

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL 455

6 By: Brown of the Senate

7 and

8 Kirby of the House

9 COMMITTEE SUBSTITUTE

10 An Act relating to insurance; amending 36 O.S. 2011,  
11 Section 309.4, which relates to examination reports;  
12 eliminating requirement that insurance companies  
13 deliver certain reports and orders; amending 36 O.S.  
14 2011, Section 312A, which relates to enforcement and  
15 recording of penalties and fees; specifying types of  
16 civil penalties and fees that may be enforced in  
17 certain manner; amending 36 O.S. 2011, Section 348.1,  
18 as amended by Section 3, Chapter 275, O.S.L. 2014 (36  
19 O.S. Supp. 2014, Section 348.1), which relates to  
20 fees and licenses; updating citation; amending 36  
21 O.S. 2011, Sections 608 and 609, which relate to  
22 authorization of insurers; updating and deleting  
23 citations; amending 36 O.S. 2011, Section 903.2, as  
24 amended by Section 16, Chapter 254, O.S.L. 2013 (36  
O.S. Supp. 2014, Section 903.2), which relates to the  
Oklahoma Insurance Rating Act; modifying filing  
requirements; amending 36 O.S. 2011, Section 1435.2,  
which relates to the Oklahoma Producer Licensing Act;  
modifying definition; updating citations; amending 36  
O.S. 2011, Section 1441.1, which relates to the  
Third-Party Administrator Act; updating citations;  
amending 36 O.S. 2011, Section 1524, as amended by  
Section 6, Chapter 269, O.S.L. 2013 (36 O.S. Supp.  
2014, Section 1524), which relates to the Risk-based  
Capital for Insurers Act; modifying required contents  
of certain required plan; amending 36 O.S. 2011,  
Section 1674, which relates to the Business  
Transacted with Producer Controlled Insurer Act;

1 updating reference; amending 36 O.S. 2011, Section  
2 4502, which relates to group accident and health  
3 insurance policies; modifying required policy  
4 provisions; making language gender neutral; amending  
5 36 O.S. 2011, Section 6041, which relates to payments  
6 for emergency living expenses; expanding authorized  
7 forms of payments; amending 36 O.S. 2011, Section  
8 6103.3, which relates to acts of insurance business;  
9 specifying certain persons for which certain remedies  
10 will applicable; specifying certain prohibited acts;  
11 amending 36 O.S. 2011, Section 6811, which relates to  
12 the Medical Professional Liability Insurance Closed  
13 Claim Reports Act; authorizing the Insurance  
14 Commissioner to require certain filings; requiring  
15 certain reports be filed within certain time;  
16 eliminating requirement that certain claims be  
17 reported; repealing 36 O.S. 2011, Sections 924.4, as  
18 amended by Section 1, Chapter 44, O.S.L. 2012 and  
19 924.5, as amended by Section 2, Chapter 44, O.S.L.  
20 2012 (36 O.S. Supp. 2014, Sections 924.4 and 924.5),  
21 which relate to affidavits of exempt status; and  
22 providing an effective date.  
23  
24

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 36 O.S. 2011, Section 309.4, is  
16 amended to read as follows:

17 Section 309.4 A. All examination reports shall be comprised of  
18 only facts appearing upon the books, records, or other documents of  
19 the company, its agents or other persons examined, or as ascertained  
20 from the testimony of its officers or agents or other persons  
21 examined concerning its affairs, and such conclusions and  
22 recommendations as the examiners find reasonably warranted from such  
23 facts.  
24

1 B. No later than thirty (30) days following completion of the  
2 examination, the examiner in charge shall file with the Insurance  
3 Department a verified written report of examination under oath.  
4 Upon receipt of the verified report, the Department shall transmit  
5 the report to the company examined, together with a notice which  
6 shall afford such company examined a reasonable opportunity of not  
7 more than twenty (20) days to make a written submission or written  
8 rebuttal with respect to any matters contained in the examination  
9 report.

10 C. Within twenty (20) days of the end of the period allowed for  
11 the receipt of written submissions or written rebuttals, the  
12 Insurance Commissioner shall fully consider and review the report,  
13 together with any written submissions or written rebuttals and any  
14 relevant portions of the examiners' work papers and enter an order:

15 1. Adopting the examination report as filed or with  
16 modification or corrections. If the examination report reveals that  
17 the company is operating in violation of any law, regulation or  
18 prior order of the Commissioner, the Commissioner may order the  
19 company to take any action the Commissioner considers necessary and  
20 appropriate to cure such violation;

21 2. Rejecting the examination report with directions to the  
22 examiners to reopen the examination for purposes of obtaining  
23 additional data, documentation or information, and refiling pursuant  
24 to subsection A of this section; or

1           3. Calling for an investigatory hearing with notice pursuant to  
2 the Administrative Procedures Act to the company for purposes of  
3 obtaining additional documentation, data, information and testimony.

4           D. 1. All orders entered pursuant to paragraph 1 of subsection  
5 C of this section shall be accompanied by findings and conclusions  
6 resulting from the Commissioner's consideration and review of the  
7 examination report, relevant examiner work papers and any written  
8 submissions or rebuttals. Any such order shall be considered a  
9 final administrative decision and may be appealed pursuant to the  
10 Administrative Procedures Act, and shall be served upon the company  
11 by certified mail, together with a copy of the adopted examination  
12 report. Within thirty (30) days of the issuance of the adopted  
13 report, the company shall file affidavits executed by each of its  
14 directors stating under oath that they have received a copy of the  
15 adopted report and related orders. ~~Upon proper order of the~~  
16 ~~Commissioner, the company shall deliver by mail or otherwise, within~~  
17 ~~thirty (30) days of the date of the order, a copy of the adopted~~  
18 ~~report and related orders to all states and jurisdictions in which~~  
19 ~~the company is licensed to transact the business of insurance.~~

20           2. Any hearing conducted pursuant to paragraph 3 of subsection  
21 C of this section by the Commissioner or authorized representative,  
22 shall be conducted as a nonadversarial confidential investigatory  
23 proceeding as necessary for the resolution of any inconsistencies,  
24 discrepancies or disputed issues apparent upon the face of the filed

1 examination report or raised by or as a result of the Commissioner's  
2 review of relevant work papers or by the written submission or  
3 rebuttal of the company. Within thirty (30) days of the conclusion  
4 of any such hearing, the Commissioner shall enter an order pursuant  
5 to paragraph 1 of subsection C of this section.

