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## Updates from the Wyoming Department of Insurance

**To:** Wyoming Licensed Insurance Companies  
**From:** Tom Glause, Wyoming Insurance Commissioner  
**Re:** Legislative and Regulatory Updates  
**Date:** April 1, 2018

Please circulate to the appropriate individuals in your organization.

### Comments from Commissioner Glause:

*When I wrote my comments in this Legislative Update a year ago, health insurance was the hot topic on both the state and national scene and it remains so today. For months the Department of Insurance (DOI) has tracked proposed Congressional changes and developments to the Affordable Care Act (ACA). The tax reform bill, passed in December 2017, removed the penalty for the ACA's individual mandate beginning in 2019. In spite of that change, health insurance remains in a state of flux. Federal regulations regarding Association Health Plans (AHPs) and Short-Term Limited Duration Health Plans (STLDs) have been proposed by CMS, but have not been adopted yet. The impact of these regulations on the Wyoming market remains to be seen. Several bills regarding Market Stability have been proposed and are expected to be voted upon in the coming days. The DOI continues to monitor developments regarding cybersecurity, flood insurance, and the "covered agreement" between the United States and the European Union, among other topics. As developments occur, the DOI will publish press releases and website updates to help keep Wyoming insurers and consumers informed. This edition of Updates from the Wyoming Department of Insurance provides an overview of statutory changes from the 2018 Wyoming Legislature and recent DOI regulatory changes. This update is intended to summarize developments and is not a legal analysis nor does the summary address all changes. The DOI encourages you to read the complete language of the statutes and rules. As always, please feel welcome to contact me or the Department. For more additional information, also visit the DOI's website at: <http://doi.wyo.gov> or contact your respective industry sources.*



## **A. Legislative Update and Brief Description**

### **1. SF0007 (SEA0004) – Corporate Governance Annual Disclosure** (effective July 1, 2019).

This National Association of Insurance Commissioners (NAIC) model law will become a NAIC Accreditation Standard in 2020. Wyoming domestic insurers are required to file a confidential Corporate Governance Annual Disclosure each year on June 1<sup>st</sup> beginning in 2020 containing information regarding the company's corporate governance framework, including policies and practices for directing senior management and ensuring appropriate oversight of critical risk areas impacting the insurer's business activities. The DOI will also be implementing a related regulation for the specific requirements of these filings.

### **2. SF0008 (SEA0003) – Internal Audit Function** (effective January 1, 2019).

Updates Chapter 3 of the Wyoming Insurance Code regarding audit requirements, requiring insurance companies that have at least \$500 million in annual premiums and insurance groups that have at least \$1 billion in annual premiums to have an internal audit function. The internal audit function shall be independent and shall report to the insurer's audit committee not less than annually. Companies that do not meet the premium threshold will have a one-year grace period to come into compliance after the premium threshold is met.

### **3. SF0009 (SEA0016) – Insurance Code Revisions** (effective on signing).

Updates some of the insurance licensing provisions to make them more business friendly and repeals an antiquated chapter in the Insurance Code. Additional highlights are as follows:

- Allows companies that don't meet the 2-year seasoning requirement to become licensed if they are affiliated with an insurer that is already licensed in Wyoming. Currently, a company must be wholly-owned by a licensed insurer in order for the seasoning requirement to be waived. This allows more flexibility due to varying company structures.
- Allows the Insurance Commissioner broader authority to allow insurance companies to become licensed if there is not adequate competition in a particular line of insurance (e.g. health).
- Changes the Report of Examination requirement in the licensing application to be as of a period not more than 60 months old as opposed to the current 36-month requirement. This allows more flexibility because state insurance departments are only required to examine their domestic insurance companies once every five years (60 months).
- Repeals Chapter 26 of the Insurance Code that governs Farm Mutual Property Insurers because this is an antiquated business model. Wyoming's last farm mutual went out of business in 2010 as they could not compete with larger insurance companies offering more types of coverages.
- Repeals Wyo. Stat. §26-3-112(a)(xi).

### **4. HB0035 (HEA 0015) – Motor Club Service Updates.** This bill amends Wyo. Stat. §31-14-102(a) (vi), (vii), (xii) and (xiv), 31-14-110, 31-14-115 and 31-14-116(a) (ii) and (v). It also repeals Wyo. Stat. §§ 31-14-120 through 31-14-129 (effective July 1, 2018).

Updates the motor club statutes written in the 1960's for today's motor club members, including adding the provision for additional services such as fuel delivery, extrication, lockout service and replacement or repairs of keys or key fobs. The legislation expands the types of discounts on services. Updated membership requirements are also included such as proof of membership being

on an app and the membership guide being delivered electronically. The requirement for a location in Wyoming for the motor club offices has been removed and the Certificate of Authority is now perpetual. The requirement for licensed motor club agents has been repealed.

