

No. 400, S.]

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CHAPTER 461

AN ACT to repeal and recreate 204.32 of the statutes, relating to franchise, group and blanket accident and health insurance.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

204.32 of the statutes is repealed and recreated to read:

204.32 FRANCHISE, GROUP AND BLANKET ACCIDENT AND HEALTH INSURANCE. (1) Franchise accident and health insurance is declared to be that form of accident and health insurance covering 3 or more employes or members of any governmental corporation, unit, agency or department thereof, or of any corporation, copartnership or individual employer, or of any association, including a labor union, having a constitution or by-laws, and formed in good faith for purposes other than that of obtaining insurance, where such employes, members or employes of members with or without their dependents are covered under individual policies of insurance, under an arrangement whereby the premium on such policies are to be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association, as the case may be, or by some designated person acting on behalf of such employer or association or of such employes or members. Any insurance company authorized to write accident and health insurance in this state shall have power to issue franchise accident and health policies. The term "employes" as used herein shall be deemed to include the officers, managers and employes of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership. Notwithstanding any provision contained in the statutes of this state, insurers may be permitted to file, for use in connection with franchise health and accident insurance, rate schedules which reflect a differential from the rates charged for identical policies issued on the individual basis, provided the rates charged under such rate schedules do not discriminate between franchise groups.

(2) (a) Group accident and health insurance is hereby declared to be that form of accident and health insurance covering groups of persons as defined below, with or without one or more members of their families or one or more of their dependents, or covering one or more members of

the families or one or more dependents of such groups of persons, and issued under a policy issued to:

1. An employer or trustees of a fund established by an employer, who shall be deemed the policyholder, insuring at least 10 employes of such employer for the benefit of persons other than the employer. The term "employes" as used herein shall be deemed to include the officers, managers, and employes of the employer, the individual proprietor or partner if the employer is an individual proprietor or partnership, the officers, managers, and employes of subsidiary or affiliated corporations, the individual proprietors, partners and employes of individuals and firms, if the business of the employer and such individual or firm is under common control through stock ownership, contract, or otherwise. The term "employes" as used herein may include retired employes. A policy issued to insure employes of a public body may provide that the term "employes" shall include elected or appointed officials; or

2. An association, including a labor union, which shall have a constitution and by-laws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring at least 25 members, employes, or employes of members of the association for the benefit of persons other than the association or its officers or trustees. The term "employes" as used herein may include retired employes; or

3. The trustees of a fund established by 2 or more employers in the same industry or by one or more labor unions or by one or more employers and one or more labor unions or by an association as defined in subd. 2, which trustees shall be deemed the policyholder, to insure employes of the employers or members of the unions or such association for the benefit of persons other than the employers or the unions or such association. The term "employes" as used herein may include the officers, managers and employes of the employer, and the individual proprietor or partners if the employer is an individual proprietor or partnership. The term "employes" as used herein may include retired employes. The policy may provide that the term "employes" shall include the trustees or their employes, or both, if their duties are principally connected with such trusteeship; or

4. Any person or organization to which a policy of group life insurance may be issued or delivered under s. 206.60 (2), (5) or (6), to insure any class or classes of individuals that could be insured under such group life policy; or

5. Cover any other substantially similar group which, in the discretion of the commissioner, may be subject to the issuance of a group accident and health policy or contract.

(b) Each such policy shall contain in substance the provisions that:

1. In the absence of fraud, all statements made by any applicant or applicants or the policyholder or by an insured person shall be deemed representations and not warranties, and that no statement made for the purpose of effecting insurance shall void such insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to such policyholder or to such person or his beneficiary; and

2. The insurer will furnish to the policyholder for delivery to each employe or member of the insured group, an individual certificate setting forth in summary form a statement of the essential features of the insurance coverage of such employe or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit; and

3. To the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

(c) Any group accident and health policy may provide that all or any portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

(d) No policy of group accident and health insurance shall be issued unless it contains in substance those provisions contained in s. 204.31 which may be applicable to group accident and health insurance relative to notice or proof of loss, or the time for paying benefits, or the time within which suit may be brought upon the policy.

(3) (a) Blanket accident and health insurance is hereby declared to be that form of accident and health insurance covering groups of persons under a policy or contract issued:

1. To any common carrier or to any operator, owner or lessee of a means of transportation, who or which shall be deemed the policyholder covering a group defined as all persons or all persons of a class who may become passengers on such common carrier or such means of transportation; or

2. To an employer, who shall be deemed the policyholder, covering all employees, dependents or guests, defined by reference to specified hazards incident to the activities or operations of the employer or any class of employees, dependents or guests similarly defined; or

3. To a school, or other institution of learning, camp or sponsor thereof, or to the head or principal thereof, who or which shall be deemed the policyholder, covering students or campers. Supervisors and employees may be included; or

4. In the name of any religious, charitable, recreational, educational, or civic organization, which shall be deemed the policyholder, covering participants in activities sponsored by the organization; or

5. To a sports team or sponsors thereof which shall be deemed the policyholder, covering members, officials and supervisors; or

6. To cover any other risk or class of risks which, in the discretion of the commissioner, may be properly eligible for blanket accident and health insurance. The discretion of the commissioner may be exercised on an individual risk basis or class of risks, or both.

(b) No policy of blanket accident and health insurance shall be issued unless it contains in substance those provisions contained in s. 204.31 which may be applicable to such insurance relative to notice of claim, claim forms, proofs of loss, time of payment of claims, physical examinations and legal actions.

(c) Each blanket accident and health insurance policy issued in this state shall contain a provision that the policy and the application shall constitute the entire contract between the parties, and that all statements made by the policyholder shall, in absence of fraud, be deemed representations and not warranties, and that no such statements shall be used in defense to a claim under the policy, unless it is contained in a written application.

(d) An individual application shall not be required from a person covered under a blanket accident and health policy or contract, nor shall it be necessary for the insurer to furnish each person a certificate.

(e) All benefits under any blanket accident and health policy shall be payable to the person insured, or to his designated beneficiary or beneficiaries, or to his estate, except: that if the person insured be a minor or mental incompetent, such benefits may be made payable to his parent, guardian, or other person actually supporting him; or if the entire cost of the insurance has been borne by the employer such benefits may be made payable to the employer. Provided further that the policy may provide that all or any portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

(4) No policy authorized in this section may be issued or delivered in this state until a copy of the form thereof shall have been filed with the commissioner, nor until 30 days thereafter unless he approves the form sooner. If he notifies the company that the form does not comply with the requirements of law, specifying the defect, it is unlawful to issue any policy in such form. No such policy shall be issued or delivered in this state unless a schedule of the premium rates pertaining to such form also has been filed with the commissioner.

Approved July 21, 1955.
