

# Commissioner's Bulletin # B-0012-23

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August 31, 2023

**To: All regulated entities, their agents and representatives, and the public generally**

**Re: Insurance legislation enacted during the 88th Legislature, Regular Session, 2023**

This bulletin summarizes select bills enacted by the 88th Legislature that affect insurance and the people and entities that the Texas Department of Insurance (TDI) regulates.

Click on each bill number to get the complete text. You can access the bills and other legislative information at the [Texas Legislature Online website](#).

TDI-regulated individuals and entities must comply with any legislation that affects them.

## **HB 1040 - Electronic communication**

Allows regulated entities to conduct business electronically to the same extent as in-person transactions, provided all parties agree or receive notice and don't request otherwise.

A notice of the cancellation or termination of a policy must be in paper or another nonelectronic form.

Effective September 1, 2023. TDI will adopt rules.

## **HB 1903 - Capital stock requirements**

Removes the requirement for insurance companies to have at least 50% of their authorized stock issued and outstanding.

Effective September 1, 2023.

## **Property and Casualty**

### **HB 1900 - Earlier notice of nonrenewal or cancellation**

Requires insurance companies to give 60 days' notice (rather than 30 days' notice) for nonrenewal or cancellation of a policy. The bill applies to personal auto policies, residential property policies, and policies issued to governmental entities.

Effective September 1, 2023. The changes apply only to policies delivered, issued for delivery, or renewed on or after January 1, 2024. TDI will adopt rules.

### **HB 1706 - Right to a public adjuster**

Establishes the right of a policyholder to hire a licensed public insurance adjuster. An insurance policy may not include a provision that prohibits a policyholder from contracting with a public insurance adjuster.

Effective September 1, 2023.

### **HB 1074 - Rebating and loss control**

Clarifies that loss control and mitigation services aren't deceptive trade practices, nor are they prohibited by the anti-rebating and anti-inducement statutes. Costs to the insurance company must be reasonable in comparison to premiums or coverage.

Effective September 1, 2023.

### **SB 224 - Catalytic converter theft**

Increases the Motor Vehicle Crime Prevention Authority fee from \$4 to \$5 per motor vehicle each year. SB 224 also increases criminal penalties for catalytic converter theft.

See [TDI Bulletin # B-0006-23](#).

Effective May 29, 2023. TDI will adopt rules.

### **HB 2190 - Accident/collision terminology**

Changes the terminology used to describe transportation-related accidents from "accident" to "collision," including in the Insurance Code. The legislation doesn't change statutory definitions.

Effective September 1, 2023. TDI will adopt rules.

### **HB 998 - FAIR Plan expansion**

Expands eligibility for FAIR Plan coverage. A property owners' association no more than 10 miles beyond the designated catastrophe area (Texas Windstorm Insurance Association service area) may be insured through FAIR Plan if the commissioner determines that coverage isn't reasonably available.

Effective September 1, 2023. Coverage will be available on or after September 1, 2024. TDI will adopt rules.

### **SB 2008 - Farm Mutual service expansion**

Increases population limits for what is considered "rural" property for farm mutual insurance companies from 2,500 or less to 6,500 or less.

Effective September 1, 2023.

## **Life and Health**

### **HB 3359 - Network adequacy and access plan requirements**

Adds network adequacy framework, data requirements, and requirements for travel time, distance, and appointment wait times. HB 3359 requires a public hearing before approving a waiver to determine whether there is good cause for a waiver.

HB 3359 also expands annual report requirements to include data on waivers; deviation from network adequacy standards; and corrective actions, sanctions, or penalties related to deficiencies.

See legislation for effective dates. TDI will adopt rules.

### **HB 1592 - Self-funded ERISA opt-in to Texas balance billing dispute resolution**

Allows ERISA health employers to opt in to the Texas balance billing and independent dispute resolution system.

Effective September 1, 2023. TDI will adopt rules.

### **SB 2476 - Ground ambulance balance billing**

Expands current balance billing prohibitions to include ground ambulance services. Rather than applying the independent dispute resolution process, SB 2476 directs TDI to create an emergency service provider balance billing rate database. Health plans must reimburse ground ambulance services at:

- A rate set, controlled, or regulated by a political subdivision if the entity has submitted the rate to the TDI database (with an annual increase per Medicare Inflation Index, not to exceed 10%); or
- The lesser of the billed charge or 325% of Medicare.

