SPONSOR: Rep. K. Williams & Rep. Phillips & Rep. Dorsey Walker & Sen. Mantzavinos & Sen. Walsh
Reps. Baumbach, Bush, Griffith, D. Short; Sens. Hansen, Hoffner, Sturgeon

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 156

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO PET INSURANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underlining as follows:

Chapter 88. Pet Insurance Act.

§ 8801. Short title.

This chapter is known and may be cited as the "Pet Insurance Act".

§ 8802. Scope and purpose.

(a) The purpose of this chapter is to promote the public welfare by creating a comprehensive legal framework within which pet insurance may be sold in Delaware.

(b) This chapter applies to all of the following:

(1) A pet insurance policy that is issued to a resident of Delaware.

(2) A pet insurance policy that is sold, solicited, negotiated, or offered in Delaware.

(3) A pet insurance policy or certificate that is delivered or issued for delivery in Delaware.

(c) An applicable provision of Delaware's insurance law other than under this chapter applies to pet insurance, except that a provision of this chapter supersedes a general provision of law that would otherwise be applicable to pet insurance.

§ 8803. Definitions; use of defined terms in policies.

(a) As used in this chapter:

(1) "Chronic condition" means a condition that can be treated or managed, but not cured.

(2) "Congenital anomaly or disorder" means a condition that is present from birth, whether inherited or caused by the environment, which may cause or contribute to illness or disease.

(3) "Hereditary disorder" means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

(4) "Orthopedic" refers to a condition affecting the bone, skeletal muscle, cartilage, tendon, ligament, or joint. "Orthopedic" includes elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, or ruptured cranial cruciate ligament. "Orthopedic" does not include a cancer or a metabolic, hemopoietic, or autoimmune disease.

(5) "Pet insurance" means a property insurance policy that provides coverage for accidents or illnesses, or both, of a pet.

(6) "Preexisting condition" means a condition for which any of the following are true prior to the effective date of a pet insurance policy or during a waiting period:

a. A veterinarian provided medical advice.

b. The pet received previous treatment.

c. Based on information from verifiable sources, the pet had signs or symptoms directly related to the condition for which a claim is being made.

(7) "Renewal" means to issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same pet insurer or affiliated pet insurer and which provides types and limits of coverage substantially similar to those contained in the policy being superseded.

(8) "Veterinarian" means an individual who holds a valid license to practice veterinary medicine from the appropriate licensing entity in the jurisdiction in which the individual practices.

(9) "Veterinary expenses" means the costs associated with medical advice, diagnosis, care, or treatment that a veterinarian provides, including the cost of a drug a veterinarian prescribes.

(10) "Waiting period" means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the policy can begin.

(11) "Wellness program" means a subscription or reimbursement-based program that is separate from an insurance policy that provides goods and services to promote the general health, safety, or wellbeing of a pet.

(b) If a pet insurer uses a term under this chapter in a policy of pet insurance, the pet insurer shall use the term's definition under this chapter and include the term's definition in the policy. The pet insurer shall make the definition available through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.

(c) Nothing in this chapter prohibits or limits the type of exclusion a pet insurer may use in the pet insurers' policy or require a pet insurer to have a limitation or exclusion under this chapter.

§ 8804. Disclosures.

(a) A pet insurer transacting pet insurance shall disclose all of the following to consumers:

(1) If the policy excludes coverage due to any of the following:

a. A preexisting condition.

b. A hereditary disorder.

c. A congenital anomaly or disorder.

d. A chronic condition.

(2) If the policy includes an exclusion other than those in paragraph (a)(1) of this section, the following statement: "Other exclusions may apply. Please refer to the exclusions section of the policy for more information.".

(3) A policy provision that limits coverage through a waiting period or affiliation period, or a deductible, coinsurance, or an annual or lifetime policy limit.

(4) If the pet insurer reduces coverage or increases premiums based on the insured's claim history, the age of the covered pet, or a change in the geographic location of the insured.

(5) If the underwriting company differs from the brand name used to market and sell the product.

