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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO INSURANCE

Introduced By: Senator Michael J. McCaffrey

Date Introduced: February 13, 2013

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 27-4 of the General Laws entitled "Life Insurance Policies and
2 Reserves" is hereby amended by adding thereto the following section:

3 **27-4-28. Discretionary clauses. -- (a) No new or existing policy or certificate may**
4 **contain any provision:**

5 (1) Purporting to reserve sole discretion to the insurance company to determine eligibility
6 for benefits or interpret the terms of a policy or certificate; or

7 (2) Specifying or affecting a standard of review upon which a court may review denial of
8 a claim or any other decision made by an insurance company with respect to a policyholder or
9 certificate holder.

10 (b) Any such clause or language included in a contract, policy or certificate issued to or
11 covering a resident of this state that is contrary to or inconsistent with the provisions of this
12 section is void and unenforceable.

13 (c) Nothing in this section prohibits an insurer from including a provision in a contract
14 that informs an insured that as part of its routine operations the insurer applies the terms of its
15 contracts for making decisions, including making determinations regarding eligibility, receipt of
16 benefits and claims, or explaining policies, procedures, and processes, so long as the provision
17 could not give rise to a deferential standard of review by any reviewing court.

18 SECTION 2. Chapter 27-18 of the General Laws entitled "Accident and Sickness
19 Insurance Policies" is hereby amended by adding thereto the following section:

1 **27-18-79. Discretionary clauses.** -- (a) No new or existing policy or certificate issued by
2 an insurer or health care entity may contain any provision:

3 (1) Purporting to reserve sole discretion to the insurer or health care entity to determine
4 eligibility for benefits or interpret the terms of a policy or certificate; or

5 (2) Specifying or affecting a standard of review upon which a court may review denial of
6 a claim or any other decision made by an insurance company with respect to a policyholder or
7 certificate holder.

8 (b) For purposes of this section, "health care entity" means a health insurance company or
9 nonprofit hospital or medical or dental service corporation or plan or health maintenance
10 organization which operates or administers a health plan in this state.

11 (c) Any such clause or language included in a contract, policy or certificate issued to or
12 covering a resident of this state that is contrary to or inconsistent with the provisions of this
13 section is void and unenforceable.

14 (d) Nothing in this section prohibits an insurer from including a provision in a contract
15 that informs an insured that as part of its routine operations the insurer applies the terms of its
16 contracts for making decisions, including making determinations regarding eligibility, receipt of
17 benefits and claims, or explaining policies, procedures, and processes, so long as the provision
18 could not give rise to a deferential standard of review by any reviewing court.

19 SECTION 3. Chapter 27-19 of the General Laws entitled "Nonprofit Hospital Service
20 Corporations" is hereby amended by adding thereto the following section:

21 **27-19-70. Discretionary clauses.** -- (a) No new or existing policy or certificate may
22 contain any provision:

23 (1) Purporting to reserve sole discretion to the insurer or health care entity to determine
24 eligibility for benefits or interpret the terms of a policy or certificate; or

25 (2) Specifying or affecting a standard of review upon which a court may review denial of
26 a claim or any other decision made by an insurance company with respect to a policyholder or
27 certificate holder.

28 (b) Any such clause or language included in a contract, policy or certificate issued to or
29 covering a resident of this state that is contrary to or inconsistent with the provisions of this
30 section is void and unenforceable.

31 (c) Nothing in this section prohibits an insurer from including a provision in a contract
32 that informs an insured that as part of its routine operations the insurer applies the terms of its
33 contracts for making decisions, including making determinations regarding eligibility, receipt of
34 benefits and claims, or explaining policies, procedures, and processes, so long as the provision

1 could not give rise to a deferential standard of review by any reviewing court.

2 SECTION 4. Chapter 27-20 of the General Laws entitled "Nonprofit Medical Service
3 Corporations" is hereby amended by adding thereto the following section:

4 **27-20-66. Discretionary clauses. --** (a) No new or existing policy or certificate may
5 contain any provision:

6 (1) Purporting to reserve sole discretion to the insurer or health care entity to determine
7 eligibility for benefits or interpret the terms of a policy or certificate; or

8 (2) Specifying or affecting a standard of review upon which a court may review denial of
9 a claim or any other decision made by an insurance company with respect to a policyholder or
10 certificate holder.