6 3. The Commissioner shall not appoint an examiner as an  
7 authorized representative to conduct the hearing. The Commissioner  
8 or a representative of the Commissioner may issue subpoenas for the  
9 attendance of any witnesses or the production of any documents  
10 deemed relevant to the investigation whether under the control of  
11 the Department, the company or other persons. The documents  
12 produced shall be included in the record, and testimony taken by the  
13 Commissioner or representative of the Commissioner shall be under  
14 oath and preserved for the record.

15 4. Nothing contained in this section shall require the  
16 Department to disclose any information or records which would  
17 indicate or show the existence or content of any investigation or  
18 activity of a criminal justice agency.

19 5. The hearing shall proceed with the Commissioner or a  
20 representative of the Commissioner posing questions to the persons  
21 subpoenaed. Thereafter the company and the Department may present  
22 testimony relevant to the investigation. The company and the  
23 Department shall be permitted to make closing statements and may be  
24 represented by counsel of their choice.

1 E. 1. Upon the adoption of the examination report under  
2 paragraph 1 of subsection C of this section, the Commissioner shall  
3 continue to hold the content of the examination report as private  
4 and confidential information for a period of two (2) days except to  
5 the extent provided in subsection B of this section and subsection F  
6 of Section 309.3 of this title. Thereafter, the Commissioner may  
7 open the report for public inspection so long as no court of  
8 competent jurisdiction has stayed its publication.

9 2. Nothing contained in Sections 309.1 through 309.7 of this  
10 title shall prevent or be construed as prohibiting the Commissioner  
11 from disclosing the content of an examination report, preliminary  
12 examination report or results, or any matter relating thereto, to  
13 the insurance department of this or any other state or country, or  
14 to law enforcement officials of this or any other state or agency of  
15 the federal government at any time, so long as such agency or office  
16 receiving the report or matters relating thereto agrees in writing  
17 to hold it confidential and in a manner consistent with Sections  
18 309.1 through 309.7 of this title.

19 3. In the event the Commissioner determines that regulatory  
20 action is appropriate as a result of any examination, the  
21 Commissioner may initiate any proceedings or actions as provided by  
22 law.

23 F. All working papers, recorded information, documents and  
24 copies thereof produced by, obtained by or disclosed to the

1 Commissioner or any other person in the course of an examination  
2 made under Sections 309.1 through 309.7 of this title, or in the  
3 course of analysis by the Commissioner or any other person of the  
4 financial condition or market conduct of a company, shall be given  
5 confidential treatment and are not subject to subpoena and may not  
6 be made public by the Commissioner or any other person, except to  
7 the extent provided in subsection E of this section and subsection F  
8 of Section 309.3 of this title. Access may also be granted to the  
9 National Association of Insurance Commissioners. Such parties shall  
10 agree in writing prior to receiving the information to provide to it  
11 the same confidential treatment as required by this section, unless  
12 the prior written consent of the company to which it pertains has  
13 been obtained.

14 SECTION 2. AMENDATORY 36 O.S. 2011, Section 312A, is  
15 amended to read as follows:

16 Section 312A. Civil penalties and fees imposed by the Insurance  
17 Commissioner pursuant to the provisions of this title Oklahoma law  
18 may be enforced in the same manner in which civil judgments may be  
19 enforced. All final orders of the Insurance Commissioner imposing  
20 administrative charges, fees, civil penalties or fines may be  
21 recorded in the office of the Clerk of the District Court of  
22 Oklahoma County and, upon such recording, all appropriate writs and  
23 process shall issue and shall be enforced by the judges of said  
24 court upon application.

1 SECTION 3. AMENDATORY 36 O.S. 2011, Section 348.1, as  
2 amended by Section 3, Chapter 275, O.S.L. 2014 (36 O.S. Supp. 2014,  
3 Section 348.1), is amended to read as follows:

4 Section 348.1 A. The Insurance Commissioner shall collect the  
5 following fees and licenses for the Property and Casualty Division:

6 1. Rating organizations, statistical agents and advisory  
7 organizations:

- 8 a. Application fee for issuance of  
9 license.....\$200.00
- 10 b. License fee.....\$500.00

11 2. Miscellaneous:

- 12 a. Certificate of Insurance Commissioner,  
13 under seal.....\$ 20.00

- 14 b. Upon each transaction of filing of  
15 documents required pursuant to Section  
16 3610 of this title and the Service  
17 Warranty Act, as contained in Sections  
18 141.1 through 141.32 of Title 15 of the  
19 Oklahoma Statutes:

- 20 (1) For an individual insurer.....\$ 50.00

- 21 (2) For an approved joint underwriting  
22 association, or rating or advisory  
23 organization:

- 24 (a) Basic fee.....\$ 50.00



1 (b) Additional fee for each member  
2 or subscriber insurer.....\$ 10.00,  
3 not to exceed.....\$500.00.

4 3. For each rate, loss cost and rule filing request pursuant to  
5 the ~~provisions of Sections 6821 and 981 et seq. of this title~~  
6 Property and Casualty Competitive Loss Cost Rating Act:

7 a. For an individual insurer.....\$100.00

8 b. For an approved joint underwriting  
9 association, rating or advisory  
10 organization:

11 (1) Basic fee.....\$100.00

12 (2) Additional fee for each member  
13 or subscriber insurer.....\$ 10.00,  
14 not to exceed.....\$500.00.

15 B. The fees, licenses, and taxes imposed by the Commissioner  
16 upon persons, firms, associations, or corporations licensed pursuant  
17 to this section shall be payment in full with respect thereto of and  
18 in lieu of all demands for any and all state, county, district, and  
19 municipal license fees, license taxes, business privilege taxes,  
20 business privilege fees, and charges of every kind now or hereafter  
21 imposed upon all such persons, firms, associations, or corporations.  
22 This subsection shall not affect other fees, licenses and taxes  
23 imposed by the Insurance Code.

1 C. Any costs incurred by the Commissioner in the process of  
2 review and analysis of a filing shall be assessed against the  
3 company or organization making the filing.

4 SECTION 4. AMENDATORY 36 O.S. 2011, Section 608, is  
5 amended to read as follows:

6 Section 608. A. A casualty insurer shall not be authorized to  
7 transact workers' compensation insurance in this state without first  
8 complying with the applicable provisions of Title ~~85~~ 85A of the  
9 Oklahoma Statutes.

10 B. A claims adjuster for any insurer duly authorized to  
11 transact workers' compensation insurance in Oklahoma shall be  
12 licensed pursuant to the Insurance Adjusters Licensing Act.

