

Regular Session, 2014

SENATE BILL NO. 281

BY SENATOR BROWN

INSURANCE DEPARTMENT. Provides with respect to insurance anti-fraud plans.  
(8/1/14)

1 AN ACT

2 To amend and reenact R.S. 22:572.1, relative to insurance anti-fraud plan; to provide with  
3 respect to an exemption for small companies from the requirement to prepare,  
4 implement, maintain, and file with the commissioner an insurance anti-fraud plan;  
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:572.1 is hereby amended and reenacted to read as follows:

8 §572.1. Insurance anti-fraud plan

9 A. Each authorized insurer, other than a "small company" as defined in  
10 R.S. 22:46, and each health maintenance organization licensed to operate in this state  
11 shall prepare, implement, ~~and maintain,~~ and file with the commissioner an  
12 insurance anti-fraud plan for ~~the insurer's or health maintenance organization's~~ its  
13 operations in this state.

14 B. The insurance anti-fraud plan ~~utilized by each authorized insurer and each~~  
15 ~~health maintenance organization in this state shall be filed with the commissioner of~~  
16 ~~insurance and~~ required by Subsection A of this Section shall outline specific  
17 procedures, actions, and safeguards that ~~are applicable, relevant, and appropriate to~~

1       ~~the type of insurance the authorized insurer writes or the type of coverage offered by~~  
2       ~~the health maintenance organization in this state and shall include how the authorized~~  
3       insurer or health maintenance organization will **do each of the following**:

4               (1) Detect, investigate, and prevent all forms of insurance fraud, including  
5       fraud involving ~~the insurer's or health maintenance organization's~~ **its** employees or  
6       agents; fraud resulting from misrepresentations in the application, renewal, or rating  
7       of insurance policies; fraudulent claims; and **breach of** security of ~~the insurer's or~~  
8       ~~health maintenance organization's~~ **its** data processing systems.

9               (2) Educate ~~appropriate~~ employees on fraud detection and the ~~insurer's or~~  
10       ~~health maintenance organization's~~ **insurance** anti-fraud plan.

11              (3) Provide for fraud investigations, whether through the use of internal fraud  
12       investigators or third-party contractors.

13              (4) Report a suspected fraudulent insurance act, as defined by R.S.  
14       22:1923~~(1)~~**(2)**, to the Department of Insurance as well as ~~appropriate~~ law  
15       enforcement and other regulatory authorities engaged in the investigation and  
16       prosecution of insurance fraud.

17              (5) Pursue restitution for financial loss caused by insurance fraud; ~~when~~  
18       ~~applicable, relevant, and appropriate.~~

19              C. The commissioner shall review the insurance anti-fraud plan submitted by  
20       ~~each authorized insurer and each health maintenance organization~~ **pursuant to**  
21       **Subsection A of this Section** to determine compliance with the requirements of this  
22       Section.

23              D. The commissioner ~~shall have the authority to~~ **may** investigate and  
24       examine the records and operations of ~~each~~ authorized insurers and ~~each~~ health  
25       maintenance organizations to determine if ~~the insurer or health maintenance~~  
26       ~~organization has~~ **they have** implemented and ~~maintained compliance~~ **complied** with  
27       the insurance anti-fraud plan.

28              E. The commissioner is ~~authorized to~~ **may** direct ~~any authorized insurer or~~  
29       ~~health maintenance organization to make~~ any modification to the insurer's or health

1 ~~maintenance organization's insurance anti-fraud plan necessary to obtain and~~  
 2 ~~maintain compliance~~ **comply** with the requirements of this Section, and the  
 3 commissioner may require ~~any other reasonable remedial action to the insurer's or~~  
 4 ~~health maintenance organization's insurance anti-fraud plan if the investigation and~~  
 5 ~~examination reveals~~ **remedy** substantial noncompliance ~~by the insurer or health~~  
 6 ~~maintenance organization with the terms of the insurer's or health maintenance~~  
 7 ~~organization's insurance anti-fraud plan.~~

8 F. The **insurance** anti-fraud plan and any summary report shall be filed with  
 9 the commissioner on or before April first of each calendar year. Either on a calendar  
 10 year basis or ~~on whatever~~ **such** other interval ~~he~~ **the commissioner** deems  
 11 appropriate, the commissioner ~~is authorized to~~ **may** require that each authorized  
 12 insurer and each health maintenance organization file a summary report of any  
 13 material change to the insurance anti-fraud plan, including the total number of claims  
 14 and the number of claims referred to the commissioner as suspicious, and the  
 15 commissioner ~~is authorized to direct each insurer and each health maintenance~~  
 16 ~~organization as to~~ **may prescribe** the format of the summary report.

17 G. The insurance anti-fraud plan ~~submitted to the department, as well as the~~  
 18 ~~summary report of the insurer's or health maintenance organization's insurance anti-~~  
 19 ~~fraud activities and results,~~ **and any summary report required by this Section** are  
 20 not public records and are exempt pursuant to R.S. 44:1 et seq., and specifically R.S.  
 21 44:4.1(B)~~(10)~~**(11)**, shall be and are hereby declared to be ~~company~~ proprietary and  
 22 ~~business~~ confidential **business** records ~~and~~ not subject to public examination or  
 23 subpoena.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Cheryl Horne.

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#### DIGEST

Brown (SB 281)

Present law requires each authorized insurer and each health maintenance organization licensed to operate in this state to prepare, implement, and maintain an insurance anti-fraud plan for operations in the state.

Proposed law exempts a small company as defined in present law from the requirement to

have an anti-fraud plan.

Proposed law provides for technical changes.

Effective August 1, 2014.

(Amends R.S. 22:572.1)