

## **OPERATING PROCEDURE FOR THE USE OF COMPACT-APPROVED PRODUCTS FOR OTHER THAN EMPLOYER GROUPS**

### **§ 101. Purpose.**

Pursuant to Article X of the Model Interstate Insurance Product Regulation Compact (“Compact”), as enacted into law by each Compacting State, and Article III of the Bylaws of the Interstate Insurance Product Regulation Commission, this Operating Procedure (the "Rule") authorizes the Commission to establish appropriate filing and review processes and procedures for products approved by the Commission. The purpose of this Operating Procedure is to establish the procedures for filing and review of Product Filings which upon approval by the Interstate Insurance Product Regulation Commission (Commission) may be issued to Non-Employer Groups in the Compacting States. This Operating Procedure shall apply to require further action by a Compacting State, as applicable pursuant to each jurisdiction’s requirements, before a Product Filing approved by the Commission can be issued to a Non-Employer Group

### **§ 102. Definitions.**

- 1) The terms as defined in Article II of the Compact and in Section 102 of the Operating Procedure for the Filing and Approval of Product Filings shall have the same meaning in this Rule as if such definitions were set forth fully herein.
- 2) The term “Employer Group” for purposes of this Operating Procedure and the Uniform Standards is defined to include the following:
  - a) An employer, or the trustees of a fund established by an employer, which shall be deemed to be the policyholder to insure employees of the employer, and if applicable their dependents, for the benefit of persons other than the employer and must be authorized under the laws of the jurisdiction where the policy or certificate is delivered or issued for delivery;
  - b) Trusts or portability trusts established by the insurer and must be authorized under the laws of the jurisdiction where the policy or certificate is delivered or issued for delivery, and are for the sole purpose of continuing group coverage under another group policy that has been issued specifically for, and limited to, providing portability coverage when coverage under an Employer Group plan ends;
  - c) Labor unions, or similar employee organizations, which shall be deemed to be the policyholder, to insure members of the union or organization, and if applicable their dependents, for the benefit of persons other than the union or organization and must be authorized under the laws in the jurisdiction where the policy or certificate is delivered or issued for delivery; or
  - d) Professional Employer Organization” or “PEO” means a business entity that enters into agreements with other businesses, under which the PEO assumes or shares employment responsibilities for all or a significant number of the worksite employees of the other business, which PEO shall be deemed to be the policyholder, to insure employees, and if

applicable their dependents, for the benefit of persons other than the PEO and must be authorized under the laws in the jurisdiction where the policy or certificate is delivered or issued for delivery.

DRAFTING NOTE: The laws in the Compacting State where the policy or certificate is delivered or issued for delivery applies to whether the groups defined above are authorized to operating in the Compacting State. By categorizing these groups as “Employer Groups” for purposes of this Operating Procedure and Uniform Standards, there is no intent to create statutory definitions for these groups where none existing in the laws of the Compacting State where the policy or certificate is delivered or issued for delivery.

- 3) The term “Non-Employer Group” for purposes of this Operating Procedure and the Uniform Standards is defined to include group types that do not fall under the Employer Group definition provided that, in the exclusive determination of the State,
  - a) The eligibility and qualification for the group type is permitted under the laws of the state where the policy or certificate are delivered or issued for delivery.
  - b) The group shall not be formed solely for the purpose of providing or obtaining insurance.
  - c) The group has a substantive commonality of interests and purpose apart from, and independent of, providing or obtain insurance with the policyholder interests aligning more closely with the certificateholder than with the interests of the insurance company.
  - d) The term Non-Employer Group does not include creditor groups which are outside the scope of this Operating Procedure.
- 3) “Product Filing” means a Product, Rate or Advertisement, or combination thereof, submitted to the Commission for review in accordance with the Commission’s Rules and Operating Procedures.

**§ 103. Scope of Authority of Compact Approval of Group Product Filing**

- 1) A Product Filing approved by the Commission shall not be deemed as approval that the type of group meets the definition of an Employer Group or Non-Employer Group in Section 102 of this Operating Procedure.
- 2) The authority of whether a group fits the definition of an Employer Group or Non-Employer Group is subject to the exclusive determination of the State and governed by applicable state law in the jurisdiction where the policy or the certificate is delivered or issued for delivery.
- 3) A Product Filing approved by the Commission pursuant to the applicable group Uniform Standards may be issued to an Employer Group that meets the definition in Section 102(1) of this Operating Procedure.

- 4) A Non-Employer Group must be approved or permitted by the Compacting State as required under the applicable state laws and procedures before a Product Filing approved by the Commission pursuant to the applicable group Uniform Standards may be issued to a Non-Employer Group.

**DRAFTING NOTE: The laws in the Compacting State where the policy or certificate is delivered or issued for delivery applies to whether the groups defined above are authorized to operating in the Compacting State. By categorizing these groups as “Employer Groups” and “Non-Employer Groups” for purposes of this Operating Procedure and Uniform Standards, there is no intent to create statutory definitions for these groups where none existing in the laws of the Compacting State where the policy or certificate is delivered or issued for delivery.**

#### **§ 104. Compact Product Filing Requirements for Group Policies and Certificates Approved by the Commission and To Be Issued to Non-Employer Groups**

- 1) The Commission will review and approve group insurance products for compliance with Uniform Standards, which permit the use of variability and terminology to address differences among non-employer group types.
- 2) When an Insurer intends to issue a policy or certificate in a Product Filing approved by the Commission to a Non-Employer Group, the Insurer shall include in the Product Filing both of the following:
  - a. A certification that the Insurer has for the Non-Employer Group as applicable under the Compacting State’s filing laws and procedures before it issues the policy or certificate approved by the Commission in the Compacting State, and that the Insurer will administer the Product Filing only in accordance with the statement of intent.
  - b. A statement of intent to issue a policy or certificate in the Product Filing to a specific Non-Employer Group(s), which identifies the Compacting State(s) wherein the policy or certificate will be issued, and which sufficiently identifies for each Compacting State(s) the type of group and applicable state tracking information.
- 3) The Commission shall notify the representative(s) designated by the Compacting State(s) prior to approval of a Product Filing where the Compacting State is included and where the filer has indicated the policy or certificate will be issued to a Non-Employer Group.
- 4) The Compacting States shall provide, and the Commission shall publish, a listing of each Compacting State’s requirements for seeking authorization.
- 5) Before the Insurer can issue a policy or certificate in a Product Filing approved by the Commission to an additional Non-Employer Group, it shall update its statement of intent to include the added Non-Employer Groups and the original certification to seek authorization from the Compacting State(s) with respect to the Non-Employer Group shall apply.

**§ 105. State Law on Non-Employer Group Sales**

Nothing in this Operating Procedure shall be construed to preclude or limit the enforcement of any laws of a Compacting State regarding the legitimacy or authorization of a Non-Employer Group that is issuing a Product approved by the Commission.

**§ 104. Adoption and Effective Date.**

This Operating Procedure was adopted by the Commission on \_\_\_\_\_, pursuant to the procedures set forth in the Rule for Adoption, Amendment and Repeal of Rules for the Interstate Insurance Product Regulation Commission. This Operating Procedure is effective on \_\_\_\_\_.