13 SECTION 5. AMENDATORY 36 O.S. 2011, Section 609, is  
14 amended to read as follows:

15 Section 609. An insurer which otherwise qualifies therefor may  
16 be authorized to transact any one kind or combination of kinds of  
17 insurance as defined in Section 701 et seq. of this title, except:

18 1. A life insurer shall not be authorized to transact any other  
19 kind of insurance except accident and health and workers'  
20 compensation and employer liability equivalent insurance if  
21 otherwise qualified to do so on or after September 1, 1994, pursuant  
22 ~~to the provisions of Section 65 of Title 85 of the Oklahoma Statutes~~  
23 or if immediately prior to the effective date of this Code any life  
24 insurer lawfully held a subsisting certificate of authority granting

1 it the right to transact in Oklahoma additional kinds of insurance  
2 other than accident and health, so long as the insurer is otherwise  
3 in compliance with this Code the Insurance Commissioner shall  
4 continue to authorize such insurer to transact the same kinds of  
5 insurance as those specified in such prior certificate of authority;

6 2. A reciprocal insurer shall not transact life insurance;

7 3. A Lloyd's insurer shall not transact life insurance;

8 4. A title insurer shall be a stock insurer and shall not  
9 transact any other kind of insurance; and

10 5. No insurer shall issue for delivery or deliver in this state  
11 any contract of insurance which imposes contingent or assessment  
12 liability upon a resident of this state.

13 SECTION 6. AMENDATORY 36 O.S. 2011, Section 903.2, as  
14 amended by Section 16, Chapter 254, O.S.L. 2013 (36 O.S. Supp. 2014,  
15 Section 903.2) is amended to read as follows:

16 Section 903.2 No insurance company shall request and the  
17 Insurance Commissioner shall not approve an increase for the expense  
18 portion of insurance company rate filings based upon the  
19 requirements of Section 6701 of this title ~~and Section 355 of Title~~  
20 ~~85 of the Oklahoma Statutes.~~

21 SECTION 7. AMENDATORY 36 O.S. 2011, Section 1435.2, is  
22 amended to read as follows:

23 Section 1435.2 As used in the Oklahoma Producer Licensing Act:

24 1. "Commissioner" means the Insurance Commissioner;

1       2. "Business entity" means a corporation, association,  
2 partnership, limited liability company, limited partnership, or  
3 other legal entity;

4       3. "Customer service representative" means an individual  
5 appointed by an insurance producer, surplus lines insurance broker,  
6 managing general agent, or insurance agency to assist the insurance  
7 producer, broker, or agency in transacting the business of insurance  
8 from the office of the insurance producer, broker, or agency and  
9 whose salary may vary based on the production or volume of  
10 applications or premiums;

11       4. "Home state" means the District of Columbia and any state or  
12 territory of the United States in which an insurance producer  
13 maintains the producer's principal place of residence or principal  
14 place of business and is licensed to act as an insurance producer;

15       5. "Insurance" means any of the lines of authority in ~~Title 36~~  
16 ~~of the Oklahoma Statutes~~ this title, including workers' compensation  
17 insurance. Any insurer approved to offer workers' compensation  
18 ~~equivalent insurance pursuant to the provisions of Section 65 of~~  
19 ~~Title 85 of the Oklahoma Statutes~~ may appoint ~~property and casualty~~  
20 insurance producers. All producers appointed for workers'  
21 compensation ~~equivalent~~ insurance products must be licensed as  
22 ~~property and casualty~~ insurance producers by the Oklahoma Insurance  
23 Department;

24

1       6. "Insurance consultant" means an individual or legal entity  
2 who, for a fee, is held out to the public as engaged in the business  
3 of offering any advice, counsel, opinion or service with respect to  
4 the benefits, advantages, or disadvantages promised under any policy  
5 of insurance that could be issued or delivered in this state;

6       7. "Insurance producer" means a person required to be licensed  
7 under the laws of this state to sell, solicit or negotiate  
8 insurance. Any person not duly licensed as an insurance producer,  
9 surplus lines insurance broker, or limited lines producer who  
10 solicits a policy of insurance on behalf of an insurer shall be  
11 deemed to be acting as an insurance agent within the meaning of the  
12 Oklahoma Producer Licensing Act, and shall thereby become liable for  
13 all the duties, requirements, liabilities, and penalties to which an  
14 insurance producer of the company is subject, and the company by  
15 issuing the policy of insurance shall thereby accept and acknowledge  
16 the person as its agent in the transaction. For purposes of the  
17 laws of this state and the Oklahoma Insurance Code, the term  
18 "insurance agent" shall have the same meaning as the term "insurance  
19 producer";

20       8. "Insurer" has the meaning set out in Section 103 of this  
21 title;

22       9. "License" means a document issued by the Insurance  
23 Commissioner of this state authorizing a person to act as an  
24 insurance producer for the lines of authority specified in the

1 document. The license itself does not create any authority, actual,  
2 apparent or inherent, in the holder to represent or commit an  
3 insurance carrier;

4 10. "Limited line credit insurance" includes credit life,  
5 credit disability, credit property, credit unemployment, involuntary  
6 unemployment, mortgage life, mortgage guaranty, mortgage disability,  
7 guaranteed automobile protection insurance, known as "gap"  
8 insurance, and any other form of insurance offered in connection  
9 with an extension of credit that is limited to partially or wholly  
10 extinguishing that credit obligation that the Insurance Commissioner  
11 determines should be designated a form of limited line credit  
12 insurance;

13 11. "Limited line credit insurance producer" means a person who  
14 sells, solicits or negotiates one or more forms of limited line  
15 credit insurance coverage to individuals through a master,  
16 corporate, group or individual policy;

17 12. "Limited lines insurance" means limited line credit and  
18 those lines of insurance defined in Section ~~20~~ 1435.20 of this ~~act~~  
19 title or any other line of insurance the Insurance Commissioner  
20 deems necessary to recognize for the purposes of complying with  
21 subsection E of Section ~~9~~ 1435.9 of this ~~act~~ title;

22 13. "Limited lines producer" means a person who is authorized  
23 by the Commissioner to sell, solicit or negotiate limited lines  
24 insurance. For purposes of the laws of this state and the Oklahoma

1 Insurance Code, the term "limited insurance representative" shall  
2 have the same meaning as the term "limited lines producer";

3 14. "Managing general agent" means an individual or legal  
4 entity appointed, as an independent contractor, by one or more  
5 insurers to exercise general supervision over the business of the  
6 insurer in this state, with authority to appoint insurance producers  
7 for the insurer, and to terminate appointments for the insurer;

8 15. "Negotiate" means the act of conferring directly with or  
9 offering advice directly to a purchaser or prospective purchaser of  
10 a particular contract of insurance concerning any of the substantive  
11 benefits, terms or conditions of the contract, provided that the  
12 person engaged in that act either sells insurance or obtains  
13 insurance from insurers for purchaser;

14 16. "Person" means an individual or a business entity;

