

SENATE BILL NO. 29

BY SENATORS ABRAHAM AND JOHNS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To enact R.S. 22:11(C), relative to the commissioner of insurance; to authorize the commissioner to take certain emergency actions related to insurance; to provide for limitations on these emergency actions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:11(C) is hereby enacted to read as follows:

§11. Rules and regulations by commissioner

\* \* \*

**C.(1) When the governor declares a state of emergency pursuant to R.S. 29:724 or a public health emergency pursuant to R.S. 29:766, the commissioner may issue emergency rules or regulations that address any of the following related to insurance policies or health maintenance organization contracts in this state:**

**(a) Medical coverage relative to each of the following:**

**(i) Removal of telehealth and telemedicine access restraints.**

**(ii) Suspension of physician credentialing requirements.**

**(iii) Expansion of remote access to pharmaceutical drugs.**

**(b) Grace periods for payment of premiums and performance of other obligations by insurers or insureds. For health and accident insurance and health maintenance organizations, the commissioner may implement a grace period not to exceed sixty days during which the commissioner shall be strictly limited to requiring health insurers to pend all subsequent claims until any arrearages are corrected or the product is permissibly cancelled or nonrenewed at the end of the grace period. The commissioner may require prior notice to providers as a prerequisite for nonpayment of claims. In the event arrearages are not corrected within the duration of the grace period and the product is**

1 permissibly cancelled or nonrenewed, a healthcare provider may seek payment  
2 for any medical services that were rendered by the healthcare provider but  
3 pending by the insurer directly from the insured.

4 (c) Temporary postponement of involuntary cancellation or nonrenewal  
5 by the insurer.

6 (2) An action pursuant to Paragraph (1) of this Subsection shall specify  
7 all of the following:

8 (a) The kinds of insurance, as defined in R.S. 22:47, affected.

9 (b) The geographic areas to which the emergency rule or regulation  
10 applies, which may be less extensive but shall not be more extensive than the  
11 geographic areas in the governor's emergency declaration.

12 (c) The effective dates of the emergency rule or regulation, which shall  
13 not exceed the period of the governor's emergency declaration including any  
14 extensions or an earlier termination of the state of emergency.

15 (3) Any emergency rules or regulations issued by the commissioner  
16 pursuant to this Subsection shall be subject to legislative oversight in  
17 accordance with R.S. 49:950, et seq. and all of the following:

18 (a) If the commissioner finds that an imminent peril to the public health,  
19 safety, or welfare requires adoption of a rule upon shorter notice than that  
20 provided in R.S. 49:953(A) and within five days of adoption states in writing to  
21 the governor of the state of Louisiana, the attorney general of Louisiana, the  
22 speaker of the House of Representatives, the president of the Senate, and the  
23 office of the state register, the reasons for that finding, the commissioner may  
24 proceed without prior notice or hearing or upon any abbreviated notice and  
25 hearing that it finds practicable to adopt an emergency rule.

26 (b) The commissioner's statement of the reasons for finding it necessary  
27 to adopt an emergency rule shall include specific reasons why the failure to  
28 adopt the rule on an emergency basis would result in imminent peril to the  
29 public health, safety, or welfare, or specific reasons why the emergency rule  
30 meets other criteria provided in this Subsection for adoption of an emergency

1 rule.

2 (c) The commissioner's statement required in this Paragraph shall be  
3 submitted to the speaker of the House of Representatives and the president of  
4 the Senate at their respective offices in the state capitol by electronic  
5 transmission if such means are available. If electronic means are not available,  
6 the commissioner's statement shall be submitted to the office of the speaker of  
7 the House of Representatives and the president of the Senate in the state capitol  
8 by certified mail with the return receipt requested or by messenger who shall  
9 provide a receipt for signature. The return receipt, the receipt for signature, or  
10 the electronic confirmation receipt shall be proof of receipt of the  
11 commissioner's statement by the respective offices.

12 (d) Within sixty days after receipt of the commissioner's statement by the  
13 presiding officer of either house for an emergency rule, an oversight  
14 subcommittee of that house may conduct a hearing to review the emergency  
15 rule and make a determination of whether the emergency rule meets the criteria  
16 for an emergency rule and those determinations as provided in R.S.  
17 49:968(D)(3). If within that time period an oversight subcommittee finds an  
18 emergency rule unacceptable, it shall prepare a written report containing a  
19 copy of the proposed rule and a summary of the determinations made by the  
20 committee and transmit copies thereof as provided in R.S. 49:968(F)(2).

21 (e) Within sixty days after adoption of an emergency rule, the governor  
22 may review the emergency rule and make the determinations as provided in  
23 Subparagraph (d) of this Paragraph. If within this time period the governor  
24 finds an emergency rule unacceptable, he shall prepare a written report as  
25 provided in Subparagraph (d) of this Paragraph and transmit copies thereof to  
26 the commissioner and the Louisiana Register no later than four days after the  
27 governor makes his determination.

28 (f) Upon receipt by the commissioner of a report as provided in either  
29 Subparagraph (d) or (e) of this Paragraph, the rule shall be nullified and shall  
30 be without effect.

1           (g) Nothing in this Paragraph shall be construed to grant the  
 2           commissioner authority to issue emergency rules or regulations not otherwise  
 3           authorized by Paragraph (1) of this Subsection.

4           (4) No later than June 30, 2021, the commissioner shall promulgate, in  
 5           accordance with provisions of the Administrative Procedure Act, rules and  
 6           regulations to govern the business of insurance in the event of a declaration of  
 7           emergency. The rules and regulations promulgated by the commissioner shall  
 8           establish requirements related to insurance policies or health maintenance  
 9           contracts under the authority granted by Paragraph (1) of this Subsection.

10           (5)(a) Any rule adopted pursuant to the authority granted in  
 11           Subparagraph (1)(a) of this Subsection and governing medical coverage not  
 12           specifically enumerated therein shall be presented by the commissioner to the  
 13           Senate Insurance Committee and House Insurance Committee for review and  
 14           approval by either committee prior to adoption.

15           (b) Any temporary postponement of cancellation or nonrenewal  
 16           pursuant to Subparagraph (1)(c) of this Subsection shall not remain in effect  
 17           beyond sixty days unless presented by the commissioner to the Senate Insurance  
 18           Committee and House Insurance Committee for review and approval by either  
 19           committee prior to any extension.

20           (c) The House Committee on Insurance and the Senate Committee on  
 21           Insurance meeting jointly or separately to consider an emergency rule  
 22           promulgated pursuant to this Subsection may reject the rule or any provision  
 23           thereof, in which case the rejected rule or provision shall be nullified and shall  
 24           be without effect.

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 PRESIDENT OF THE SENATE

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 SPEAKER OF THE HOUSE OF REPRESENTATIVES

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 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_