVERY BY ELECTRONIC MEANS OF A
16 NOTICE OR DOCUMENT RELATED TO A HEALTH BENEFIT PLAN, AN INSURER
17 FOR THE PLAN SHALL HAVE THE FOLLOWING DUTIES:

18 (1) VERIFY THAT THE PLAN SPONSOR HAS MET ITS DUTIES
19 UNDER SUBSECTION (E).

20 (2) PROVIDE A CLEAR AND CONSPICUOUS STATEMENT INFORMING
21 A COVERED PERSON ENROLLED IN THE PLAN OF ALL OF THE
22 FOLLOWING:

23 (I) THE TYPES OF NOTICES AND DOCUMENTS THAT MAY BE
24 DELIVERED BY ELECTRONIC MEANS TO THE COVERED PERSON.

25 (II) THE RIGHT OF THE COVERED PERSON TO OPT OUT OF
26 HAVING A NOTICE OR DOCUMENT DELIVERED BY ELECTRONIC MEANS
27 AT ANY TIME WITHOUT CHARGE.

28 (III) THE PROCEDURES NECESSARY FOR THE COVERED
29 PERSON TO OPT OUT OF HAVING A NOTICE OR DOCUMENT
30 DELIVERED BY ELECTRONIC MEANS AND THE MANNER IN WHICH THE

1 COVERED PERSON CAN UPDATE THE COVERED PERSON'S EMAIL
2 ADDRESS FOR THE PURPOSES OF THIS SUBSECTION.

3 (IV) THE RIGHT OF THE COVERED PERSON TO HAVE A
4 NOTICE OR DOCUMENT DELIVERED BY THE INSURER UPON REQUEST
5 IN PAPER FORM WITHOUT CHARGE.

6 (V) THE RIGHT OF A COVERED PERSON TO REQUEST THAT
7 PERSONAL HEALTH INFORMATION BE TREATED AND COMMUNICATED
8 CONFIDENTIALLY AND THE PROCESS BY WHICH A COVERED PERSON
9 MAY RECEIVE THE CONFIDENTIAL COMMUNICATION OF PERSONAL
10 HEALTH INFORMATION DELIVERED BY ELECTRONIC MEANS.

11 (2) PROVIDE AN OPPORTUNITY FOR A COVERED PERSON ENROLLED
12 IN THE PLAN TO OPT OUT OF DELIVERY BY ELECTRONIC MEANS.

13 (3) COMPLY WITH THE APPLICABLE PROVISIONS OF THIS
14 CHAPTER, THE ELECTRONIC TRANSACTIONS ACT, 45 CFR 164.530(C)
15 (RELATING TO ADMINISTRATIVE REQUIREMENTS) AND OTHER
16 APPLICABLE PROVISIONS OF FEDERAL LAW REGARDING TECHNICAL
17 SAFEGUARDS SUCH AS ENCRYPTION.

18 § 4904. CHANGES IN HARDWARE OR SOFTWARE REQUIREMENTS.

19 AFTER A COVERED PERSON OR PLAN SPONSOR PROVIDES CONSENT IN
20 ACCORDANCE WITH SECTION 4903 (RELATING TO ELECTRONIC DELIVERY OF
21 INSURANCE NOTICES OR DOCUMENTS), IF A CHANGE IN THE HARDWARE OR
22 SOFTWARE REQUIREMENTS NECESSARY TO ACCESS OR RETAIN A NOTICE OR
23 DOCUMENT TO BE DELIVERED BY ELECTRONIC MEANS CREATES A MATERIAL
24 RISK SUCH THAT THE COVERED PERSON WILL NOT BE ABLE TO ACCESS OR
25 RETAIN THE NOTICE OR DOCUMENT FOR WHICH THE CONSENT APPLIES, AN
26 INSURER MAY NOT DELIVER BY ELECTRONIC MEANS A NOTICE OR DOCUMENT
27 TO THE COVERED PERSON UNLESS THE INSURER COMPLIES WITH THE
28 REQUIREMENTS OF SECTION 4903 AND PROVIDES THE COVERED PERSON
29 WITH A STATEMENT THAT DESCRIBES ALL OF THE FOLLOWING:

30 (1) THE REVISED HARDWARE AND SOFTWARE REQUIREMENTS FOR

1 ACCESS TO AND RETENTION OF A DOCUMENT DELIVERED BY ELECTRONIC
2 MEANS.

3 (2) THE RIGHT OF THE COVERED PERSON TO OPT OUT OF
4 DELIVERY BY ELECTRONIC MEANS WITHOUT THE IMPOSITION OF A
5 CONDITION OR CONSEQUENCE THAT WAS NOT DISCLOSED AT THE TIME
6 OF INITIAL CONSENT.