15 17. "Sell" means to exchange a contract of insurance, by any  
16 means, for money or its equivalent, on behalf of an insurance  
17 company;

18 18. "Solicit" means attempting to sell insurance or asking or  
19 urging a person to apply for a particular kind of insurance from a  
20 particular company;

21 19. "Surplus lines insurance broker" means an individual or  
22 legal entity who solicits, negotiates, or procures a policy of  
23 insurance in an insurance company not licensed to transact business  
24 in this state which cannot be procured from insurers licensed to do

1 business in this state. All transactions under such license shall  
2 be subject to Article 11 of the Oklahoma Insurance Code;

3 20. "Terminate" means the cancellation of the relationship  
4 between an insurance producer and the insurer or the termination of  
5 a producer's authority to transact insurance;

6 21. "Uniform Business Entity Application" means the current  
7 version of the National Association of Insurance Commissioners  
8 (NAIC) Uniform Business Entity Application for resident and  
9 nonresident business entities; and

10 22. "Uniform Application" means the current version of the NAIC  
11 Uniform Application for resident and nonresident producer licensing.

12 SECTION 8. AMENDATORY 36 O.S. 2011, Section 1441.1, is  
13 amended to read as follows:

14 Section 1441.1 The provisions of Section 1441 et seq. of ~~Title~~  
15 ~~36 of the Oklahoma Statutes~~ this title shall not apply to  
16 administrators of group self-insurance associations created pursuant  
17 to Section ~~149.2~~ 399 of Title 85 of the Oklahoma Statutes.

18 SECTION 9. AMENDATORY 36 O.S. 2011, Section 1524, as  
19 amended by Section 6, Chapter 269, O.S.L. 2013 (36 O.S. Supp. 2014,  
20 Section 1524), is amended to read as follows:

21 Section 1524. A. "Company Action Level Event" means any of the  
22 following events:

23 1. The filing of an RBC Report by an insurer which indicates  
24 that:



- 1 a. the insurer's Total Adjusted Capital is greater than  
2 or equal to its Regulatory Action Level RBC but less  
3 than its Company Action Level RBC,  
4 b. if a life or health insurer, the insurer or fraternal  
5 benefit society has Total Adjusted Capital which is  
6 greater than or equal to its Company Action Level RBC  
7 but less than the product of its Authorized Control  
8 Level RBC and 3.0 and has a negative trend, or  
9 c. if a property and casualty insurer, the insurer has  
10 total adjusted capital which is greater than or equal  
11 to its Company Action Level RBC but less than the  
12 product of its Authorized Control Level RBC and 3.0  
13 and triggers the trend test determined in accordance  
14 with the trend test calculation included in the  
15 Property and Casualty RBC instructions;

16 2. The notification by the Insurance Commissioner to the  
17 insurer of an Adjusted RBC Report that indicates an event described  
18 in paragraph 1 of this subsection, provided the insurer does not  
19 challenge the Adjusted RBC Report under Section 1528 of this title;  
20 or

21 3. If, pursuant to Section 1528 of this title, an insurer  
22 challenges an Adjusted RBC Report that indicates the event described  
23 in paragraph 1 of this subsection, the notification by the  
24

1 Commissioner to the insurer that the Commissioner has, after  
2 opportunity for a hearing, rejected the insurer's challenge.

3 B. In the event of a Company Action Level Event, the insurer  
4 shall, unless otherwise directed by the Commissioner, prepare and  
5 submit to the Commissioner an RBC Plan which shall include the  
6 following five elements:

7 1. Conditions which contribute to the Company Action Level  
8 Event;

9 2. Proposals of corrective actions which the insurer intends to  
10 take and which would be expected to result in the elimination of the  
11 Company Action Level Event;

12 3. Projections of the insurer's financial results in the  
13 current year and at least the four (4) succeeding years, both in the  
14 absence of proposed corrective actions and giving effect to the  
15 proposed corrective actions, including projections of statutory  
16 operating income, net income, ~~or~~ and capital and surplus. Unless  
17 the Commissioner otherwise directs, the projections for both new and  
18 renewal business shall include separate projections for each major  
19 line of business and separately identify each significant income,  
20 expense and benefit component;

21 4. The key assumptions impacting the insurer's projections and  
22 the sensitivity of the projections to the assumptions; and

23 5. The quality of, and problems associated with, the insurer's  
24 business, including, but not limited to, its assets, anticipated

1 business growth and associated surplus strain, extraordinary  
2 exposure to risk, mix of business, and use of reinsurance, if any,  
3 in each case.

4 C. The RBC Plan shall be submitted:

5 1. Within forty-five (45) days of the Company Action Level  
6 Event; or

7 2. If the insurer challenges an Adjusted RBC Report pursuant to  
8 Section 1528 of this title, within forty-five (45) days after  
9 notification to the insurer that the Commissioner has, after  
10 opportunity for a hearing, rejected the insurer's challenge.

11 D. Within sixty (60) days after the submission by an insurer of  
12 an RBC Plan to the Commissioner, the Commissioner shall notify the  
13 insurer whether the RBC Plan shall be implemented or is, in the  
14 judgment of the Commissioner, unsatisfactory. If the Commissioner  
15 determines the RBC Plan is unsatisfactory, the notification to the  
16 insurer shall set forth the reasons for the determination, and may  
17 set forth proposed revisions which will render the RBC Plan  
18 satisfactory, in the judgment of the Commissioner. Upon  
19 notification from the Commissioner, the insurer shall prepare a  
20 Revised RBC Plan, which may incorporate by reference any revisions  
21 proposed by the Commissioner, and shall submit the Revised RBC Plan  
22 to the Commissioner:

23 1. Within forty-five (45) days after the notification from the  
24 Commissioner; or

1           2. If the insurer challenges the notification from the  
2 Commissioner under Section 1528 of this title, within forty-five  
3 (45) days after a notification to the insurer that the Commissioner  
4 has, after opportunity for a hearing, rejected the insurer's  
5 challenge.

6           E. In the event of a notification by the Commissioner to an  
7 insurer that the insurer's RBC Plan or Revised RBC Plan is  
8 unsatisfactory, the Commissioner may at the Commissioner's  
9 discretion, subject to the insurer's right to a hearing under  
10 Section 1528 of this title, specify in the notification that the  
11 notification constitutes a Regulatory Action Level Event.

