

No. 193, S.]

[Published June 3, 1961.

**CHAPTER 94**

AN ACT to amend 204.31 (2) (a) 7, (3) (a) 2, (10) and 204.33; to repeal and recreate 204.32; and to create 204.31 (2) (a) 8 and (3) (a) 9.c, 204.321 and 204.322 of the statutes, relating to certain required and optional provisions in individual accident and sickness insurance policies and to franchise, group and blanket accident and sickness insurance.

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

SECTION 1. 204.31 (2) (a) 7 of the statutes is amended to read:

204.31 (2) (a) 7. It contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner \* \* \* ;

SECTION 2. 204.31 (2) (a) 8 of the statutes is created to read:

204.31 (2) (a) 8. There is printed on the first page thereof an appropriately captioned provision or there is attached thereto an appropriately titled notice to the effect that the person to whom the policy is issued shall be permitted to return the policy within 10 days from the

date he received it and to have the premium paid, including any policy fee or other charge, refunded if, after examination of the policy, he is not satisfied with it for any reason. If such person returns such policy to the insurer at its home or branch office or to the agent through whom it was purchased, such policy shall be void and the parties shall be in the same position as if no policy had been issued. This subdivision shall not apply to single premium nonrenewable policies insuring against accidents only or accidental bodily injuries only.

SECTION 3. 204.31 (3) (a) 2 of the statutes is amended to read:

204.31 (3) (a) 2. a. After \* \* \* 2 years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such 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 such \* \* \* 2-year period. (The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial \* \* \* 2-year period, nor to limit the application of \* \* \* *par.* (b) 1, 2, 3, 4 and 5 in the event of misstatement with respect to age or occupation or other insurance.)

am. A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium until at least age 50 or, in the case of a policy issued after age 44, for at least 5 years from its date of issue, may contain in lieu of the provisions in \* \* \* *subd.* 2. a. the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "INCONTESTABLE": After this policy has been in force for a period of \* \* \* 2 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 \* \* \* 2 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.

SECTION 4. 204.31 (3) (a) 9. c of the statutes is created to read:

204.31 (3) (a) 9. c. Notwithstanding the provisions of this section regarding payment of claims provisions, a policy otherwise written in accordance with this section which includes benefits payable on account of hospital, nursing, medical or surgical services rendered to or for an insured person may contain a provision, in lieu of the provision contained in the last paragraph of *subd.* 9. b., providing for the direct payment of such benefits as permitted in s. 204.33.

SECTION 5. 204.31 (10) of the statutes is amended to read:

204.31 (10) A policy, rider or endorsement \* \* \* which could have been lawfully used or delivered or issued for delivery to any person in this state immediately before \* \* \* *January 2, 1961*, may be used or delivered or issued for delivery to any such person during 2 years after said date without being subject to \* \* \* this section.

SECTION 6. 204.32 of the statutes is repealed and recreated to read:

204.32 FRANCHISE ACCIDENT AND SICKNESS INSURANCE.

(1) Franchise accident and sickness insurance is declared to be that form of accident and sickness insurance described in s. 201.04 (4) 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 bylaws, and formed in good faith for purposes other than that of obtaining insurance, where such employes, members or employees of members with or without their dependents are covered under individual policies of insurance, under an arrangement whereby the premiums 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. The term "employes" as used herein is 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.

(2) Any insurance company authorized to write accident and sickness insurance in this state may issue franchise accident and sickness policies.

(3) Notwithstanding any provision in the statutes in conflict herewith, insurers may be permitted to file, for use in connection with franchise accident and sickness 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 unfairly discriminate between franchise groups.

(4) Policy, application, rider and endorsement forms and premium schedules to be used in connection with franchise accident and sickness insurance shall be subject to the requirements of s. 204.31.

