

No. **2023-7850**

**Official Order
of the
Texas Commissioner of Insurance**

Date: 03/21/2023

Subject Considered:

Texas Automobile Insurance Plan Association
Plan of Operation Amendment Sections 36 and 47.D

General Remarks and Official Action Taken:

The subject of this order is the approval of amendments to the Texas Automobile Insurance Plan Association (TAIPA) *Plan of Operation*.

Background

TAIPA's Governing Committee requested that the commissioner approve the proposed amendments to the *Plan of Operation* under Petition Number A-1122-18.

The following findings of fact and conclusions of law are adopted:

Findings of Fact

1. On November 18, 2022, TAIPA's Governing Committee approved changes to the *Plan of Operation*.
2. On November 22, 2022, TAIPA filed Petition Number A-1122-18 with the Texas Department of Insurance (TDI) to request commissioner approval to amend its *Plan of Operation*, attached as Exhibit A.
3. On February 16, 2023, TDI posted notice of the proposed amendments on its website.
4. On March 3, 2023, notice of the proposed amendments was published in the *Texas Register* (48 TexReg 1354), attached as Exhibit B.

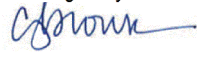
- 5. The comment period ended on March 15, 2023. TDI received one comment, from Insurance Council of Texas, in support of the proposed amendments to Section 47.D.
- 6. The proposed amendments to Section 36, attached as Exhibit C, address the election of representatives to the Governing Committee.
- 7. The proposed amendments to Section 47.D, attached as Exhibit D, concern obligations of insurers that leave the market.

Conclusions of Law

- 1. The commissioner has jurisdiction over this matter under Insurance Code § 2151.151(b), which allows TAIPA's Governing Committee to amend its *Plan of Operation* subject to the commissioner's approval.
- 2. The amendments are consistent with the statutory mandate that the *Plan of Operation* must provide for the efficient, economical, fair, and nondiscriminatory administration of TAIPA. Tex. Ins. Code § 2151.151(a)(1).

Order

It is ordered that the amendments to Sections 36 and 47.D of the Texas Automobile Insurance Plan Association's *Plan of Operation* are approved, effective the date of this order.

DocuSigned by:

FC5D7EDDFB84F8... _____
Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:

70ABE377123E401... _____
Mark Worman, Deputy Commissioner


DocuSigned by:

5DAC5618BBC74D4... _____
Jessica Barta, General Counsel

Exhibit A

THOMPSON
COE

Thompson, Coe, Cousins & Irons LLP
Attorneys and Counselors

Michael Jones
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Austin
Dallas
Houston
New Orleans
Saint Paul
San Antonio

November 22, 2022

The Honorable Cassie Brown

via email cassie.brown@tdi.texas.gov
chiefclerk@tdi.texas.gov

Commissioner of Insurance
Texas Department of Insurance
1601 Congress Avenue
Austin, Texas 78701

Re: TAIPA Plan of Operation Amendments to Section 36 (Administration) and
Section 47 D (Insurers Discontinuing Writing)

Dear Commissioner Brown:

Under Chapter 2151 of the Insurance Code, the Governing Committee of the Texas Automobile Insurance Plan Association (TAIPA) has the responsibility for the administration of the Association through its Plan of Operation. The Governing Committee is empowered to adopt and amend the Plan of Operation subject to the approval of the Commissioner.

At its meeting on November 18, 2022, the Governing Committee approved amendments to Sections 36 and 47 D of the TAIPA Plan of Operation. Section 36 addresses the election of representatives to the Governing Committee and section 47 D deals with the obligations of insurers that leave the market.

The amendments to Section 36 delete the position of an unaffiliated insurer as a member of the Governing Committee. We have found there are fewer and fewer insurers that are not affiliated with one of the trade associations named in the Plan that appoint an insurer member to the Governing Committee. This year we did not have any unaffiliated members that said they would serve in this position. This was even after the Plan Manager, Stacy Dutton, contacted the 4 known unaffiliated insurers within the last month or so.

The Governing Committee decided to delete this position and replace it with a fifth at large position. The amendments further require that this insurer is to be a Texas domestic company that only writes insurance in Texas and is not part of a holding company system that writes insurance in other states. As a fall back, the amendments do provide that if a Texas company does not get elected that the insurer with the next highest vote count will be elected to the fifth at large position.

Section 47 D addresses what happens when a member insurer discontinues writing automobile liability insurance. But the current language only provides limited options. The language approved by the Governing Committee expands the options for the member carrier, including the option of entering into a contract with a servicing carrier to take the assignments it would otherwise be required to take.