12           F. Every domestic insurer that files an RBC Plan or Revised RBC  
13 Plan with the Commissioner shall file a copy of the RBC Plan or  
14 Revised RBC Plan with the insurance commissioner in any state in  
15 which the insurer is authorized to do business if:

16           1. The state has an RBC provision substantially similar to  
17 subsection A of Section 1531 of this title; and

18           2. The insurance commissioner of that state has notified the  
19 insurer of its request for the filing in writing. If such a request  
20 is made, the insurer shall file a copy of the RBC Plan or Revised  
21 RBC Plan in that state no later than the later of:

22           a. fifteen (15) days after the receipt of the request to  
23 file a copy of its RBC Plan or Revised RBC Plan with  
24 the state, or

1           b.    the date on which the RBC Plan or Revised RBC Plan is  
2                    filed under subsections C and D of this section.

3           SECTION 10.        AMENDATORY        36 O.S. 2011, Section 1674, is  
4 amended to read as follows:

5           Section 1674. A. Applicability of section.

6           1. The provisions of this section shall apply if, in any  
7 calendar year, the aggregate amount of gross written premium on  
8 business placed with a controlled insurer by a controlling producer  
9 is equal to or greater than five percent (5%) of the admitted assets  
10 of the controlled insurer, as reported in the controlled insurers'  
11 quarterly statement filed as of September 30 of the prior year.

12          2. Notwithstanding paragraph 1 of this subsection, the  
13 provisions of this section shall not apply if:

14          a.    the controlling producer:

15                (1) places insurance only with the controlled  
16                   insurer, or only with the controlled insurer and  
17                   a member or members of the controlled insurer's  
18                   holding company system, or the controlled  
19                   insurer's parent, affiliate or subsidiary and  
20                   receives no compensation based upon the amount of  
21                   premiums written in connection with such  
22                   insurance, and

1 (2) accepts insurance placements only from  
2 nonaffiliated subproducers, and not directly from  
3 insureds, and

4 b. the controlled insurer, except for insurance business  
5 written through a residual market facility, accepts  
6 insurance business only from a controlling producer, a  
7 producer controlled by the controlled insurer, or a  
8 producer that is a subsidiary of the controlled  
9 insurer.

10 B. Required contract provisions. A controlled insurer shall  
11 not accept business from a controlling producer and a controlling  
12 producer shall not place business with a controlled insurer unless  
13 there is a written contract between the controlling producer and the  
14 insurer specifying the responsibilities of each party, which  
15 contract has been approved by the board of directors of the insurer  
16 and contains the following minimum provisions:

17 1. The controlled insurer may terminate the contract for cause,  
18 upon written notice to the controlling producer. The controlled  
19 insurer shall suspend the authority of the controlling producer to  
20 write business during the pendency of any dispute regarding the  
21 cause for the termination;

22 2. The controlling producer shall render accounts to the  
23 controlled insurer detailing all material transactions, including  
24

1 information necessary to support all commissions, charges and other  
2 fees received by, or owing to, the controlling producer;

3 3. The controlling producer shall remit all funds due under the  
4 terms of the contract to the controlled insurer on at least a  
5 monthly basis. The due date shall be fixed so that premiums or  
6 installments thereof collected shall be remitted no later than  
7 ninety (90) days after the effective date of any policy placed with  
8 the controlled insurer under this contract;

9 4. All funds collected for the controlled insurer's account  
10 shall be held by the controlling producer in a fiduciary capacity,  
11 in one or more appropriately identified bank accounts in banks that  
12 are members of the Federal Reserve System, in accordance with the  
13 provisions of the insurance law as applicable. However, funds of a  
14 controlling producer not required to be licensed in this state shall  
15 be maintained in compliance with the requirements of the controlling  
16 producer's domiciliary jurisdiction;

17 5. The controlling producer shall maintain separately  
18 identifiable records of business written for the controlled insurer;

19 6. The contract shall not be assigned in whole or in part by  
20 the controlling producer;

21 7. The controlled insurer shall provide the controlling  
22 producer with its underwriting standards, rules and procedures,  
23 manuals setting forth the rates to be charged, and the conditions  
24 for the acceptance or rejection of risks. The controlling producer

1 shall adhere to the standards, rules, procedures, rates and  
2 conditions. The standards, rules, procedures, rates and conditions  
3 shall be the same as those applicable to comparable business placed  
4 with the controlled insurer by a producer other than the controlling  
5 producer;

6 8. The rate and terms of the controlling producer's  
7 commissions, charges or other fees and the purposes for those  
8 charges or fees. The rates of the commissions, charges and other  
9 fees shall be no greater than those applicable to comparable  
10 business placed with the controlled insurer by producers other than  
11 controlling producers. For purposes of this paragraph and paragraph  
12 7 of this subsection, examples of "comparable business" include the  
13 same lines of insurance, same kinds of insurance, same kinds of  
14 risks, similar policy limits, and similar quality of business;

15 9. If the contract provides that the controlling producer, on  
16 insurance business placed with the insurer, is to be compensated  
17 contingent upon the insurer's profits on that business, then such  
18 compensation shall not be determined and paid until at least five  
19 (5) years after the premiums on liability insurance are earned and  
20 at least one (1) year after the premiums are earned on any other  
21 insurance. In no event shall the commissions be paid until the  
22 adequacy of the controlled insurer's reserves on remaining claims  
23 has been independently verified pursuant to subsection C D of this  
24 section;



1        10. A limit on the controlling producer's writings in relation  
2 to the controlled insurer's surplus and total writings. The insurer  
3 may establish a different limit for each line or subline of  
4 business. The controlled insurer shall notify the controlling  
5 producer when the applicable limit is approached and shall not  
6 accept business from the controlling producer if the limit is  
7 reached. The controlling producer shall not place business with the  
8 controlled insurer if it has been notified by the controlled insurer  
9 that the limit has been reached; and

10       11. The controlling producer may negotiate but shall not bind  
11 reinsurance on behalf of the controlled insurer on business the  
12 controlling producer places with the controlled insurer, except that  
13 the controlling producer may bind facultative reinsurance contracts  
14 pursuant to obligatory facultative agreements if the contract with  
15 the controlled insurer contains underwriting guidelines including,  
16 for both reinsurance assumed and ceded, a list of reinsurers with  
17 which such automatic agreements are in effect, the coverages and  
18 amounts of percentages that may be reinsured and commission  
19 schedules.

20       C. Audit Committee. Every controlled insurer shall have an  
21 Audit Committee of the Board of Directors composed of independent  
22 directors. The Audit Committee shall annually meet with management,  
23 the insurer's licensed public accountant or a certified public  
24 accountant holding a permit to practice in this state and an

1 independent casualty actuary or other independent loss reserve  
2 specialist acceptable to the Commissioner to review the adequacy of  
3 the insurer's loss reserves.