11 (b) Any such clause or language included in a contract, policy or certificate issued to or
12 covering a resident of this state that is contrary to or inconsistent with the provisions of this
13 section is void and unenforceable.

14 (c) Nothing in this section prohibits an insurer from including a provision in a contract
15 that informs an insured that as part of its routine operations the insurer applies the terms of its
16 contracts for making decisions, including making determinations regarding eligibility, receipt of
17 benefits and claims, or explaining policies, procedures, and processes, so long as the provision
18 could not give rise to a deferential standard of review by any reviewing court.

19 SECTION 5. Chapter 27-20.1 of the General Laws entitled "Nonprofit Dental Service
20 Corporations" is hereby amended by adding thereto the following section:

21 **27-20.1-21. Discretionary clauses. --** (a) No new or existing policy or certificate may
22 contain any provision:

23 (1) Purporting to reserve sole discretion to the insurance company to determine eligibility
24 for benefits or interpret the terms of a policy or certificate; or

25 (2) Specifying or affecting a standard of review upon which a court may review denial of
26 a claim or any other decision made by an insurance company with respect to a policyholder or
27 certificate holder.

28 (b) Any such clause or language included in a contract, policy or certificate issued to or
29 covering a resident of this state that is contrary to or inconsistent with the provisions of this
30 section is void and unenforceable.

31 (c) Nothing in this section prohibits an insurer from including a provision in a contract
32 that informs an insured that as part of its routine operations the insurer applies the terms of its
33 contracts for making decisions, including making determinations regarding eligibility, receipt of
34 benefits and claims, or explaining policies, procedures, and processes, so long as the provision

1 could not give rise to a deferential standard of review by any reviewing court.

2 SECTION 6. Chapter 27-34.2 of the General Laws entitled "Long-Term Care Insurance"
3 is hereby amended by adding thereto the following section:

4 **27-34.2-22. Discretionary Clauses.** -- (a) No new or existing policy or certificate may
5 contain any provision:

6 (1) Purporting to reserve sole discretion to the insurance company to determine eligibility
7 for benefits or interpret the terms of a policy or certificate; or

8 (2) Specifying or affecting a standard of review upon which a court may review denial of
9 a claim or any other decision made by an insurance company with respect to a policyholder or
10 certificate holder.

11 (b) Any such clause or language included in a contract, policy or certificate issued to or
12 covering a resident of this state that is contrary to or inconsistent with the provisions of this
13 section is void and unenforceable.

14 (c) Nothing in this section prohibits an insurer from including a provision in a contract
15 that informs an insured that as part of its routine operations the insurer applies the terms of its
16 contracts for making decisions, including making determinations regarding eligibility, receipt of
17 benefits and claims, or explaining policies, procedures, and processes, so long as the provision
18 could not give rise to a deferential standard of review by any reviewing court.

19 SECTION 7. Chapter 27-41 of the General Laws entitled "Health Maintenance
20 Organizations" is hereby amended by adding thereto the following section:

21 **27-41-83. Discretionary clauses.** -- (a) No new or existing policy or certificate may
22 contain any provision:

23 (1) Purporting to reserve sole discretion to the insurance company to determine eligibility
24 for benefits or interpret the terms of a policy or certificate; or

25 (2) Specifying or affecting a standard of review upon which a court may review denial of
26 a claim or any other decision made by an insurance company with respect to a policyholder or
27 certificate holder.

28 (b) Any such clause or language included in a contract, policy or certificate issued to or
29 covering a resident of this state that is contrary to or inconsistent with the provisions of this
30 section is void and unenforceable.

31 (c) Nothing in this section prohibits an insurer from including a provision in a contract
32 that informs an insured that as part of its routine operations the insurer applies the terms of its
33 contracts for making decisions, including making determinations regarding eligibility, receipt of
34 benefits and claims, or explaining policies, procedures, and processes, so long as the provision

1 [could not give rise to a deferential standard of review by any reviewing court.](#)

2 SECTION 8. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE

1 This act would prohibit certain types of discretionary clauses in insurance contracts and
2 policies.

3 This act would take effect upon passage.

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