(b) Right to examine and return policy.

(1) Unless the insured has filed a claim under a pet insurance policy, a pet insurance applicant has the right to examine and return the policy, certificate, or rider to the company or an agent or insurance producer of the company within 30 days of its receipt and to have the premium refunded if, after examination of the policy, certificate, or rider, the applicant is not satisfied for any reason.

(2) A pet insurance policy, certificate, or rider must have a notice prominently printed on or attached to the first page and include specific instruction to accomplish a return. The following free look statement or language substantially similar must be included: "You have 30 days from the day you receive this policy, certificate, or rider to review it and return it to the company if you decide not to keep it. You do not have to tell the company why you are returning it. If you decide not to keep it, simply return it to the company at its administrative office or you may return it to the agent or insurance producer that you bought it from as long as you have not filed a claim. You must return it within 30 days of the day you first received it. The company will refund the full amount of any premium paid within 30 days after it receives the returned policy, certificate, or rider. The premium refund will be sent directly to the person who paid it. The policy, certificate or rider will be void as if it had never been issued.".

(c) A pet insurer shall clearly disclose a summary description of the basis or formula on which the pet insurer determines a claim payment under a pet insurance policy within the policy, prior to policy issuance and through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.

(d) A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall do all of the following:

(1) Clearly disclose the applicable benefit scheduled in the policy.

(2) Disclose each benefit schedule that the pet insurer used under its pet insurance policy through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.

(e) A pet insurer that determines a claim payment under a pet insurance policy based on usual and customary fees, or another reimbursement limitation based on prevailing veterinary service provider charges, shall do all of the following:

(1) Include a usual and customary fee limitation provision in the policy that clearly describes the pet insurer's basis for determining usual and customary fees and how that basis is applied in calculating a claim payment.

(2) Disclose the pet insurer's basis for determining usual and customary fees through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.

(f) If a medical examination by a licensed veterinarian is required to effectuate coverage, the pet insurer shall clearly and conspicuously disclose the required aspects of the examination prior to purchase and disclose that examination documentation may result in a preexisting condition exclusion.

(g) A waiting period, and a requirement applicable to a waiting period, must be clearly and prominently disclosed to consumers prior to the policy purchase.

(h) A pet insurer shall include a summary of each policy provision required under subsections (a) through (g) of this section, inclusive, in a separate document titled "Insurer Disclosure of Important Policy Provisions".

(i) A pet insurer shall post the "Insurer Disclosure of Important Policy Provisions" document required under subsection (h) of this section through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.

(j) In connection with the issuance of a new pet insurance policy, the pet insurer shall provide the consumer with a copy of the "Insurer Disclosure of Important Policy Provisions" document required under subsection (h) of this section in at least 12-point type when the pet insurer delivers the policy.

(k) At the time a pet insurance policy is issued or delivered to a policyholder, the pet insurer shall include a written disclosure with all of the following information, printed in 12-point boldface type:

(1) The Department of Insurance's mailing address, toll-free telephone number, and website address.

(2) The address and customer service telephone number of the pet insurer or the agent or broker of record.

(3) If the policy was issued or delivered by an agent or broker, a statement advising the policyholder to contact the agent or broker for assistance.

(*l*) The disclosure required under this section is in addition to another disclosure requirement required by law or regulation.

§ 8805. Policy conditions.

(a)(1) A pet insurer may issue a policy that excludes coverage on the basis of 1 or more preexisting conditions with appropriate disclosure to the consumer. The pet insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which a claim is being made.

(2) A condition for which coverage is afforded on a policy may not be considered a preexisting condition on a renewal of the policy.

(b) A pet insurer may issue a policy that imposes a waiting period on effectuation of the policy that does not exceed 30 days for an illness or orthopedic condition not resulting from an accident. A waiting period for accidents is prohibited.

