SUBCHAPTER R. Withdrawal Plan Requirements and Procedures
28 TAC §§7.1801, 7.1802, 7.1804 - 7.1808, and 7.1809

INTRODUCTION. The Texas Department of Insurance proposes amendments to 28 Texas Administrative Code §§7.1801, 7.1802, 7.1804 - 7.1808, and new §7.1809, concerning withdrawal and restriction plan requirements and procedures.

EXPLANATION. The proposed amendments and new section are necessary for implementation of Senate Bill 14, 78th Legislature, Regular Session (2003), House Bill 1789, 75th Legislature, Regular Session (1997) and rule modernization. The proposed amendments implement SB 14 regarding extended approval deemer dates and align the exceptions from filing a withdrawal plan to the exemption in Insurance Code §827.002. SB 14 also reduced the threshold for total annual premium with respect to withdrawals from 75 percent to 50 percent. The proposed new section will implement HB 1789 regarding requirements and procedures for restriction plans under Insurance Code §827.008. The proposed amendments are also necessary to implement HB 1789 to include personal automobile and residential property insurance lines and the reduction of an insurer's annual premium by 75 percent or more in a line to the withdrawal criteria under Insurance Code §827.003.

In addition, the proposed amendments are necessary to update Insurance Code citations and the department's mailing address. The proposed amendments remove provisions requiring Health Maintenance Organizations (HMOs) to file quarterly financial projections, and requiring insurers and HMOs to file actuarial opinions because the information is readily available to the department. The proposed amendments also delete a 10-business-day notification requirement so that the department has sufficient time to review a withdrawal plan before responding to an insurer or HMO. The proposed amendments clarify when the five-year ban for the resumption of writing new business begins and applies to all lines. The proposed amendments are necessary to clarify the definition for rating territory under Insurance Code §827.001(2). The proposed amendments add that compliance with statutory and regulatory provisions relating to renewability, continuation, and discontinuance of coverage apply to insurers and HMOs writing guaranteed renewable or noncancelable coverage.

The department proposes amendments in §§7.1801, 7.1802(5), 7.1802(8), 7.1802(13), 7.1804(b)(1) and (2), 7.1805(a)(6)(B) – (D), 7.1805(c), and 7.1808 to update old Insurance Code citations to reflect that Insurance Code Chapter 827 was re-codified in 2001.

The department proposes an amendment in §7.1802(15) to align the definition of "withdrawal" to statute with a reference to Insurance Code §827.003. HB 1789 added withdrawal criteria to when an insurer must file a withdrawal plan, including if the insurer proposes to reduce its total annual premium volume in a line of personal automobile or residential property insurance by 50 percent or more or reduces its annual premium in a line by 75 percent or more. SB 14 lowers the total annual premium threshold for withdrawal from 75 percent to 50 percent. Instead of changing the definition for withdrawal and reciting the statute verbatim in the proposed amendments, the department references the statute directly and removes the definitions for "total" and "substantial."

The department proposes amendments in §§7.1804, 7.1805, 7.1807, and 7.1808 to remove the words "total" and "substantial" and related explanatory language that appear throughout the withdrawal rules to align with the proposed definition for "withdrawal" in §7.1802(15) and the amended withdrawal criteria under Insurance Code §827.003.

The department proposes an amendment in §7.1802(16) to add a definition for "rating territory" to clarify that a rating territory means a county in Texas.

The department proposes an amendment in §7.1804 to add the word "withdrawal" to the section heading to clarify that the section addresses withdrawal plans and not restriction plans.

The department proposes an amendment in §7.1804(b) to remove the catchline for consistency with agency rule drafting style.

The department proposes an amendment in §7.1804(b)(1) to update when an insurer or HMO is not required to file a withdrawal plan, and instead must notify the department. To avoid reciting the statute verbatim, the proposed amendment references Insurance Code §827.002 to reflect implementation of SB 14.

The department proposes amendments in §7.1805(a) and (b) to explain that an insurer or HMO that meets any criteria in §7.1804(b) does not have to file a withdrawal plan.

