

- c. socially-inappropriate behavior; and
- d. delusions or hallucinations.
- d.i. - e. Repealed.

3. In order for an individual to be approved under the behavior pathway, the individual must have either:

a. exhibited any one of the following behaviors four or more days of the screening tool's seven-day look-back period:

- i. wandering;
- ii. verbally abusive;
- iii. physically abusive; or
- iv. socially inappropriate or disruptive; or

b. exhibited any one of the following behaviors during the assessment tool's three-day look-back period and behavior(s) were not easily altered:

- i. wandering;
- ii. verbally abusive;
- iii. physically abusive; or
- iv. socially inappropriate or disruptive; or

c. experienced delusions or hallucinations that impacted his/her ability to live independently in the community within the specific screening/assessment tool's look-back period.

J. Service Dependency Pathway

1. The intent of this pathway is to identify individuals who are currently in a nursing facility or receiving services through the Adult Day Health Care Waiver, the Community Choices Waiver, Program of All Inclusive Care for the Elderly (PACE) or receiving long-term personal care services.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:342 (January 2011), amended LR 39:1471 (June 2013), LR 41:1289 (July 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:2187 (November 2017).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Rebekah E. Gee MD, MPH
Secretary

1711#070

RULE

Department of Insurance Office of the Commissioner

Regulation 108—Investigation of Discrimination Complaints (LAC 37:XIII.Chapter 151)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has adopted Regulation 108—Investigation

of Discrimination Complaints. The purpose of Regulation 108 is to establish procedures for receiving and investigating discrimination complaints, pursuant to subpart C of chapter 1 of title 22 of the *Revised Statutes* (R.S. 22:31 et seq., “equal opportunity in insurance”).

R.S. 22:31(A) creates within the Department of Insurance a Division of Diversity and Opportunity. R.S. 22:31(C) provides that the “division of diversity and opportunity shall review all complaints alleging a violation of the provisions of this Subpart.” These complaints include employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.), as provided in R.S. 22:31(C) and 33, and other types of discrimination defined in R.S. 22:34 and 35.

R.S. 22:32(B) provides that the “commissioner of insurance shall promulgate rules and regulations to implement this Subpart” and R.S. 22:35(C) provides that the “commissioner of insurance shall promulgate rules and regulations necessary for the enforcement of this Section.”

Title 37

INSURANCE

Part XIII. Regulations

Chapter 151. Regulation 108—Investigation of Discrimination Complaints

§15101. Authority

A. This regulation is promulgated by the commissioner of insurance pursuant to authority granted under subpart C of chapter 1 of title 22 of the *Revised Statutes* (R.S. 22:31 et seq., “equal opportunity in insurance”), which provides the following:

1. the Department of Insurance Division of Diversity and Opportunity shall review all complaints alleging a violation of the provisions of R.S. 22:31 et seq.;

2. the commissioner of insurance shall promulgate rules and regulations to implement R.S. 22:31 et seq.; and

3. the commissioner of insurance shall promulgate rules and regulations necessary for the enforcement of R.S. 22:35.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2189 (November 2017).

§15103. Purpose, Scope, and Applicability

A. The purpose of this regulation is to implement the provisions of R.S. 22:31 et seq., which prohibit discrimination within the business of insurance, mandate the review and disposition of all complaints alleging a violation of R.S. 22:31 et seq., and require the commissioner to promulgate rules and regulations to implement R.S. 22:31 et seq.

B. This regulation sets forth procedures through which complaints concerning the following types of discrimination shall be received and investigated:

1. employment discrimination prohibited by Part IV of Chapter 3-A of Title 23 (R.S. 23:331 et seq.), as provided in R.S. 22:31(C) and R.S. 22:33; and

2. pursuant to R.S. 22:34, the making or permitting of any unfair discrimination in favor of particular persons or between insureds or subjects of insurance having

substantially like insuring risk and exposure factors or expense elements:

- a. in the terms or conditions of any insurance contract;
- b. in the rate or amount of premium charged therefor;
- c. in the benefits payable thereunder; or
- d. in any other rights or privileges accruing thereunder;

e. Paragraph B.2 of this Section shall not prohibit fair discrimination by a life insurer as between individuals having unequal life expectancies;

3. pursuant to R.S. 22:35, the refusal to issue or the failure to renew any policy or contract of property and casualty insurance to a person, solely because of the race of the applicant or the economic condition of the area in which the property sought to be insured is located, unless such refusal to issue or failure to renew is based on sound actuarial principles or is related to actual experience.

C. Every insurer transacting business in this state shall be subject to this regulation.

D. This regulation shall not preclude or in any way limit the personal rights of action of any person against any insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2189 (November 2017).

§15105. Definitions

A. For the purposes of this regulation, these terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Affirmative Action Plan—a document that contains a stated purpose of the insurer to foster equal opportunities for minorities and the delineation of active steps and efforts by the insurer reasonably calculated to achieve the stated purpose.

Department—Department of Insurance.

Individual—a natural person.

Insurer—as defined in R.S. 22:46.

Person—any individual, company, insurer, association, organization, reciprocal or inter-insurance exchange, partnership, business, trust, limited liability company, or corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2190 (November 2017).

§15107. Eligibility; Filing a Complaint

A. Any person may file a complaint regarding any action taken by an insurer that is alleged to be the result of an insurer's engagement in discrimination as described in §15103.B of this Part. Complaints may be filed by mail, facsimile, or by using the department's consumer complaint form, available upon request from the department or on the department's website.

