

## RÉSUMÉ DIGEST

ACT 223 (SB 29)

2021 Regular Session

Abraham

Prior law authorized the commissioner of insurance to promulgate rules and regulations necessary to implement the provisions of the Louisiana Insurance Code.

New law authorizes the commissioner to issue certain emergency rules and regulations whenever the governor declares a state of emergency or a public health emergency.

New law provides that the rules and regulations may address any of the following items related to insurance policies or health maintenance organization contracts in the state:

- (1) Medical coverage relative to each of the following:
  - (a) Removal of telehealth and telemedicine access restraints.
  - (b) Suspension of physician credentialing requirements.
  - (c) Expansion of remote access to pharmaceutical drugs.
- (2) Grace periods for payment of premiums and performance of other obligations by insurers or insureds. Authorizes the commissioner to implement a grace period for a period not to exceed 60 days during which the commissioner shall be strictly limited to requiring health insurers pending subsequent claims until any arrearages are corrected or the product is permissibly cancelled or nonrenewed and may require prior notice to providers as a prerequisite for nonpayment of claims at the end of the grace period. Further provides that if arrearages are not corrected and the product is permissibly cancelled or nonrenewed, a health care provider may seek payment for services rendered from the insured.
- (3) Temporary postponement of involuntary cancellation or nonrenewal by the insurer.

New law requires that the commissioner's action specify the kinds of insurance affected, the geographic areas to which the rule or regulation applies which may be less extensive but not more extensive than the geographic area in the governor's declaration, and the effective dates of the emergency rule or regulation are not to exceed the period of the governor's emergency declaration, including any extension or an earlier termination of the state of emergency.

New law requires that any emergency rules or regulations are subject to legislative oversight in accordance with R.S. 49:950, et seq. and all of the following provisions:

- (1) Upon determination by the commissioner that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon shorter notice and within five days of adoption states in writing to the governor, the attorney general, the speaker of the House of Representatives, the president of the Senate, and the office of the state register, the reasons for that finding, then he may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule.
- (2) Requires that the reasons for finding it necessary to adopt an emergency rule include specific reasons why the failure to adopt the rule on an emergency basis would result in imminent peril to the public health, safety, or welfare, or specific reasons why the emergency rule meets other criteria for adoption of the rule.
- (3) Requires the commissioner's statement be submitted to the speaker of the House of Representatives and the president of the Senate at their respective capitol offices by electronic transmission if available. If no electronic means are available, requires the statement be submitted to the office of the speaker of the House of Representatives and the president of the Senate in the capitol by certified mail with the return receipt requested or by messenger who shall provide a receipt for signature.
- (4) Authorizes an oversight subcommittee hearing to review the emergency rule within 60 days after receipt of the commissioner's statement by the presiding officer of either house to determine whether it meets criteria for an emergency rule. Provides

that if the oversight subcommittee finds the rule unacceptable it shall prepare a written report to the governor.

- (5) Provides for gubernatorial review of the emergency rule within 60 days after its adoption. If found unacceptable, the governor is to provide a written report to the commissioner and the Louisiana Register no later than four days after his determination.
- (6) Requires that upon receipt of the report, the rule shall be nullified and shall be without effect.
- (7) Provides that new law shall not be construed to grant the commissioner authority to issue emergency rules or regulations not otherwise authorized in new law.

New law requires promulgation, pursuant to the Administrative Procedure Act, rules and regulations to govern the business of insurance in the event of a declaration of emergency. Provides that the rules establish requirements related to insurance policies or health maintenance contracts under the authority under new law.

New law requires that any rule adopted under new law governing medical coverage not specifically enumerated be presented by the commissioner to the Senate and House insurance committees for review and approval by either committee prior to adoption.

Provides that any temporary postponement of cancellation or nonrenewal shall not remain in effect beyond 60 days unless presented by the commissioner to the Senate and House insurance committees for review and approval by either committee prior to any extension.

Authorizes the Senate and House insurance committees meeting jointly or separately to consider an emergency rule promulgated under new law to reject the rule or any provision thereof, in which case the rejected rule or provision shall be nullified and shall be without effect.

Effective August 1, 2021.

(Adds R.S. 22:11(C))