**5. SF0042 (SEA0063) Professional Licensing-Applicant Criminal Records** (effective July 1, 2018.)

Modifies the provisions of Wyo. Stat. § 33-1-304 to place limitations on the consideration of criminal convictions in the context of licensing, including licensing by the DOI. Specifically, a licensing agency may not consider criminal convictions that occurred twenty (20) years or more before application for licensure is filed, except in limited circumstances.

This legislation also modified the provisions of Wyo. Stat. § 26-1-102 to define the “business of insurance” and when a natural person is and is not engaged in the business of insurance. Despite the changes to the Wyoming statutes, federal law, specifically 18 USC § 1033 and § 1034 provide for a lifetime prohibition from engaging in the business of insurance for anyone convicted of a felony involving dishonesty or breach of trust unless a waiver is received from the Insurance Commissioner.

In addition, the provisions of Wyo. Stat. § 26-9-211 regarding denial, suspension and revocation of a license were revised to include language regarding criminal convictions that relate to the business of insurance, and to include provisions requiring the issuance of a waiver pursuant to 18 USC § 1033 and 1034 in some circumstances. The language limiting consideration of criminal convictions to only those convictions related to the activities of the requested license type or activity was also included in Wyo. Stat. § 26-23-321 regarding title insurance, and Wyo. Stat. § 26-37-117 and 26-37-120 regarding mechanical breakdown insurance organizations and dealers. The statute did not define what convictions may be related to any license issued under the Insurance Code. Please consult with your legal adviser regarding how these statutory changes may affect you, and if you will require a 1033 waiver.

**6. SF66 (SEA0047) Volunteer Health Care** – (effective July 1, 2018).

Authorizes the Department of Health to contract for volunteer health care services for low income persons. Claims against volunteering medical facilities and health care providers are subject to the Wyoming Governmental Claims Act which provides for coverage under the state self-insurance program. The DOI encourages medical providers to contact their malpractice carrier to verify there are not any conflicts in their coverage for providing volunteer health care services under this act.

**Complete text of recently passed legislation can be found at: <http://legisweb.state.wy.us>.**

**B. Rules/Regulations Update**

The DOI continued Governor Matt Mead’s project to review and reduce state agencies, boards, and commissions rules, believing that fewer rules make government more efficient, more transparent to the public, and less of a regulatory burden. The rules review group, composed of five members of DOI’s upper management has made significant progress toward updating the DOI’s regulations. Finally, we have adopted additional regulations as a result of statutory changes.

The rules review project is a continuing process to ensure that the DOI maintains contemporary and necessary regulations.

The DOI has viewed the rules review project as an opportunity to incorporate current NAIC model language where appropriate and to update regulations to reflect today's market and technology advances. Changes include resolving ambiguities and removing unnecessary or duplicative wording. The rules committee goal was to provide clear, consistent language, and to eliminate reiteration of statutory language, when possible.

Since April 1, 2017, the DOI has revised, updated, repealed or created approximately 23 chapters of its regulations. Chapters 6, 7, 8, and 39 have been repealed. Chapters 11, 19, 20, 25, 28, 32, 33, 38, 40, 46, 51, 57, 60, and 64 have been revised or updated. Pursuant to statutory changes made in 2017, all of the Board of Insurance Agent Examiners regulations (Chapters 1 through 6) have been repealed.

Significant changes were made to Chapter 33 regarding Unfair Trade Practices. The DOI reviewed Chapter 33 to update the language and reduce unnecessary wording, and incorporated three other regulations into the text of Chapter 33. Specifically, Chapters 9, 30, and 62 were repealed, and the substantive portions of the text of those regulations were transferred into Chapter 33. A new section was added to Chapter 33 requiring responses to inquiries by the DOI to be provided within 20 calendar days of the request.

In addition, the DOI updated Chapter 50 Credit for Reinsurance with current NAIC model language and promulgated Chapter 69, Term and Universal Life Insurance Reserve Financing. The changes to Chapter 50 and promulgation of Chapter 69 were due to statutory changes from the 2017 legislative session and to maintain the DOI's accreditation with the NAIC.

Copies of the new regulations may be found under the legal tab on the DOI webpage and then by clicking the Regulations link. Copies of the new regulations may also be obtained directly from the Wyoming Secretary of State website located at <https://rules.wyo.gov/>. You also may subscribe to the Secretary of State website to receive automatic electronic notification whenever the DOI files any new or revised regulations at the Secretary of State website identified above. The DOI is continuing to update and revise its regulations.

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