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SENATE BILL 446*
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Short Title: Medigap Insurance.

(Public)

Sponsors:

Referred to:

March 15, 1989

A BILL TO BE ENTITLED

AN ACT TO REWRITE THE NORTH CAROLINA MEDICARE SUPPLEMENT
INSURANCE MINIMUM STANDARDS ACT OF 1981 IN ORDER TO COMPLY
WITH RECENT CHANGES IN FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes is amended by adding a new
Article to read:

“ARTICLE 47.

“MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS.

“§ 58-710. Definitions.

Unless the context clearly indicates otherwise, the following words, as used in this
Article, have the following meanings:

(1) ‘Applicant’ means (i) in the case of an individual Medicare supplement
policy or subscriber contract, the person who seeks to contract for
insurance benefits; and (ii) in the case of a group Medicare supplement
policy or subscriber contract, the proposed certificate holder.

(2) ‘Certificate’ means any certificate issued under a group Medicare
supplement policy, which certificate has been delivered or issued for
delivery in this State.

(3) ‘Insurer’ includes entities subject to Chapters 57 and 57B of the
General Statutes.

1 (4) 'Medicare' means the 'Health Insurance for the Aged Act', Title XVIII
2 of the Social Security Amendments of 1965, as then constituted or
3 later amended.

4 (5) 'Policy' means a Medicare supplement policy, which is a group or
5 individual policy of accident and health insurance under this Chapter, a
6 subscriber contract under Chapter 57 of the General Statutes, or an
7 evidence of coverage under Chapter 57B of the General Statutes, that
8 is advertised, marketed, or designed primarily as a supplement to
9 reimbursements under Medicare for the hospital, medical, or surgical
10 expenses of persons eligible for Medicare by reason of age.

11 **"§ 58-711. Applicability and scope.**

12 (a) Except as otherwise specifically provided, this Article applies to:

13 (1) All policies delivered or issued for delivery in this State on or after the
14 effective date of this Article; and

15 (2) All certificates issued under group policies that have been delivered or
16 issued for delivery in this State on or after the effective date of this
17 Article.

18 (b) This Article does not apply to an insurance contract of one or more employers
19 or labor organizations, or of the trustees of a fund established by one or more employers
20 or labor organizations, or combination thereof, for employees or former employees or a
21 combination thereof, or for members or former members, or a combination thereof, of
22 the labor organizations.

23 (c) This Article does not prohibit or apply to insurance contracts or health care
24 benefit plans, including group conversion policies, that are provided to Medicare
25 eligible persons and that are not marketed or held out to be Medicare supplement
26 policies or benefit plans.

27 **"§ 58-712. Standards for policy provisions.**

28 (a) No policy in force in this State shall contain benefits that duplicate benefits
29 provided by Medicare.

30 (b) The Commissioner shall adopt rules to establish specific standards for
31 provisions of policies. Such standards shall be in addition to and in accordance with
32 applicable State law. No requirement of State law relating to minimum required policy
33 benefits, other than the minimum standards contained in this Article, applies to policies.
34 The standards may include without limitation to: terms of renewability; initial and
35 subsequent conditions of eligibility; nonduplication of coverage; probationary periods;
36 benefit limitations, exceptions, and reductions; elimination periods; requirements for
37 replacement; recurrent conditions; and definitions of terms.

38 (c) The Commissioner may adopt rules that specify prohibited policy provisions
39 not otherwise specifically authorized by State law that, in the opinion of the
40 Commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or
41 proposed for coverage under a policy.

42 (d) Notwithstanding any other provision of State law, a policy may not deny a
43 claim for losses incurred more than six months from the effective date of coverage for a
44 preexisting condition. A policy may not define a preexisting condition more

1 restrictively than a condition for which medical advice was given or treatment was
2 recommended by or received from a physician within six months before the effective
3 date of coverage.

4 **"§ 58-713. Minimum standards for benefits and claims payments.**

5 The Commissioner shall adopt rules to establish minimum standards for benefits and
6 claims payments under policies.

7 **"§ 58-714. Loss ratio standards and filing requirements.**

8 (a) Every insurer providing group Medicare supplement insurance benefits to a
9 resident of this State pursuant to G.S. 58-711 shall file a copy of the master policy and
10 any certificate used in this State in accordance with the filing requirements and
11 procedures applicable to group policies issued in this State: Provided, however, that no
12 insurer is required to make a filing earlier than 30 days after insurance is provided to a
13 resident of this State under a master policy issued for delivery outside this State.

