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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (*Division 2 enacted by Stats. 1935, Ch. 145.*)

PART 2. LIFE AND DISABILITY INSURANCE [10110 - 11549] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 4. Standard Provisions in Disability Policies [10270 - 10402.1] (*Chapter 4 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 4. Compulsory Standard Provisions—Uniform Provisions [10350 - 10354] (*Heading of Article 4 renumbered from Article 4a by Stats. 1980, Ch. 676, Sec. 194.*)

10350. Except as provided in Section 10323, each disability policy delivered or issued for delivery to any person in this State shall contain the provisions specified in Sections 10350.1 to 10350.12, inclusive, in the words in which the same appear in such sections; provided, however, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in each section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

(*Added by Stats. 1951, Ch. 570.*)

10350.1. A disability policy shall contain a provision which shall be in the form set forth herein.

Entire Contract; Changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

(*Added by Stats. 1951, Ch. 570.*)

10350.2. A disability policy shall contain a provision that shall be in one of the two forms set forth in this section. Policies other than noncancellable policies shall use Form A. Noncancellable policies shall use either Form A or Form B. In Form B, the clause in parentheses in paragraph (a) may be omitted at the insurer's option. Paragraph (a) in Form A shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during the initial two-year period, nor to limit the application of Sections 10369.2 to 10369.6, inclusive, in the event of misstatement with respect to age or occupation or other insurance.

Form A.

Time Limit on Certain Defenses:(a) After two years from the date of issue of this policy, no misstatements, except fraudulent misstatements, made by the applicant in the application for the policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of the two-year period.

(b) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

Form B.

Incontestable:(a) After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

(b) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

(*Amended by Stats. 2006, Ch. 538, Sec. 470. Effective January 1, 2007.*)

10350.3. A disability policy shall contain a provision which shall be in one of the two forms set forth herein. Form A shall be used in a policy in which the insurer does not reserve the right to refuse any renewal. Form B shall be used in a policy in which an insurer reserves the right to refuse any renewal. The clause in parentheses may only be added if the policy contains a cancellation provision. In the blank in each such form shall be inserted a number; not less than "7" for weekly premium policies, "10" for monthly premium policies, and "31" for all other policies.

Form A.

Grace Period: A grace period of ___ days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force (subject to the right of the insurer to cancel in accordance with the cancellation provision hereof).

Form B.

Grace Period: Unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted, a grace period of ___ days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force (subject to the right of the insurer to cancel in accordance with the cancellation provision hereof).

(Added by Stats. 1951, Ch. 570.)

10350.4. A disability policy shall contain a provision which shall be in the form set forth herein. The last sentence of such provision may be omitted from a noncancellable policy.

Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than 10 days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement.

(Added by Stats. 1951, Ch. 570.)

10350.5. A disability policy shall contain a provision which shall be in one of the two forms set forth herein. Form A may be used in any policy. Form B may be used by an insurer, at its option, in a policy providing a loss of time benefit which may be payable for at least two years. In the blank space of such provision shall be inserted the location of such office or offices as the insurer may designate for the purpose of giving notice of claim.

Form A.

Notice of Claim: Written notice of claim must be given to the insurer within 20 days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at ____, or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

Form B.

Notice of Claim: Written notice of claim must be given to the insurer within 20 days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given. Notice given by or on behalf of the insured or the beneficiary to the insurer at ____, or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

(Added by Stats. 1951, Ch. 570.)

10350.6. A disability policy shall contain a provision which shall be in the form set forth herein.

Claim Forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within 15 days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

(Added by Stats. 1951, Ch. 570.)

10350.7. A disability policy shall contain a provision which shall be in the form set forth herein.

Proofs of Loss: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the insurer is liable and in case of claim for any other loss within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

(Added by Stats. 1951, Ch. 570.)

10350.8. A disability policy shall contain a provision which shall be in the form set forth herein. In the blank of such provision will be inserted the period for payment which must not be less frequently than monthly.

Time of Payment of Claim: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid _____ and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

(Added by Stats. 1951, Ch. 570.)

10350.9. A disability policy shall contain a provision which shall include the following first paragraph and which may, at the option of the insurer, include either or both of the following second and third paragraphs. If the provision contains the second paragraph, there shall be inserted in the blank an amount which shall not exceed one thousand dollars (\$1,000).

Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.

If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$____, to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.

Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of that loss, be paid directly to the person or persons having paid for the hospitalization or medical or surgical aid, or to the hospital or person rendering those services; but it is not required that the service be rendered by a particular hospital or person.

(Amended by Stats. 1993, Ch. 744, Sec. 2.6. Effective January 1, 1994.)

10350.10. A disability policy shall contain a provision which shall be in the form set forth herein.

Physical Examinations and Autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

(Added by Stats. 1951, Ch. 570.)

10350.11. A disability policy shall contain a provision which shall be in the form set forth herein.

Legal Actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the

expiration of three years after the time written proof of loss is required to be furnished.

(Added by Stats. 1951, Ch. 570.)

10350.12. A disability policy shall contain a provision which shall be in the form set forth herein. At the insurer's option, the clause of such provision which precedes the first comma may be omitted.

Change of Beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

(Added by Stats. 1951, Ch. 570.)

10351. Each policy of disability insurance issued or renewed on or after the effective date of this section, shall provide, where feasible, that benefits for confinement in an extended care facility, as defined in subsection (j) of Section 1395x of Title 42 of the United States Code, may be provided under such terms and conditions as may be agreed upon between the insured, or group policyholder, and the insurer.

Nothing in this section shall preclude a disability insurance policy from providing benefits for confinement in institutions other than extended care facilities as defined in this section.

(Added by Stats. 1972, Ch. 522.)

10353. (a) Every policy of disability insurance issued, amended, or renewed on or after January 1, 1992, that offers coverage for perinatal services shall contain a provision providing for direct reimbursement to certified nurse-midwives and nurse practitioners for perinatal services. The certified nurse-midwife or nurse practitioner may collect payment for any unpaid portion of his or her fee, as provided for under the plan for other providers.

(b) For purposes of this section, "direct reimbursement" means that after the enrollee files a claim for the perinatal service provided by the certified nurse-midwife or nurse practitioner, the plan pays the certified nurse-midwife or nurse practitioner directly.

(Added by Stats. 1991, Ch. 870, Sec. 4.)

10354. (a) (1) Every policy of disability insurance issued, amended, or renewed on or after January 1, 1994, that offers coverage for perinatal services shall contain a provision for direct reimbursement to licensed midwives for perinatal services rendered under terms and conditions as may be agreed upon between the policyholder and the insurer.

(2) The licensed midwife may collect payment for any unpaid portion of his or her fee, as provided under the policy for other providers.

(3) Reasonable consideration shall be given to licensed midwives by disability insurers contracting for services at alternative rates. For the purposes of this section, "reasonable consideration" shall have the meaning provided in Section 10180.

(b) For purposes of this section, "direct reimbursement" means that after the policyholder files a claim for the perinatal service provided under those terms and conditions as may be agreed upon between the policyholder and the insurer, the insurer pays the licensed midwife directly.

(Added by Stats. 1993, Ch. 1280, Sec. 4. Effective January 1, 1994.)