SECTION 7. 204.321 of the statutes is created to read:

204.321 GROUP ACCIDENT AND SICKNESS INSURANCE. (1) DEFINITION. Group accident and sickness insurance is hereby declared to be that form of accident and sickness insurance described in s. 201.04 (4) 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:

(a) 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" includes elected or appointed officials; or

(b) An association, including a labor union, which has a constitution and bylaws 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 employees 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

(c) 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 par. (b), 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 "employees" as used herein may include the officers, managers and employees of the employer, and the individual proprietor or partners if the employer is an individual proprietor or partnership. The term "employees" as used herein may include retired employees. The policy may provide that the term "employees" includes the trustees or their employees, or both, if their duties are principally connected with such trusteeship; or

(d) 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

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

(2) POLICY PROVISIONS. (a) Each group accident and sickness policy shall contain in substance the following provisions, or provisions which in the opinion of the commissioner are more favorable to the persons insured or the beneficiaries, or at least as favorable to the persons insured or the beneficiaries and the policyholder:

1. That, 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 avoid 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. That no change in the policy shall be valid until approved by an executive officer of the insurer and unless such approval is endorsed on or attached to the policy and that no agent has authority to change the policy or to waive any of its provisions; and

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

4. That to the group originally insured may be added from time to time eligible new employes or members or dependents, as the case may be, in accordance with the terms of the policy; and

5. That the policyholder is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the coverage shall continue in force, unless the policyholder has given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period; and

6. That no statement, except fraudulent misstatements, made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of 2 years during such person's lifetime; and

7. The renewal terms applicable to the policy; and

8. The conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage; and

9. The applicable requirements regarding an individual's eligibility for coverage under the policy; and

10. The conditions under which an individual's coverage terminates under the policy.

(b) Each group accident and sickness policy shall, subject to s. 204.31 (3) (a) and (c), contain the provisions set forth in s. 204.31 (3) (a) 5, 7, 8, 9, 11 and 12.

(c) Any group accident and sickness policy may also provide that all or any portion of any indemnities provided by such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital, physician or other institution 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.

(3) FILING PROCEDURE. (a) No group accident and sickness policy shall be issued or delivered in this state, nor shall any application, rider, endorsement or certificate be used in connection therewith, until a copy of the form thereof has been filed with the commissioner, nor until the expiration of 30 days after it has been so filed, unless the commissioner shall sooner give his written approval thereto.

(b) The commissioner may, within 30 days after the filing of such form, disapprove such form if it does not comply with the requirements of law or if it contains a provision which is unjust, unfair, inequitable, misleading, or deceptive, or encourages misrepresentation of such policy. If the commissioner notifies the insurer that the form does not comply with this subsection, it is unlawful thereafter for such insurer to issue or use such form. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer.

(c) The commissioner may at any time, after a hearing on not less than 20 days' written notice to the insurer, withdraw his approval of any such form on any of such grounds. It is unlawful for the insurer to issue such form or use it after the effective date of such withdrawal of approval.

(d) Notice of all hearings shall specify the matters to be considered, and each decision affirming disapproval or directing withdrawal of approval shall be in writing and shall specify the reasons.

(e) No such policy shall be issued or delivered in this state unless a schedule of the premium rates pertaining to such form has been filed with the commissioner.

(4) GROUP CREDIT ACCIDENT AND SICKNESS INSURANCE. (a) A master policy for credit accident and sickness insurance, as defined in s. 201.04 (4a), may be issued to a creditor, subject to the requirements of subs. (1) (d) and (e), (2) (a) and (b), and (3) (e), to cover a class or classes of debtors who become indebted to said creditor. References to an employer or association shall apply to a creditor; and references to an employe or member shall apply to a debtor.

(b) Group credit accident and sickness policies shall also be subject to the requirements of s. 204.31 (3) (g).

(5) EFFECTIVE DATE. A policy, certificate, rider or endorsement which could have been lawfully delivered or issued for delivery to any person in this state immediately before January 1, 1961, may be delivered or issued for delivery to any such person during 2 years after said date without being subject to this section.