The changes to the TAIPA Plan of Operation are set forth in the attached pages.

We hope this information will be sufficient for you to approve our requested amendments. Should additional information be required we will be happy to furnish it.

Please note that the amendments to Section 36 are time sensitive as TAIPA will be sending notices to insurers at the end of December (and possibly thereafter) in conjunction with its annual meeting at the end of March. We ask that you consider this amendment as soon as possible, and if considering the amendment to Section 47 D at the same time might affect the timing of the approval requested, that you consider the Section 36 amendment first.

If you or your staff require further information regarding these amendments, please contact Stacy Dutton at 512-531-7263 or e-mail to sdutton@taipa.org, or contact me.

Thank you.

Very truly yours,



Michael W. Jones

Attachments

Cc: Stacy Dutton, Association Manager via email
John Mooney Texas Department of Insurance via email

Exhibit B

TEXAS REGISTER

Volume 48 Number 9

March 3, 2023

Pages 1187 - 1370



RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
KINGSVILLE	TEXAS A&M UNIVERSITY KINGSVILLE	L01821	KINGSVILLE	63	01/17/23
LUBBOCK	COVENANT MEDICAL GROUP	L04468	LUBBOCK	36	01/31/23
THROUGHOUT TX	CIMA SERVICES LP	L06530	PASADENA	04	01/31/23
WACO	RADIATION TECHNOLOGY INC	L04633	WACO	40	01/26/23

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
BROWNSVILLE	JRG MEDICAL EQUIPMENT LP	L05831	BROWNSVILLE	10	01/27/23

TRD-202300820
 Cynthia Hernandez
 General Counsel
 Department of State Health Services
 Filed: February 17, 2023

To request a public hearing, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on March 15, 2023. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

TRD-202300777
 Jessica Barta
 General Counsel
 Texas Department of Insurance
 Filed: February 16, 2023

Texas Department of Insurance

Texas Automobile Insurance Plan Association Filing Request for Amendments to Texas Plan of Operation

The commissioner of insurance will consider a request by the Texas Automobile Insurance Plan Association (TAIPA) to amend its *Texas Plan of Operation*.

On November 18, 2022, the TAIPA Governing Committee voted in favor of proposed amendments to Sections 36 and 47 D of its *Texas Plan of Operation*. Section 36 addresses the election of representatives to the Governing Committee, and Section 47 D concerns obligations of insurers that leave the market.

You can view the proposed amendments on TDI's website: www.tdi.texas.gov/rules/2023/exrules.html.

TDI will consider any written comments that are received by TDI no later than 5:00 p.m., central time, on March 15, 2023. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

Texas Lottery Commission

Scratch Ticket Game Number 2515 "LOTERIA SUPREME"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2515 is "LOTERIA SUPREME". The play style is "row/column/diagonal".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2515 shall be \$100.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2515.

Exhibit C

Sec. 36. ADMINISTRATION

A. Governing Committee Composition

The Association is administered by a Manager and a Governing Committee consisting of fifteen members.

1. Eight members shall represent the interests of insurers. To be eligible to act as a representative of insurers, a person must be a full time employee of an authorized insurer. Representatives of the insurers shall be elected by the members of the Association as follows:

a. One insurer member shall be selected by each of the following trade associations:

American Property Casualty Insurance Association (APCIA)

Association of Fire & Casualty Companies in Texas (AFACT)

National Association of Mutual Insurance Companies (NAMIC)

b. Five insurer members shall be elected to represent the membership at large. At least one of the five insurer members must be a Texas domestic insurance company that writes only in the State of Texas and is not an affiliate or a subsidiary of an insurance company or holding company system writing automobile insurance outside of Texas. In the event a Texas domestic insurance company is not elected at the annual meeting, then the insurer receiving the next highest votes shall be elected to represent the membership at large.

Insurer members of the Governing Committee shall be selected to represent the trade associations as prescribed under Section 36.B. The five member insurers to serve at-large shall be elected by ballot of the members of the Association at the annual meeting.

2. Five public members shall be nominated by the Office of Public Insurance Counsel and selected by the Commissioner of Insurance. Appointments shall be made by December 31 of each year. The public members serve staggered two year terms.