4 D. Reporting requirements.

5 1. In addition to any other required loss reserve  
6 certification, the controlled insurer shall annually, on April 1 of  
7 each year, file with the Commissioner an opinion of an independent  
8 casualty actuary, or such other independent loss reserve specialist  
9 acceptable to the Commissioner, reporting loss ratios for each line  
10 of business written and attesting to the adequacy of loss reserves  
11 established for losses incurred and outstanding as of year-end,  
12 including incurred but not reported losses, on business placed by  
13 the producer; and

14 2. The controlled insurer shall annually report to the  
15 Commissioner the amount of commissions paid to the producer, the  
16 percentage such amount represents of the net premiums written and  
17 comparable amounts and percentage paid to noncontrolling producers  
18 for placements of the same kinds of insurance.

19 SECTION 11. AMENDATORY 36 O.S. 2011, Section 4502, is  
20 amended to read as follows:

21 Section 4502. A. Each group accident and health policy shall  
22 contain in substance the following provisions:

23 1. A provision that, in the absence of fraud, all statements  
24 made by the policyholder or by any insured person shall be deemed

1 representations and not warranties, and that no statement made for  
2 the purpose of effecting insurance shall avoid such insurance or  
3 reduce benefits unless contained in a written instrument signed by  
4 the policyholder or the insured person, a copy of which has been  
5 furnished to such policyholder or to such person or his or her  
6 beneficiary-;

7 2. A provision that the insurer will furnish to the  
8 policyholder, for delivery to each employee or member of the insured  
9 group, an individual certificate setting forth in summary form a  
10 statement of the essential features of the insurance coverage of  
11 such employee or member and to whom benefits are payable. If  
12 dependents or family members are included in the coverage additional  
13 certificates need not be issued for delivery to such dependents or  
14 family members-; and

15 3. A provision that to the group originally insured may be  
16 added from time to time eligible new employees or members or  
17 dependents, as the case may be, in accordance with the terms of the  
18 policy.

19 B. Each group health policy certificate subject to the  
20 provisions of the Federal Health Insurance Portability and  
21 Accountability Act, Public Law 104-191, (HIPAA) laws shall contain  
22 in substance the following provisions, which shall be in addition to  
23 the provisions required by subsection A of this section.

24

1           1. A provision that a health benefit plan shall not deny,  
2 exclude or limit benefits for a covered individual for losses  
3 incurred more than twelve (12) months following the effective date  
4 of the individual's coverage due to a preexisting condition;

5           2. A provision that a health benefit plan shall not define a  
6 preexisting condition more restrictively than:

7           a. a condition for which medical advice, diagnosis, care  
8 or treatment was recommended or received during the  
9 six (6) months immediately preceding the effective  
10 date of coverage,

11           b. pregnancy and genetic information shall not be  
12 considered preexisting conditions,

13           c. a health benefit plan may exclude a preexisting  
14 condition for late enrollees for a period not to  
15 exceed eighteen (18) months from the date the  
16 individual enrolls for coverage,

17           d. the period of any such preexisting condition exclusion  
18 shall be reduced by the aggregate of the periods of  
19 creditable coverage as defined in the Federal HIPAA  
20 laws,

21           e. a period of creditable coverage shall not be counted  
22 if after such period and before the enrollment date,  
23 there was a sixty-three-day period during all of which  
24

1 the individual was not covered under any creditable  
2 coverage,

3 f. "enrollment date" means the date of enrollment of the  
4 individual in the plan or coverage or, if earlier, the  
5 first day of the waiting period for such enrollment,  
6 and

7 g. "late enrollee" means a participant or beneficiary who  
8 enrolls under the plan other than during the first  
9 period in which the individual is eligible to enroll  
10 under the plan or a special enrollment period;

11 3. A provision that individuals losing other coverage shall be  
12 permitted to enroll for coverage under the terms of the plan if each  
13 of the following conditions is met:

14 a. the employee or dependent was covered under a group  
15 health plan or had health insurance coverage at the  
16 time coverage was previously offered to the employee  
17 or dependent,

18 b. the employee stated in writing at such time that  
19 coverage under a group health plan or health insurance  
20 coverage was the reason for declining enrollment, but  
21 only if the plan sponsor or issuer required such a  
22 statement at such time and provided the employee with  
23 notice of such requirement, and the consequences of  
24 such requirement, at such time,

1 c. the employee's or dependent's coverage was under a  
2 COBRA continuation provision and the coverage under  
3 such provision was exhausted; or was not under such a  
4 provision and either the coverage was terminated as a  
5 result of loss of eligibility for the coverage,  
6 including as a result of legal separation, divorce,  
7 death, termination of employment, or reduction in the  
8 number of hours of employment, or employer  
9 contributions toward such coverage were terminated,  
10 and

11 d. under the terms of the plan, the employee requests  
12 such enrollment not later than thirty (30) days after  
13 the date of exhaustion of coverage;

14 4. A provision that for any period that an individual is in a  
15 waiting period for any coverage under a group health plan or for  
16 group health insurance coverage or is in an affiliation period, that  
17 period shall not be taken into account in determining the continuous  
18 period of creditable coverage. "Affiliation period" means a period  
19 which, under the terms of the health insurance coverage offered by a  
20 health maintenance organization, must expire before the health  
21 insurance coverage becomes effective. The organization is not  
22 required to provide health care services or benefits during such  
23 period and no premium shall be charged to the participant or  
24 beneficiary for any coverage during the period;

1           5. A provision that preexisting condition exclusions will not  
2 apply to newborns, who, as the last day of the thirty-day period  
3 beginning with the date of birth, are covered under creditable  
4 coverage;

5           6. A provision that preexisting condition exclusions will not  
6 apply to a child who is adopted or placed for adoption before  
7 attaining eighteen (18) years of age;

8           7. A provision that dependents are eligible for a special  
9 enrollment period if the group health plan makes coverage available  
10 with respect to a dependent of an individual, and the individual is  
11 a participant under the plan, or has met any waiting period  
12 applicable to becoming a participant under the plan and is eligible  
13 to be enrolled under the plan but for a failure to enroll during a  
14 previous enrollment period, and a person becomes such a dependent of  
15 the individual through marriage, birth or adoption or placement for  
16 adoption. The special enrollment period shall apply to that person  
17 or, if not otherwise enrolled, the individual, the dependent of the  
18 individual, and in the case of the birth or adoption of a child, the  
19 spouse of the individual may be enrolled as a dependent of the  
20 individual if such spouse is otherwise eligible for coverage.

21           a. The dependent special enrollment period shall be a  
22 period of not less than thirty (30) days and shall  
23 begin on the later of the date dependent coverage is  
24

1 made available, or the date of the marriage, birth, or  
2 adoption or placement for adoption.