SECTION 8. 204.322 of the statutes is created to read:

204.322 BLANKET ACCIDENT AND SICKNESS INSURANCE.

(1) DEFINITION. Blanket accident and sickness insurance is hereby de-

clared to be that form of accident and sickness insurance described in s. 201.04 (4) covering groups of persons under a policy or contract issued:

(a) 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

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

(c) 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 employes may be included; or

(d) 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

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

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

(2) POLICY PROVISIONS. (a) Each blanket accident and sickness policy shall contain in substance the following provisions, or provisions which in the opinion of the commissioner are more favorable to the persons insured or the beneficiaries, or at least as favorable to the persons insured or the beneficiaries and the policyholder:

1. That the policy, including the endorsements and the attached papers, if any, and the application of the policyholder shall constitute the entire contract between the parties, and that all statements made by the policyholder shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall be used in defense to a claim under the policy unless it is contained in a written application, a copy of which is attached to the policy; and

2. That no change in the policy shall be valid until approved by an executive officer of the insurer and unless such approval is endorsed on or attached to the policy and that no agent has authority to change the policy or to waive any of its provisions; and

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

4. That the policyholder is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the coverage shall continue in force, unless the policyholder has given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period; and

5. The renewal terms applicable to the policy; and

6. The applicable requirements regarding an individual's eligibility for coverage under the policy; and

7. The conditions under which an individual's coverage terminates under the policy.

(b) Each blanket accident and sickness policy shall, subject to s. 204.31 (3) (a) and (c), contain the provisions set forth in s. 204.31 (3) (a) 5, 6, 7, 8, 9, 10, 11 and 12.

(c) All benefits under a blanket accident and sickness policy shall be payable in accordance with the payment of claims provision contained in s. 204.31 (3) (a) 9 except: if the person insured is 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. The policy may also 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, physician, or other institution 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.

(3) **INDIVIDUAL APPLICATION.** An individual application shall not be required from a person to be covered under a blanket accident and sickness policy, except that an individual enrollment form which would not be subject to underwriting by the insurer may be used in connection with such a policy.

(4) **CERTIFICATE.** It is not necessary for an insurer to furnish each person insured under a blanket accident and sickness policy with an individual certificate of insurance. In the event certificates are to be issued in connection with such policy, each such certificate shall set forth a summary of the essential features of the insurance coverage of such person.

(5) **FILING PROCEDURE.** (a) No blanket accident and sickness policy shall be issued or delivered in this state, nor shall any application, rider, endorsement or certificate be used in connection therewith, until a copy of the form thereof has been filed with the commissioner, nor until the expiration of 30 days after it has been so filed, unless the commissioner shall sooner give his written approval thereto.

(b) The commissioner may, within 30 days after the filing of such form, disapprove such form if it does not comply with the requirements of law or if it contains a provision which is unjust, unfair, inequitable, misleading, or deceptive, or encourages misrepresentation of such policy. If the commissioner notifies the insurer that the form does not comply with this subsection, it is unlawful thereafter for such insurer to issue or use such form. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer.

(c) The commissioner may at any time, after a hearing on not less than 20 days' written notice to the insurer, withdraw his approval of any such form on any of such grounds. It is unlawful for the insurer to issue such form or use it after the effective date of such withdrawal of approval.

(d) Notice of all hearings shall specify the matters to be considered, and each decision affirming disapproval or directing withdrawal of approval shall be in writing and shall specify the reasons.

(e) No such policy shall be issued or delivered in this state unless a schedule of the premium rates pertaining to such form has been filed with the commissioner.

(6) **EFFECTIVE DATE.** A policy, certificate, rider or endorsement which could have been lawfully delivered or issued for delivery to any person in this state immediately before January 1, 1961, may be delivered or issued for delivery to any such person during 2 years after said date without being subject to this section.

SECTION 9. 204.33 of the statutes is amended to read:

204.33 Any policy providing \* \* \* *accident and sickness* insurance which includes benefits payable on account of hospital, *nursing*, medical or surgical services rendered to or for an insured, including an employe or other member of any group insured by such policy, his or her spouse, child or children, or other dependents, may also provide that any such benefits be paid by the insurer directly to the hospital, physician, or other institution or person furnishing services covered by such provisions of the policy \* \* \* ; *but the policy may not require that the service be rendered by a particular hospital or person.*

Approved May 31, 1961.

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