14 (b) Policies shall return to policyholders benefits that are reasonable in relation to
15 the premium charged. The Commissioner shall adopt rules to establish minimum
16 standards for loss ratios of policies on the basis of incurred claims experience, or
17 incurred health care expenses where coverage is provided by a health maintenance
18 organization on a service rather than reimbursement basis, and earned premiums in
19 accordance with accepted actuarial principles and practices. Every insurer providing
20 policies or certificates in this State shall annually file its rates, rating schedules, and
21 supporting documentation to demonstrate that it is in compliance with the applicable
22 loss ratio standards of this State. All filings of rates and rating schedules shall
23 demonstrate that the actual and expected losses in relation to premiums comply with the
24 requirements of this Article.

25 (c) No insurer shall provide compensation to its agents or other producers that is
26 greater than the renewal compensation that would have been paid on an existing policy
27 if the existing policy is replaced by another policy with the same insurer where the new
28 policy benefits are substantially similar to the benefits under the old policy and the old
29 policy was issued by the same insurer or insurer group.

30 **"§ 58-715. Disclosure standards.**

31 (a) In order to provide for full and fair disclosure in the sale of policies, no policy
32 or certificate shall be delivered in this State unless an outline of coverage is delivered to
33 the applicant at the time application is made.

34 (b) The Commissioner shall prescribe the format and content of the outline of
35 coverage required by subsection (a) of this section. For purposes of this section,
36 'format' means style, arrangement, and overall appearance, including such items as the
37 size, color, and prominence of type and arrangement of text and captions. Such outline
38 of coverage shall include:

- 39 (1) A description of the principal benefits and coverage provided in the
40 policy;
- 41 (2) A statement of the exceptions, reductions, and limitations contained in
42 the policy;
- 43 (3) A statement of the renewal provisions, including any reservation by
44 the insurer of a right to change premiums; and

1 (4) A statement that the outline of coverage is a summary of the policy
2 issued or applied for and that the policy should be consulted to
3 determine governing contractual provisions.

4 (c) The Commissioner may prescribe by rule a standard form and the contents of
5 an informational brochure for persons eligible for Medicare by reason of age, which is
6 intended to improve the buyer's ability to select the most appropriate coverage and
7 improve the buyer's understanding of Medicare. Except in the case of direct response
8 insurance policies, the Commissioner may require by rule that the information brochure
9 be provided to any prospective insured eligible for Medicare concurrently with delivery
10 of the outline of coverage. With respect to direct response insurance policies, the
11 Commissioner may require by rule that the prescribed brochure be provided upon
12 request to any prospective insured eligible for Medicare by reason of age, but in no
13 event later than the time of policy delivery.

14 (d) The Commissioner may adopt rules for captions or notice requirements,
15 determined to be in the public interest and designed to inform prospective insureds that
16 particular insurance coverages are not Medicare supplement coverages, for all accident
17 and health insurance policies sold to persons eligible for Medicare by reason of age,
18 other than: Medicare supplement policies; disability income policies; basic,
19 catastrophic, or major medical expense policies; or single premium, nonrenewable
20 policies.

21 (e) The Commissioner may further adopt rules to govern the full and fair
22 disclosure of the information in connection with the replacement of accident and health
23 insurance policies, subscriber contracts, or certificates by persons eligible for Medicare
24 by reason of age.

25 **"§ 58-716. Notice of free examination.**

26 Policies or certificates shall have a notice prominently printed on the first page of the
27 policy or certificate or attached thereon stating in substance that the applicant has the
28 right to return the policy or certificate within 30 days of its delivery and to have the
29 premium refunded if, after examination of the policy or certificate, the applicant is not
30 satisfied for any reason. Any refund made pursuant to this section shall be paid directly
31 to the applicant by the insurer in a timely manner.

32 **"§ 58-717. Filing requirements for advertising.**

33 Every insurer providing Medicare supplement insurance or benefits in this State
34 shall provide a copy of any Medicare supplement advertisement intended for use in this
35 State whether through written, radio, or television medium to the Commissioner for
36 review or approval by the Commissioner.

37 **"§ 58-718. Penalties.**

38 In addition to any other applicable penalties for violations of this Chapter or
39 Chapters 57 or 57B of the General Statutes, the Commissioner may require any person
40 that has violated or is violating any provision of this Article or any rule adopted under
41 this Article to either (i) cease marketing any policy or certificate in this State that is
42 related directly or indirectly to a violation or (ii) take such actions as are necessary to
43 comply with this Article or such rules."

44 Sec. 2. Article 27B of Chapter 58 of the General Statutes is repealed.

1 Sec. 3. This act shall not be construed to obligate the General Assembly to
2 make any appropriation to implement the provisions of this act. This act shall not
3 become effective unless monies necessary to implement this act are appropriated.

4 Sec. 4. This act is effective upon ratification.