3 b. There is no waiting period if an individual seeks to  
4 enroll a dependent during the first thirty (30) days  
5 of such a dependent special enrollment period.

6 c. The coverage for the dependent shall become effective  
7 in the case of marriage, not later than the first day  
8 of the first month beginning after the date the  
9 completed request for enrollment is received, in the  
10 case of a dependent's birth, as of the date of such  
11 birth, in the case of a dependent's adoption or  
12 placement for adoption, the date of such adoption or  
13 placement for adoption;

14 8. A provision that eligibility or continued eligibility of any  
15 individual will not be based on any of the following health-status-  
16 related factors in relation to the individual or a dependent of the  
17 individual: health status, medical condition, including both  
18 physical and mental illnesses, claims experience, receipt of health  
19 care, medical history, genetic information, evidence of  
20 insurability, including conditions arising out of acts of domestic  
21 violence or disability.

22 a. Carriers are not required to provide particular  
23 benefits other than those provided under the terms of  
24 the plan or coverage.



1           b. Carriers may establish limitations or restrictions on  
2           the amount, level, extent, and nature of the benefits  
3           or coverage for similarly situated individuals  
4           enrolled in the plan or coverage; and

5           9. A provision that the group health plan is guaranteed  
6           renewable, except as provided pursuant to the federal provisions  
7           found in HIPAA, which are as follows:

- 8           a. nonpayment of premium,  
9           b. fraud,  
10          c. violation of participation and/or contribution rules,  
11          d. termination of coverage:

12           (1) in any case in which an issuer decides to  
13           discontinue offering a particular type of group  
14           health insurance coverage offered in the large or  
15           small group market, coverage of such type may be  
16           discontinued by the issuer only if: the issuer  
17           provides notice to each plan sponsor provided  
18           coverage of this type in such market, and  
19           participants and beneficiaries covered under such  
20           coverage, of such discontinuation at least ninety  
21           (90) days prior to the date of the  
22           discontinuation of such coverage and makes  
23           available the option to purchase all or, in the  
24           case of the large group market, any other health

1 insurance coverage currently being offered by the  
2 issuer to a group health plan in such market and  
3 in exercising the option to discontinue coverage  
4 of this type and in offering the option of  
5 coverage pursuant to this provision, the issuer  
6 acts uniformly without regard to the claims  
7 experience of those sponsors or any health-  
8 status-related factor relating to any  
9 participants or beneficiaries covered or new  
10 participants or beneficiaries who may become  
11 eligible for such coverage,

12 (2) in any case in which an issuer decides to  
13 discontinue offering a particular type of group  
14 health insurance coverage offered in the large or  
15 small group market, coverage of such type may be  
16 discontinued by the issuer only if: the issuer  
17 provides notice to the Oklahoma Insurance  
18 Department and to each plan sponsor and  
19 participants and beneficiaries covered under such  
20 coverage of such discontinuation at least one  
21 hundred eighty (180) days prior to the date of  
22 the discontinuation of such coverage; and all  
23 health insurance issued or delivered for issuance  
24 in the state in such market or markets are

1 discontinued and coverage under such health  
2 insurance coverage in such market or markets is  
3 not renewed, and

4 (3) in the case of a discontinuation under division  
5 (2) of this subparagraph in a market, the issuer  
6 shall not provide for the issuance of any health  
7 insurance coverage in the market and in this  
8 state during the five-year period beginning on  
9 the date of the discontinuation of the last  
10 health insurance coverage not so renewed,

11 e. movement outside the service area, and

12 f. association membership ceases; ~~and~~

13 ~~10. A provision that certification of creditable coverage will~~  
14 ~~be issued individuals covered:~~

15 ~~a. at the time an individual ceases to be covered under~~  
16 ~~the plan or otherwise becomes covered under a COBRA~~  
17 ~~continuation provision,~~

18 ~~b. in the case of an individual becoming covered under~~  
19 ~~such a provision, at the time the individual ceases to~~  
20 ~~be covered under such provision, and~~

21 ~~e. on the request on behalf of an individual made not~~  
22 ~~later than twenty-four (24) months after the date of~~  
23 ~~cessation of the coverage described in subparagraph a~~  
24 ~~or b of this paragraph, whichever is later.~~

1 ~~The certification described in this paragraph is a written~~  
2 ~~certification of the period of creditable coverage of the individual~~  
3 ~~under such plan and the coverage, if any, under such COBRA~~  
4 ~~continuation provision, and the waiting period, if any, and~~  
5 ~~affiliation period, if applicable, imposed with respect to the~~  
6 ~~individual for any coverage under such plan.~~

7 SECTION 12. AMENDATORY 36 O.S. 2011, Section 6041, is  
8 amended to read as follows:

9 Section 6041. ~~A.~~ Payment or each periodic payment not  
10 exceeding One Thousand Dollars (\$1,000.00) for emergency living  
11 expenses made to any policyholder or his or her dependents or  
12 beneficiaries under an insurance policy for:

13 1. Fire insurance;

14 2. Casualty insurance;

15 3. Property insurance, including what may be termed a  
16 homeowner's policy; or

17 4. Any other type of policy that insures against personal loss  
18 as a consequence of loss of or damage to real or personal property;  
19 which provides for payment or periodic payments for emergency living  
20 expenses; and payments made under workers' compensation or  
21 employers' liability insurance as defined in Section 707 of ~~Title 36~~  
22 ~~of the Oklahoma Statutes~~ this title, shall be made through the use  
23 of United States legal tender, or through a means acceptable to the  
24 recipient of the payment, including, but not limited to, electronic

1 funds transfer, prepaid cards, negotiable instruments payable on  
2 demand or negotiable drafts.

3 SECTION 13. AMENDATORY 36 O.S. 2011, Section 6103.3, is  
4 amended to read as follows:

5 Section 6103.3 A. For the purposes of Sections 6103.1 through  
6 6103.11 of this title, "person" shall include an individual, a  
7 partnership, a corporation, a limited liability company, an  
8 association, a joint stock company, a trust, an unincorporated  
9 organization, any similar group, entity or any combination of the  
10 foregoing acting in concert.

11 B. No person or insurer shall directly or indirectly do any of  
12 the acts of an insurance business set forth in Sections 6103.1  
13 through 6103.11 of this title, except as provided by and in  
14 accordance with the specific authorization of statute. In respect  
15 to the insurance of subjects resident, located or to be performed  
16 within this state, this section shall not prohibit the collection of  
17 premium or other acts performed outside of this state by persons or  
18 insurers authorized to do business in this state provided such  
19 transactions and insurance contracts otherwise comply with statute.