7 § 4905. AFFECT, VALIDITY AND ENFORCEABILITY OF INSURANCE
8 NOTICES OR DOCUMENTS.

9 (A) CONTENT OF NOTICES OR DOCUMENTS.--NOTHING IN THIS
10 CHAPTER SHALL BE CONSTRUED TO AFFECT REQUIREMENTS RELATED TO
11 CONTENT OF AN INSURANCE NOTICE OR DOCUMENT OR THE TIMING RELATED
12 TO THE NOTICE OR DOCUMENT REQUIRED UNDER ANY OTHER PROVISION OF
13 FEDERAL OR STATE LAW.

14 (B) CONFIRMATION RECEIPTS.--IF ANY OTHER APPLICABLE FEDERAL
15 OR STATE LAW REQUIRES CONFIRMATION OF THE RECEIPT OF A NOTICE OR
16 DOCUMENT FROM A COVERED PERSON OR PLAN SPONSOR OF A HEALTH
17 BENEFIT PLAN, AN INSURER SHALL ONLY DELIVER BY ELECTRONIC MEANS
18 A NOTICE OR DOCUMENT IF THE METHOD FOR DELIVERY PROVIDES FOR AN
19 ACTIVE CONFIRMATION RECEIPT BY THE COVERED PERSON OR PLAN
20 SPONSOR.

21 (C) PRIOR CONSENT.--THIS CHAPTER SHALL NOT APPLY TO A NOTICE
22 OR DOCUMENT DELIVERED BY ELECTRONIC MEANS BY AN INSURER BEFORE
23 THE EFFECTIVE DATE OF THIS SUBSECTION TO A COVERED PERSON WHO,
24 PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION, PROVIDED CONSENT
25 TO THE INSURER TO RECEIVE A NOTICE OR DOCUMENT DELIVERED BY
26 ELECTRONIC MEANS FROM THE INSURER.

27 (D) VALIDITY OR ENFORCEABILITY.--THE VALIDITY OR
28 ENFORCEABILITY OF A CONTRACT OR POLICY OF AN INSURER EXECUTED BY
29 A COVERED PERSON SHALL NOT BE DENIED SOLELY BECAUSE OF THE
30 FAILURE OF THE INSURER TO OBTAIN ELECTRONIC CONSENT OR

1 CONFIRMATION OF CONSENT OF THE COVERED PERSON IN ACCORDANCE WITH
2 THIS CHAPTER IF THE NOTICE OR DOCUMENT IS DELIVERED IN PAPER
3 FORM.

4 § 4906. RESCISSION OF DELIVERY BY ELECTRONIC MEANS.

5 (A) PROCEDURES.--NO LATER THAN 30 DAYS AFTER THE EFFECTIVE
6 DATE OF THIS SUBSECTION, AN INSURER SHALL DEVELOP PROCEDURES BY
7 WHICH A COVERED PERSON MAY OPT OUT OF DELIVERY BY ELECTRONIC
8 MEANS.

9 (B) LEGALITY.--THE DECISION BY A COVERED PERSON TO OPT OUT
10 OF DELIVERY BY ELECTRONIC MEANS SHALL NOT AFFECT THE LEGALITY OR
11 ENFORCEABILITY OF A NOTICE OR DOCUMENT DELIVERED BY ELECTRONIC
12 MEANS TO THE COVERED PERSON BEFORE THE DECISION TAKES EFFECT.

13 (C) EFFECT.--THE DECISION BY A COVERED PERSON TO OPT OUT OF
14 DELIVERY BY ELECTRONIC MEANS SHALL TAKE EFFECT NO LATER THAN 30
15 DAYS AFTER THE INSURER RECEIVES NOTICE OF THE COVERED PERSON'S
16 DECISION.

17 § 4907. PRIOR CONSENT FOR ELECTRONIC DELIVERY OF INSURANCE
18 NOTICES OR DOCUMENTS.

19 IF AN INSURER HAS A DOCUMENTED RECORD FROM A COVERED PERSON
20 INDICATING APPROVAL BY THE COVERED PERSON FOR A NOTICE OR
21 DOCUMENT TO BE DELIVERED BY ELECTRONIC MEANS FROM THE INSURER
22 BEFORE THE EFFECTIVE DATE OF THIS SECTION AND THE INSURER
23 INTENDS TO DELIVER BY ELECTRONIC MEANS AN ADDITIONAL NOTICE OR
24 DOCUMENT UNDER THIS CHAPTER, PRIOR TO PROVIDING THE ADDITIONAL
25 NOTICE OR DOCUMENT FOR DELIVERY BY ELECTRONIC MEANS, THE INSURER
26 SHALL COMPLY WITH SECTIONS 4903 (RELATING TO ELECTRONIC DELIVERY
27 OF INSURANCE NOTICES OR DOCUMENTS) AND 4904 (RELATING TO CHANGES
28 IN HARDWARE OR SOFTWARE REQUIREMENTS) AND PROVIDE THE COVERED
29 PERSON WITH A STATEMENT THAT DESCRIBES THE FOLLOWING:

30 (1) A LIST OF EACH NOTICE OR DOCUMENT THAT WILL BE

1 DELIVERED BY ELECTRONIC MEANS THAT WAS NOT PREVIOUSLY
2 DELIVERED BY ELECTRONIC MEANS.

3 (2) THE COVERED PERSON'S RIGHT TO OPT OUT OF DELIVERY BY
4 ELECTRONIC MEANS WITHOUT IMPOSITION OF A CONDITION OR
5 CONSEQUENCE THAT WAS NOT PREVIOUSLY DISCLOSED TO THE COVERED
6 PERSON.

7 § 4908. ALTERNATIVE METHODS OF DELIVERY.

8 (A) ALTERNATIVE METHODS.--AN INSURER SHALL DELIVER A NOTICE
9 OR DOCUMENT TO A COVERED PERSON BY ANY OTHER METHOD THAT WAS
10 AUTHORIZED BY FEDERAL OR STATE LAW BEFORE THE EFFECTIVE DATE OF
11 THIS SUBSECTION OTHER THAN DELIVERY BY ELECTRONIC MEANS IF
12 EITHER OF THE FOLLOWING OCCURS:

13 (1) THE INSURER ATTEMPTS TO DELIVER THE NOTICE OR
14 DOCUMENT BY ELECTRONIC MEANS AND HAS A REASONABLE BASIS FOR
15 BELIEVING THAT THE NOTICE OR DOCUMENT HAS NOT BEEN RECEIVED
16 BY THE COVERED PERSON.

17 (2) THE INSURER BECOMES AWARE THAT THE EMAIL ADDRESS
18 PROVIDED BY THE COVERED PERSON TO THE INSURER IS NO LONGER
19 VALID.

20 (B) CONFIDENTIALITY.--NOTHING IN THIS CHAPTER SHALL BE
21 CONSTRUED TO PRECLUDE THE ABILITY OF A COVERED PERSON TO REQUEST
22 CONFIDENTIAL COMMUNICATION OF THE COVERED PERSON'S PROTECTED
23 HEALTH INFORMATION AS PERMITTED BY THE HEALTH INSURANCE
24 PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (PUBLIC LAW 104-191,
25 110 STAT. 1936).

26 (C) CONSTRUCTION.--NOTHING IN THIS CHAPTER SHALL BE
27 CONSTRUED TO PRECLUDE THE ABILITY OF AN INSURER TO DELIVER A
28 NOTICE OR DOCUMENT TO A COVERED PERSON BY ANY METHOD AUTHORIZED
29 BY FEDERAL OR STATE LAW.

30 § 4909. LIMITATION ON CIVIL LIABILITY.

1 AN INSURER OR PLAN SPONSOR SHALL NOT BE CIVILLY LIABLE UNDER
2 THIS CHAPTER.

3 § 4910. DELIVERY OF INSURANCE POLICIES AND ENDORSEMENTS.

4 (A) AUTHORIZATION.--AN INSURER MAY MAIL, DELIVER OR, IF THE
5 PLAN SPONSOR OBTAINS A SEPARATE SPECIFIC CONSENT, POST ON THE
6 INSURER'S PUBLICLY ACCESSIBLE INTERNET WEBSITE AN INSURANCE
7 POLICY AND ENDORSEMENT THAT DOES NOT CONTAIN ANY PERSONALLY
8 IDENTIFIABLE INFORMATION.

9 (B) INTERNET WEBSITE POSTING REQUIREMENTS.--IF AN INSURER
10 ELECTS TO POST AN INSURANCE POLICY AND ENDORSEMENT ON THE
11 INSURER'S PUBLICLY ACCESSIBLE INTERNET WEBSITE, IN LIEU OF
12 MAILING OR DELIVERING THE POLICY AND ENDORSEMENT TO THE INSURED,
13 THE INSURER SHALL HAVE THE FOLLOWING DUTIES:

14 (1) THE INSURER SHALL ENSURE THAT THE POLICY AND
15 ENDORSEMENT ARE ACCESSIBLE TO THE PLAN SPONSOR AND PRODUCER
16 OF RECORD AND REMAINS ACCESSIBLE WHILE THE POLICY IS IN
17 EFFECT.