B. Every complaint alleging unlawful discrimination as described in §15103.B of this Part shall be filed for review with the department in written form within one year of the date the discrimination alleged was known or should have been known to the complainant.

C. Each written complaint shall state specifically the discrimination alleged to have occurred, in sufficient detail to enable the Division of Diversity and Opportunity to understand what occurred, when it occurred, and the basis of the alleged discrimination. The complaint should also contain the names and other identifying information of each party involved and any other supporting documentation relevant to the complaint.

D. When a complaint is filed by a producer, a claims adjuster, or employee of an insurer, the commissioner shall not disclose to the insurer the identity of the complainant without his or her consent. If it is determined that such disclosure is required for an administrative proceeding or other court proceeding based upon the findings of the investigation, or if such disclosure is in the interest of due process and necessary to the insurer's investigation of the complaint, then the commissioner shall notify the complainant prior to disclosure of his or her identity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2190 (November 2017).

§15109. Notification of Insurer; Responses of Insurer

A. After receipt of a complaint, the Division of Diversity and Opportunity shall notify the insurer against whom the complaint was filed. Notice to the insurer shall state the nature of the complaint and shall request that the insurer file a written response to the allegations of discrimination. The Division of Diversity and Opportunity shall submit such notice to the contact person designated by the insurer to respond to inquiries from minority groups pursuant to R.S. 22:31(A)(2).

B. Within 20 days of receipt of the notice of complaint, unless provided an extension of time by the division, the insurer shall file a written response to the allegations. The insurer's response shall be filed by mail, facsimile, or electronically. The response filed by the insurer shall respond to each complaint of discrimination alleged to have occurred. As part of the response, the insurer may submit any affirmative action plan that was in effect at the time of the alleged violation.

C. Failure of the insurer to respond timely shall result in a fine pursuant to R.S. 22:1995.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2190 (November 2017).

§15111. Investigation; Findings

A. The Division of Diversity and Opportunity shall consider any affirmative action plan submitted to it, along with any other pertinent information submitted to it, in investigating complaints alleging employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.)

B. Following the completion of its review of a properly filed complaint, the receipt of the insurer's response, and any further investigation the department requires, the Division of Diversity and Opportunity shall issue its finding to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2190 (November 2017).

§15113. Enforcement; Sanctions

A. In the event the Division of Diversity and Opportunity finds an apparent violation of R.S. 22:31 et seq., the commissioner may apply penalties as provided for in the Insurance Code.

1. for employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.), the commissioner may issue a cease and desist order and other penalties, as provided in R.S. 22:33;

2. for violations of R.S. 22:35, the commissioner shall fine the insurer \$10,000 for each occurrence, as provided for in R.S. 22:35; or

3. for violations of R.S. 22:34, the commissioner shall issue a cease and desist order and other penalties as provided for in R.S. 22:1969 and 1970.

B. In lieu of taking action against an insurer alleged to have engaged in employment discrimination prohibited by part IV of chapter 3-A of title 23 (R.S. 23:331 et seq.), the commissioner may advise the complainant to file a complaint with the federal Equal Employment Opportunity Commission or the Louisiana Commission on Human Rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2191 (November 2017).

§15115. Administrative Hearing

A. Prior to the imposition of a penalty or sanction for an apparent violation of R.S. 22:31 et seq., an aggrieved party affected by a decision, act, or order of the commissioner may make a written demand for a hearing in accordance with R.S. 22:2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2191 (November 2017).

§15117. Violations Reported by Employees; Retaliation by Insurer Prohibited

A. This regulation shall not preclude or in any way limit the applicability of R.S. 22:14(A), which prohibits any insurer transacting business in this state from penalizing any of its employees for reporting to the commissioner or other appropriate authorities, in good faith, a suspected violation of the Insurance Code, including discrimination prohibited by R.S. 22:31 et seq. As provided in R.S. 22:14(A), *penalizing* shall include the following:

1. discharging, disciplining, demoting, transferring, or otherwise discriminating against an employee of the insurer;
2. reducing the benefits, pay, or work privileges of the employee of the insurer;
3. preparing a negative work performance evaluation of an employee of the insurer;
4. threatening to take any of the above actions.

B. This regulation shall not preclude or in any way limit the applicability of R.S. 22:14(C), which provides that any employee who makes a written sworn report on the activities of an insurer is not subject to civil liability for making the report and no civil cause of action may arise against the

employee for making the report. This immunity shall apply provided that the information available to the employee would support a reasonable belief that the activity, policy, or practice reported violates the Insurance Code, a rule, or the law, or impairs or endangers the solvency of the insurer. No such immunity shall apply to any report that is fraudulent or made in bad faith. Employees who intentionally make fraudulent reports or make reports in bad faith shall be guilty of the crime of false swearing and subject to the penalties provided for in R.S. 14:125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2191 (November 2017).

§15119. Severability

A. If any Section or provision of Regulation 108 or its application to any persons or circumstances is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 108 to any persons or circumstances that can be given effect without the invalid Section or provision or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:31(C), 32(B), and 35(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:2191 (November 2017).

James J. Donelon
Commissioner

1711#014

RULE

Department of Natural Resources Office of Conservation

Fees (LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly title 30 of the *Louisiana Revised Statutes* of 1950, as amended, the Office of Conservation has amended LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The action has amended Statewide Order No. 29-R-17/18 (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation fee schedule for the collection of application, production, and regulatory fees, and will replace the existing Statewide Order No. 29-R-16/17.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

* * *

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 20.0.

* * *

Class V Permit Waiver/Exemption/Area Permit Request—a request for a waiver or exemption from the permitting requirements of class V injection wells for certain