20 C. Any person which the Insurance Commissioner has reason to  
21 believe is doing any of the acts specified in Section 6103.2 of this  
22 title, upon written request by the Commissioner, shall immediately  
23 provide to the Commissioner such information as requested in  
24 relation to such acts.

1 D. A person or entity who violates any provision of Sections  
2 6103.1 through 6103.11 of this title is subject to a civil penalty  
3 of not more than Ten Thousand Dollars (\$10,000.00) for each act of  
4 violation and for each day of violation to be recovered as provided  
5 in this section.

6 E. Whenever the Commissioner has reason to believe or it  
7 appears that any person or insurer has violated or is threatening to  
8 violate any provision of Sections 6103.1 through 6103.11 of this  
9 title or any rule promulgated pursuant thereto, or that any person  
10 or insurer acting in violation of Sections 6103.1 through 6103.11 of  
11 this title has engaged in or is threatening to engage in any unfair  
12 method of competition or any unfair or deceptive act or practice as  
13 defined by Section 1201 et seq. of this title or any rule  
14 promulgated pursuant thereto, the Commissioner may:

- 15 1. Issue an ex parte cease and desist order under the  
16 procedures provided by Sections 6103.5 and 6103.6 of this title;
- 17 2. Institute in the district court of Oklahoma County a civil  
18 suit for injunctive relief to restrain the person from continuing  
19 the violation or threat of violation;
- 20 3. Institute in the district court of Oklahoma County a civil  
21 suit to recover a civil penalty as provided for in this section; or
- 22 4. Exercise any combination of the acts provided for in this  
23 subsection.

1 F. On application for injunctive relief and a finding that a  
2 person is violating or threatening to violate any provision of  
3 Sections 6103.1 through 6103.11 of this title, the district court  
4 shall grant the injunctive relief and the injunction shall be issued  
5 without bond.

6 G. The remedies provided in Sections 6103.1 through 6103.11 of  
7 this title for administrative action against unauthorized insurers  
8 shall also apply to unauthorized individuals or persons engaged in  
9 the business of bail bonds or any other business which is subject to  
10 the jurisdiction of the Insurance Commissioner.

11 H. This section shall not be construed to limit the Insurance  
12 Commissioner to the remedies specified herein. It is the intent of  
13 the Legislature that persons engaging in the business of insurance,  
14 or any other business for which authorization from the Insurance  
15 Commissioner is required, without statutory authorization constitute  
16 an imminent peril to the public welfare and should immediately be  
17 stopped and enjoined from doing so, provided, the Insurance  
18 Commissioner and the State of Oklahoma should be able to choose at  
19 any time any available remedy or action to bring about such a result  
20 without regard to prior proceedings under this section.

21 SECTION 14. AMENDATORY 36 O.S. 2011, Section 6811, is  
22 amended to read as follows:

23 Section 6811. A. ~~An~~ The Insurance Commissioner may require  
24 that an insuring entity or self-insured entity shall file, between

1 ~~January 1 and March 15 of each year,~~ a closed claim report. These  
2 reports shall be filed within thirty (30) days after the  
3 Commissioner's request and shall include data for all claims closed  
4 in the preceding calendar year and ~~any adjustments to data reported~~  
5 ~~in prior years~~ other information required by the Commissioner.

6 B. Any violation by an insurer of the Medical Professional  
7 Liability Insurance Closed Claim Reports Act shall subject the  
8 insurer to discipline including a civil penalty of not less than  
9 Five Thousand Dollars (\$5,000.00).

10 C. ~~Every insuring entity or self-insurer that provides medical~~  
11 ~~professional liability insurance to any facility or provider in this~~  
12 ~~state shall report each medical professional liability closed claim~~  
13 ~~to the Insurance Commissioner.~~

14 ~~D.~~ A closed claim that is covered under a primary policy and  
15 one or more excess policies shall be reported only by the insuring  
16 entity that issued the primary policy. The insuring entity that  
17 issued the primary policy shall report the total amount, if any,  
18 paid with respect to the closed claim, including any amount paid  
19 under an excess policy, any amount paid by the facility or provider,  
20 and any amount paid by any other person on behalf of the facility or  
21 provider.

22 ~~E.~~ D. If a claim is not covered by an insuring entity or self-  
23 insurer, the facility or provider named in the claim shall report it  
24 to the Commissioner after a final claim disposition has occurred due



1 to a court proceeding or a settlement by the parties. Instances in  
2 which a claim may not be covered by an insuring entity or self-  
3 insurer include situations in which:

4 1. The facility or provider did not buy insurance or maintained  
5 a self-insured retention that was larger than the final judgment or  
6 settlement;

7 2. The claim was denied by an insuring entity or self-insurer  
8 because it did not fall within the scope of the insurance coverage  
9 agreement; or

10 3. The annual aggregate coverage limits had been exhausted by  
11 other claim payments.

12 ~~F.~~ E. If a claim is covered by an insuring entity or self-  
13 insurer that fails to report the claim to the Commissioner, the  
14 facility or provider named in the claim shall report it to the  
15 Commissioner after a final claim disposition has occurred due to a  
16 court proceeding or a settlement by the parties.

17 1. If a facility or provider is insured by a risk retention  
18 group and the risk retention group refuses to report closed claims  
19 and asserts that the federal Liability Risk Retention Act (95 Stat.  
20 949; 15 U.S.C. Sec. 3901 et seq.) preempts state law, the facility  
21 or provider shall report all data required by the Medical  
22 Professional Liability Insurance Closed Claim Reports Act on behalf  
23 of the risk retention group.

24

1           2. If a facility or provider is insured by an unauthorized  
2 insurer and the unauthorized insurer refuses to report closed claims  
3 and asserts a federal exemption or other jurisdictional preemption,  
4 the facility or provider shall report all data required by the  
5 Medical Professional Liability Insurance Closed Claim Reports Act on  
6 behalf of the unauthorized insurer.

7           3. If a facility or provider is insured by a captive insurer  
8 and the captive insurer refuses to report closed claims and asserts  
9 a federal exemption or other jurisdictional preemption, the facility  
10 or provider shall report all data required by the Medical  
11 Professional Liability Insurance Closed Claim Reports Act on behalf  
12 of the captive insurer.

13           SECTION 15.           REPEALER           36 O.S. 2011, Sections 924.4, as  
14 amended by Section 1, Chapter 44, O.S.L. 2012 and 924.5, as amended  
15 by Section 2, Chapter 44, O.S.L. 2012 (36 O.S. Supp. 2014, Sections  
16 924.4 and 924.5), are hereby repealed.

17           SECTION 16. This act shall become effective November 1, 2015.

18  
19           55-1-1407           CD           2/12/2015 10:58:47 AM

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