(1) A pet insurer utilizing a waiting period permitted under this subsection (b) shall include a provision in the contract that allows the waiting period to be waived upon completion of a medical examination. A pet insurer may require the examination to be conducted by a licensed veterinarian after the purchase of the policy.

a. The policyholder must pay for a medical examination under subsection (b) of this section, unless the policy specifies that the pet insurer must pay for the examination.

b. A pet insurer may specify an element to be included as part of the examination and require documentation thereof, but a specification may not unreasonably restrict a consumer's ability to waive a waiting period under subsection (b) of this section.

(2) A waiting period, and a requirement applicable to a waiting period, must be clearly and prominently disclosed to consumers prior to the policy purchase.

(3) A waiting period may not be applied to a renewal of existing coverage.

(c) A pet insurer may not require a veterinary examination of the covered pet for the insured to have the insured's policy renewed.

(d) If a pet insurer includes a prescriptive, wellness, or non-insurance benefit in the policy form, the benefit is made part of the policy contract and must follow applicable laws and regulations under Title 18.

(e) An insured's eligibility to purchase a pet insurance policy must not be based on participation, or lack of participation, in a separate wellness program.

§ 8806. Sales practices for wellness programs.

(a) A pet insurer or insurance producer may not market a wellness program as pet insurance.

(1) If a wellness program undertakes to indemnify or pay another as to loss from a certain specified contingency or peril, or to pay or grant a specified amount or determinable benefit in connection with an ascertainable risk contingency, the wellness program is transacting in the business of insurance and is subject to the insurance code.

(2) The definition for "wellness program" under § 8803 of this chapter does not classify a contract directly between a service provider and a pet owner that involves only the 2 parties as being "the business of insurance," unless another indication of insurance also exists.

(b) If a pet insurer or insurance producer sells a wellness program, all of the following apply:

(1) The purchase of the wellness program must not be a requirement to the purchase of pet insurance.

(2) The cost of the wellness program must be separate and identifiable from a pet insurance policy that a pet insurer or insurance producer sells.

(3) The terms and conditions for the wellness program must be separate from a pet insurance policy that a pet insurer or insurance producer sells.

(4) A product or coverage available through the wellness program may not duplicate a product or coverage available through the pet insurance policy.

(5) The advertising of the wellness program must not be misleading and must meet the requirements of subsection (b) of this section.

(6) A pet insurer or producer shall clearly disclose all of the following to consumers, printed in 12-point boldface type:

a. That a wellness program is not insurance.

b. The address and customer service telephone number of the pet insurer or insurance producer or broker of record.

c. The Department of Insurance's mailing address, toll-free telephone number, and website address.

(c) Coverage included in a pet insurance policy contract described as a "wellness" benefit is insurance.

§ 8807. Insurance producer training.

(a) An insurance producer may not sell, solicit, or negotiate a pet insurance product until after the producer is appropriately licensed and has completed the required training under subsection (c) of this section.

(b) An insurer must ensure that the insurer's insurance producer is trained under subsection (c) of this section and that the insurance producer is appropriately trained on the coverage and condition of the insurer's pet insurance product.

(c) Training required under this section must include information on all of the following:

(1) A preexisting condition and waiting period.

(2) The difference between pet insurance and a noninsurance wellness program.

(3) A hereditary disorder, congenital anomaly, or disorder and chronic condition and how a pet insurance policy interacts with the disorder, anomaly, or condition.

(4) Rating, underwriting, renewal and another related administrative topic.

(d) The satisfaction of the training requirement of another state that is substantially similar to subsection (c) of this section satisfy the training requirement under this chapter. The Commissioner shall determine whether the training of another state meets the requirements of this subsection.

§ 8808. Regulations.

The Insurance Commissioner may promulgate rules and regulations to administer this chapter.

§ 8809. Violations.

A violation of this chapter is subject to penalties under § 329 of this title.

SYNOPSIS

This Act establishes the comprehensive framework for the regulation of pet insurance transacted in Delaware. The Act reflects the adoption of the National Association of Insurance Commissioner's Pet Insurance Model Act, with adjustments made to conform the model act to the standards of the Delaware Legislative Drafting Manual, including using the singular tense of a word rather than the plural tense.