



## LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON  
COMMISSIONER

### DIRECTIVE 209

**TO: ALL LICENSED HEALTH AND ACCIDENT PRODUCERS**  
**FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE**  
**RE: PRODUCER AGENCY FEES ON INDIVIDUAL HEALTH INSURANCE PLANS**  
**DATE: OCTOBER 28, 2016**

It has been brought to my attention that health insurance producers are charging fees directly to consumers purchasing individual health insurance policies in violation of La. R.S. 22:855 B (2) (a) and 22:1568 (B). The purpose of this directive is to clarify that producers are prohibited from charging a fee on individual health insurance policies. A review of the statutes and the legislative history of Act 283 of the 2013 Regular Session of the Louisiana Legislature (Act 283) indicates that La. R.S. 22:855 B (2) (a) read in conjunction with 22:1568 (B) only apply to group health insurance plans and not individual plans. Specifically, La. R.S. 22:1568 (B) allows a producer to negotiate a charge, fee, or any other form of compensation directly with the plan sponsor or employer group. Furthermore, La. R.S. 22:1061 (5) (e)(i) defines “employer” as any person acting directly as an employer, or indirectly in the interest of an employer, in relation to an employee benefit plan, and *includes a group or association of employers* acting for an employer in such capacity. Additionally, La. R.S. 22:1061 (5) (l), defines plan sponsor as:

- (i) The employer in the case of a health benefit plan established or maintained by a single employer,
- (ii) The employee organization in the case of a plan established or maintained by an employee organization,
- (iii) In the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group or representatives of the parties who establish or maintain the plan.

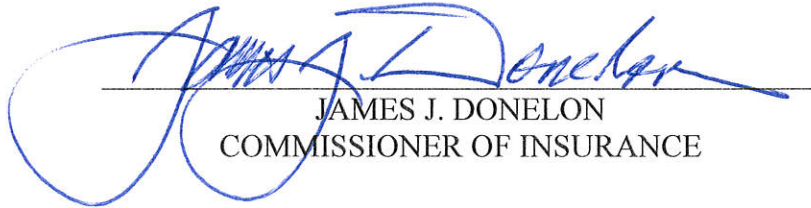
Thus, La. R.S. 22:1568 (B) clearly allows a producer to negotiate and charge agency fees to a plan sponsor or employer group of a group health insurance plan. Please refer to Advisory Letter No. 2014-01 issued on May 2, 2014 in which I previously advised the industry that prior to Act 283 producers were prohibited from charging an agency fee on health and accident policies under La. R.S. 22:855. However, Act 283’s enactment of La. R.S. 22:1568 (B) contemporaneously with the amendment of La. R.S. 22:855 (B) (2) (a) served to permit an agency fee on health and

accident policies in the limited arena of group health insurance plans to compensate producers for rendering services related to a group health insurance contract.

All health and accident producers are directed to bring their business practices into compliance with the purpose and intent of Directive 209.

Please be governed accordingly.

Baton Rouge, Louisiana this 28<sup>TH</sup> day of October, 2016



JAMES J. DONELON  
COMMISSIONER OF INSURANCE