

NEWS

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Insurance Commissioner Adopts OPIC's Rules Prohibiting Discretionary Clauses in Insurance Policies

December 6, 2010, Austin – The Texas Commissioner of Insurance adopted three rules proposed by the Office of Public Insurance Counsel prohibiting discretionary clauses in insurance policies on Friday. Discretionary clauses are contract provisions that provide insurers with sole discretion in deciding if, when, and what benefits are due under the insurance policy. The existence of these provisions alters the way courts review insurer's decisions on appeal, and make meaningful reviews of an insurer's decision virtually impossible. In prohibiting discretionary clauses Commissioner Geeslin wrote "[d]iscretionary clauses are unjust, encourage misrepresentation, and are deceptive because they mislead consumers regarding the terms of coverage."

Public Counsel Deeia Beck said that her agency proposed these rules to "assure that health and life insurance benefits are contractually guaranteed, and to avoid the conflict of interest that occurs when the carrier responsible for providing benefits has discretionary authority to decide what benefits are due." Members of the Texas Legislature, the American Association of Retired Persons, the Texas Medical Association, the National Multiple Sclerosis Society, the Center for Public Policy Priorities and many others were instrumental in getting the new rules adopted. Ms. Beck said, "It was a privilege and honor to work with these fine people to ensure that Texans will receive the full benefit of the insurance coverage they purchase. I greatly appreciate Commissioner Geeslin's hard work and decisiveness in adopting these strong rules."

The new rules take effect on February 1, 2011 for some types of disability insurance, and June 1, 2011 for all other forms of health, life, and disability insurance policies issued in Texas. Twenty-three states and the National Association of Insurance Commissioners have now adopted statutes, rules, or policies prohibiting discretionary clauses.

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