18 (2) AFTER THE EXPIRATION OF THE POLICY, THE INSURER
19 SHALL DO ONE OF THE FOLLOWING:

20 (I) MAKE THE EXPIRED POLICY AND ENDORSEMENT
21 AVAILABLE UPON REQUEST FOR A PERIOD OF NO LESS THAN FIVE
22 YEARS.

23 (II) IF THE INSURER CONTINUES TO MAKE THE EXPIRED
24 POLICY OR ENDORSEMENT AVAILABLE ON THE INSURER'S PUBLICLY
25 ACCESSIBLE INTERNET WEBSITE, KEEP THE PLAN SPONSOR'S USER
26 IDENTIFICATION ACTIVE FOR A PERIOD OF NOT LESS THAN FIVE
27 YEARS.

28 (C) PRINTABLE FORMAT.--IF AN INSURER ELECTS TO POST AN
29 INSURANCE POLICY AND ENDORSEMENT ON THE INSURER'S PUBLICLY
30 ACCESSIBLE INTERNET WEBSITE IN LIEU OF MAILING OR DELIVERING THE

1 POLICY AND ENDORSEMENT TO THE COVERED PERSON, THE INSURER SHALL
2 POST THE POLICY AND ENDORSEMENT IN A MANNER THAT ENABLES THE
3 PLAN SPONSOR AND PRODUCER OF RECORD TO PRINT AND SAVE THE POLICY
4 AND ENDORSEMENT USING A PROGRAM OR APPLICATION THAT IS WIDELY
5 AVAILABLE ON THE INTERNET AND FREE TO USE.

6 (D) DESCRIPTION.--THE INSURER SHALL PROVIDE THE FOLLOWING
7 INFORMATION TO THE PLAN SPONSOR IN OR SIMULTANEOUS WITH EACH
8 DECLARATION PAGE PROVIDED AT THE TIME OF ISSUANCE OF AN INITIAL
9 INSURANCE POLICY AND EACH RENEWAL OF THE POLICY:

10 (1) A DESCRIPTION OF THE EXACT POLICY AND ENDORSEMENT
11 FORM PURCHASED BY THE PLAN SPONSOR.

12 (2) A DESCRIPTION OF THE PLAN SPONSOR'S RIGHT TO RECEIVE
13 UPON REQUEST AND WITHOUT CHARGE AN ELECTRONIC OR PAPER COPY
14 OF THE POLICY AND ENDORSEMENT.

15 (3) THE PUBLICLY ACCESSIBLE INTERNET WEBSITE AT WHICH
16 THE POLICY AND ENDORSEMENT ARE POSTED BY THE INSURER.

17 (E) PAPER COPIES.--UPON REQUEST BY THE PLAN SPONSOR, THE
18 INSURER SHALL MAIL A PAPER COPY OF THE PLAN SPONSOR'S INSURANCE
19 POLICY AND ENDORSEMENT. THE INSURER SHALL MAIL THE FIRST PAPER
20 COPY OF THE INSURANCE POLICY AND ENDORSEMENT TO THE PLAN SPONSOR
21 WITHOUT CHARGE, BUT MAY IMPOSE A FEE ON EACH SUBSEQUENT REQUEST
22 FOR A PAPER COPY.

23 § 4911. CONSTRUCTION.

24 (A) APPLICABILITY.--NOTHING IN THIS CHAPTER SHALL APPLY TO
25 SELF-INSURED HEALTH BENEFIT PLANS SUBJECT TO ERISA OR EXEMPTED
26 FROM ERISA UNDER SECTION 4(B) OF ERISA.

27 (B) CONTENT AND TIMING OF NOTICES.--NOTHING IN THIS CHAPTER
28 SHALL BE CONSTRUED TO AFFECT OR CHANGE THE TIME OR CONTENT OF A
29 DISCLOSURE OR DOCUMENT REQUIRED TO BE PROVIDED TO A PLAN SPONSOR
30 UNDER FEDERAL OR STATE LAW.

1 § 4912. REGULATIONS.

2 THE DEPARTMENT MAY PROMULGATE ANY NECESSARY OR APPROPRIATE
3 REGULATIONS TO EFFECTUATE THIS CHAPTER.

4 § 4913. VIOLATIONS.

5 FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER SHALL
6 BE DEEMED AN UNFAIR INSURANCE PRACTICE UNDER THE ACT OF JULY 22,
7 1974 (P.L.589, NO.205), KNOWN AS THE UNFAIR INSURANCE PRACTICES
8 ACT.

9 Section 2. This act shall apply to contracts offered,
10 entered, issued or renewed after the effective date of this
11 section.

12 Section 3. This act shall take effect in 60 days.