Effective September 1, 2023. The changes apply on or after January 1, 2024. TDI will adopt rules.

### **HB 999 - Copay accumulators**

Requires a health benefit plan issuer or pharmacy benefit manager to apply any third-party payment for prescription drugs to the enrollee's deductible, copayment, cost sharing responsibility, or out-of-pocket maximum applicable to prescription drug benefits under the enrollee's plan.

Effective September 1, 2023. The changes apply on or after January 1, 2024.

### **SB 1286 - Clarify prompt pay waivers during a catastrophe**

Texas statute allows for relief from claims submission and prompt payment deadlines during catastrophic events. SB 1286 authorizes TDI to limit the duration of relief from claim-handling deadlines. TDI may approve or disapprove requests for extensions and will update rules to clarify the process for requesting an extension.

Effective September 1, 2023.

### **SB 1003 - Expanding provider directory requirements**

Requires provider directories to include non-physician providers who may bill separately from a facility. Non-physician providers include nurse anesthetists, anesthesiologist assistants, nurse midwives, surgical assistants, physical therapists, occupational therapists, and speech-language pathologists.

Effective September 1, 2023. Websites must be updated by January 1, 2024. TDI will adopt rules.

### **HB 2839 - Liquidity stress testing**

Adds requirements and confidentiality standards for an annual liquidity stress test for large life insurance companies. Liquidity stress testing (LST) is a National Association of Insurance Commissioners accreditation standard in states designated as a lead state for companies triggering the LST requirement.

Effective September 1, 2023. TDI will adopt rules.

### **HB 711 - Network contracting**

Prohibits the following provisions in network provider contracts:

- Anti-steering
- Anti-tiering
- Gag clause
- Most favored nation clause

See legislation for full information on effective dates. TDI will adopt rules.

### **HB 290 - Multiple Employer Welfare Arrangements (MEWAs)**

Allows MEWAs based on the employers' geographical association, allows for "working owners" to get MEWA coverage, waives the two-year requirement, and requires demonstration of federal compliance.

HB 290 authorizes MEWAs to provide comprehensive health benefit plans and structure them like a PPO/EPO, provided the MEWA complies with additional Insurance Code provisions.

Effective September 1, 2023 (for MEWAs issued an initial certificate of authority on or after January 1, 2024, or to MEWAs that elect to opt in). TDI will adopt rules.

### **HB 1996 - Group family leave insurance**

Creates minimum standards for group family leave insurance products as a type of disability income insurance. Includes an exception for foreign groups from filing for review and approval.

Effective September 1, 2023. The changes apply on or after January 1, 2024.

### **HB 2002 - Credit for direct provider payments**

Requires an insurance company to credit toward the plan deductible and out-of-pocket maximum an amount that the policyholder pays directly to any provider for a medically necessary covered service/supply if:

- A claim for that service/supply isn't submitted to the insurance company; and
- The amount paid by the policyholder is less than the average discounted rate paid to an equivalently licensed in-network provider.

Effective September 1, 2023. The changes apply on or after January 1, 2024. TDI will adopt rules.

### **HB 1587 - Life and annuity oversight**

Exempts certain life and annuity products from the form filing and approval process. HB 1587 also limits the requirement to obtain the commissioner's approval to use a separate account in conjunction with certain life and annuity products to domestic insurance companies.

Effective June 9, 2023.

### **SB 622 - Disclosure of prescription drug coverage information**

Starting in 2025, SB 622 requires health plans to provide information about an enrollee's prescription drug coverage upon request through a standard application programming interface. Issuers with less than 10,000 enrollees may register with TDI for a temporary extension. TDI will issue a bulletin to advise issuers on how to request an extension.

Effective September 1, 2023. The changes apply on or after January 1, 2025.

**HB 1696 - Optometrist contracting**

Prohibits managed care plans from discriminating against an optometrist or therapeutic optometrist based on their licensure. HB 1696 prohibits a plan from changing a contract with an optometrist or a therapeutic optometrist without advance written notice, prohibits the inclusion of certain provisions in a contract, prohibits chargebacks, and prohibits differential reimbursement based on certain characteristics of an optometrist's or therapeutic optometrist's practice.

Effective September 1, 2023. The changes apply on or after January 1, 2024. TDI will adopt rules.

For more information, contact: [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov)

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