



OFFICE OF INSURANCE AND SAFETY FIRE COMMISSIONER

RALPH T. HUDGENS
COMMISSIONER OF INSURANCE
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BEFORE THE COMMISSIONER OF INSURANCE

STATE OF GEORGIA

NOTICE OF INTENT TO ADOPT RULE CHANGES AND NOTICE OF HEARING

Notice is hereby given pursuant to the Georgia Administrative Procedure Act, O.C.G.A. Sections 50-13-3, 50-13-4, 50-13-6, and 50-13-21, and O.C.G.A. Section 33-2-9 that the Commissioner of Insurance intends to amend the Rules and Regulations of the Office of Commissioner of Insurance.

The Rules and Regulations of the Office of Commissioner of Insurance are proposed to be amended by the following actions:

- Repeal Regulation Chapter 120-2-20.03 entitled "Severability" and adopt in lieu thereof Chapter 120-2-20.03 entitled "Unlawful Agreements between Insurers and Hospitals"; and
- Adopt new Regulation Chapter 120-2-20.04 entitled "Severability".

NOTICE OF RULEMAKING

JURISDICTION

Pursuant to O.C.G.A. § 33-2-9, the Commissioner is authorized to promulgate regulations implementing provisions of Title 33 and to issue interpretive rulings. O.C.G.A. 33-6-13 prohibits "any contract, understanding, or combination with any other person to do jointly or severally any act or engage in any practice for the purpose of or that has a tendency to or the effect of . . . [e] stablishing or perpetuating

any condition in this state detrimental to free competition in the business of insurance or injurious to the insuring public.”

SYNSOPSIS AND EXPLANATION OF RULES

The main purpose of the proposed amendments is to address insurers’ inclusion of provisions in their hospital agreements, commonly known as a “most-favored-nation clauses”. Such most-favored-nation clauses violate O.C.G.A. 33-6-13(a)(3).

The proposed Regulation Chapter 120-2-20.03 entitled “Unlawful Agreements between Insurers and Hospitals” provides that agreements between insurers and hospitals shall not (i) prohibit a hospital from contracting with another party to provide services at a lower rate than the rate specified in the contract, (ii) require, or permit the insurer to require, a hospital to accept a lower payment or reimbursement rate if the hospital agrees to provide services to another party at a lower rate, (iii) require, or permit the insurer to require, termination or renegotiation of an existing contract the event the hospital agrees to provide services to any other party at a lower rate, and (iv) require a hospital to disclose, to the insurer or its designee, the hospital’s contractual payment or reimbursement rates with other parties. The proposed amendment would also provide that the Commissioner shall follow the procedure required by O.C.G.A. § 33-6-13(d) whenever there is a violation of the Regulation.

The current Regulation Chapter 120-2-20.03 entitled “Severability” is restated as proposed Regulation Chapter 120-2-20.04 entitled “Severability”.

PROPOSED RULES AND SCHEDULE

The full text of the proposed Regulations is attached hereto and made a part hereof by reference.

The aforesaid proposal, which is being forwarded to the Attorney General for approval as to legality pursuant to O.C.G.A. Section 33-2-9, is now on file in the Administrative Procedure Division of the Office of Commissioner of Insurance, 708 West Tower, Floyd Building, Two Martin Luther King, Jr. Drive, Atlanta, Georgia 30334, and is hereby declared to be a public record as follows:

Proposed amendments to Regulation Chapter 120-2-20 entitled "Unfair Trade and Claims Settlement Practices: Docket Number I-11-R-1.

Interested persons may participate in the rulemaking process by submitting their written comments to:

Ron Jackson, Assistant Commissioner
Administrative Procedure Division
Office of Commissioner of Insurance
708 West Tower, Floyd Building
Two Martin Luther King, Jr. Drive
Atlanta, Georgia 30334
rjackson@oci.ga.gov

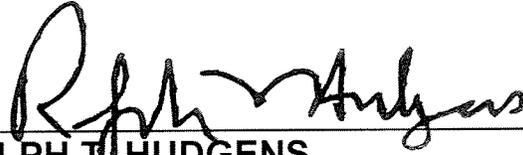
All comments must be received by the Administrative Procedure Division by 4:00 P.M. on Thursday, June 16, 2011. The Commissioner requests that, where possible, comments include specific proposed revisions to the proposed Regulations.

The Commissioner shall consider adoption of the proposed Regulation at **10:00 A.M. on Thursday, June 30, 2011, in the Hearing Room of the Office of Commissioner of Insurance, Seventh Floor, West Tower, Floyd Building, Two Martin Luther King, Jr. Drive, Atlanta, Georgia 30334** at which time interested persons may also submit oral comments on the proposed Regulations.

In order to afford all interested persons an opportunity to be heard, the Commissioner reserves the right to establish a per person time limit for oral presentations. If you have a physical impairment and require assistance or have any questions regarding this notice, please contact Ron Jackson.

Based upon full consideration of all written and oral comments regarding the above matters, the Commissioner of Insurance may reject or adopt the proposed rules or may propose further revisions to the proposed Regulations pursuant to O.C.G.A. Section 50-13-4, and O.C.G.A. Section 33-2-9.

Given under my Hand and Official Seal this 25th day of May, 2011.

A handwritten signature in black ink, appearing to read "Ralph T. Hudgens", written over a horizontal line.

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