Terms for three public members shall expire in odd shall expire in even numbered years. A person may not serve as a public member if that person, an individual related to that person within the second degree of consanguinity or affinity, or an individual residing in the same household with that person is:

a. required to be registered or licensed under the Insurance Code;

b. employed by or acts as a consultant to a person required to be registered or licensed under the Insurance Code;

c. the owner of, or has a financial interest in, or participates in the management of an organization required to be registered or licensed under the Insurance Code;

d. an officer, employer or consultant of an association in the field of insurance or;

e. required to register as a lobbyist under Chapter 305, Government Code.

The Office of Public Insurance Counsel may nominate and the Commissioner of Insurance may appoint up to three additional persons who meet these qualifications to act as alternates for public members. The alternate public members shall serve two year terms or until a replacement alternate is appointed by the Commissioner of Insurance. If a public member is unable to attend a meeting of the Governing Committee, that person may designate one of these alternates to attend the meeting and act for the absent member.

3. Two members shall be licensed General Lines or Personal Lines Property and Casualty Agents, one of whom is selected by the Independent Insurance Agents of Texas and the other by the Commissioner of Insurance. The producer representatives to the Governing Committee serve a one year term.

The Independent Insurance Agents of Texas may appoint an alternate, subject to the approval of the Commissioner of Insurance. The alternate producer

member shall serve a two year term or until a replacement alternate is approved by the Commissioner of Insurance. If either producer member is unable to attend a meeting of the Governing Committee, that person may designate the alternate to attend the meeting and act for the absent member.

4. Public and producer members and any alternate members are entitled to be reimbursed for reasonable expenses incurred and to be compensated in the amount of \$250 for each day that they participate in any meeting as authorized by the Governing Committee.

B. Selection of Insurer Governing Committee Representatives

1. Trade Associations

Prior to the annual meeting, each trade association shown above shall select its representative to the Governing Committee. Each trade association will advise the Manager of the insurer chosen.

2. At-Large Representatives

At-Large representatives of insurers shall be elected at the annual meeting.

C. Association Annual Meeting

1. The Association shall hold an annual meeting on a date and at a place selected by the Governing Committee. At least 45 days prior to the meeting, the Manager shall send written notice to all member insurers, producer representatives of the Governing Committee and public members of the Governing Committee. An agenda for the meeting shall accompany the notice of meeting. The purpose of the meeting is the election of insurer representatives to serve on the Governing Committee.
2. At the annual meeting, ten percent of member insurers present or by proxy constitutes a quorum. Member insurer voting by proxy shall be permitted. Prior to the annual meeting, the Manager shall distribute proxies to all member insurers.

3. Each class of insurers shall select its representatives to the Governing Committee in the manner stated in Section 36.B above to serve for a term of one year.

D. Terms of Office

Terms of office for members of the Governing Committee commence on the day of the annual meeting and each member shall continue to serve until a successor for that member of the Governing Committee is selected.

E. Vacant Seats

1. In the event a trade association insurer vacancy occurs on the Governing Committee, it shall be filled by the respective trade association by appointing a successor to serve until the next annual meeting.
2. If an at-large insurer vacancy occurs, the remaining representatives of insurers shall select an insurer to serve until the next annual meeting but the vacancy of an elected Texas domestic insurance company as defined under Section 36.A.1.b is to be filled with another Texas domestic insurance company selected by the remaining representatives of insurers. In the event, a Texas domestic insurance company is not available for the vacant position, the remaining representatives of insurers shall select an insurer to represent the membership at large until the next annual meeting.
3. The Commissioner of Insurance will select a public member or a Commissioner of Insurance appointed insurance producer if a vacancy occurs, to serve until the next annual meeting.
4. The Independent Insurance Agents of Texas will select an Independent Insurance Agents of Texas replacement if a vacancy occurs.

Exhibit D

PROPOSED PLAN LANGUAGE Section 47 D

D. Insurers Discontinuing Writing

If a member discontinues writing automobile liability insurance in this state but retains its license to write such business, it must continue to pay assessments and receive assignments until its quota established by its writings prior to discontinuance of business has been filled unless one of the following alternatives applies.

If the automobile liability business of a member discontinuing the writing of automobile liability insurance in this state is purchased by, transferred to, or assumed by another member, including by grouping with another member under the same ownership, the latter is to receive the assignments and assessments of the former until the quota of the former as established by its writings prior to such transfer has been filled, unless another member has agreed, in a manner satisfactory to the Governing Committee, to assume such obligation.

A member that discontinues writing may also satisfy its obligation by:

Entering into a LAD/CLAD agreement (refer to Section 41.E for private passenger coverage or Section 42.E for other than private passenger coverage).