The department proposes amendments in §7.1805(a)(6)(E) and §7.1805(b)(6)(B) to add language that insurers and HMOs writing guaranteed renewable or noncancelable coverage must

affirm the insurer's compliance with the Insurance Code and corresponding regulatory provisions relating to renewability, continuation, and discontinuance of coverage.

The department proposes amendments in §7.1805(a)(8) and (b)(8) to remove subparagraph (B) and combine the content from subparagraph (B) with subparagraph (A) to reflect that the definitions for "substantial" and "total" are no longer being used. The remaining subparagraphs in each paragraph are redesignated as appropriate.

The department proposes amendments in §7.1805(a)(8)(A) and §7.1805(b)(8)(A) to add a requirement that the withdrawal plan include the total annual premium volume and the number of policies and certificates and covered persons, or contract holders and enrollees, respectively, in Texas "by rating territory" for each line to be withdrawn to align with the amended definition for rating territory.

The department proposes amendments in redesignated §7.1805(a)(8)(B) to change the estimate of what percentage the Texas market withdrawal constitutes to the estimate of what percentage of the market for each affected line of insurance in each rating territory the withdrawal impacts to align with the amended definition for rating territory.

The department proposes amendments in redesignated §7.1805(a)(8)(C) to delete the examples concerning location and geographic area and types of risk no longer being covered, because the examples no longer apply under the amended definition for rating territory.

The department proposes amendments in §7.1805(a)(12)(C) and (b)(12)(C) to remove the requirement that insurers and HMOs must file actuarial opinions certifying that adequate reserves are available to pay outstanding claims, because the information is readily available to the department.

The department proposes amendments in §7.1805(a)(16) and (b)(14) to delete language requiring an affirmation that no new business will be solicited by the insurer or HMO in Texas during or after the withdrawal, because it is redundant in light of the existing reference to §7.1808 relating to requirements to resume writing insurance. The amendments add "as applicable" to clarify that the writing ban applies only when the conditions are met.

The department proposes amendments in redesignated §7.1805(b)(8)(B) to change the estimate of what percentage of the Texas HMO market the withdrawal constitutes, as measured by enrollees, to the estimate of what percentage of the market for each affected line of insurance in

each service area county the withdrawal impacts, as measured by enrollees, to clarify that service area is by county.

The department proposes amendments in redesignated §7.1805(b)(8)(C) to remove the requirement that an HMO provide information necessary to explain the extent of any specific market availability problem and what market assistance may be needed to alleviate the problem, because the HMO may not have the information to provide to the department.

The department proposes to delete §7.1805(b)(8)(D) concerning the estimate of what percentage of the HMO's service area or service areas the withdrawal constitutes and the counties affected by the withdrawal, because the language is redundant in light of the amendments to §7.1805(b)(8)(B).

The department proposes to delete §7.1805(b)(16) to remove the requirement in the provision, so that HMOs withdrawing from a line of business are no longer required to file quarterly financial projections, and to align the language of the subsection with the requirements for insurers in §7.1805(a).

The department proposes amendments in §7.1806 to add the word "withdrawal" to the section heading to clarify that the plan submission and approval procedures apply to withdrawal plans and not restriction plans.

The department proposes amendments in §7.1806(a) to update the department's mailing address, which contains an incorrect mail code. As amended, the subsection directs insurers and HMOs to the department website for the most recent address. In addition, the subsection notifies insurers and HMOs that the department will post forms and instructions on its website to assist filers with plan requirements.

The department proposes amendments in §7.1806(b) to implement SB 14 by updating the time frame for when a withdrawal plan is deemed approved from 30 to 60 days.

The department proposes to delete §7.1806(d) to remove the provision stating that the department will notify an insurer or HMO by letter within 10 business days of the Commissioner's receipt of the withdrawal plan that the plan is either sufficient or insufficient and stating what information must be provided for a complete plan. Removal of the subsection is necessary to give department staff adequate time to review withdrawal plans and respond to insurers or HMOs.

The department proposes amendments in §7.1808 to provide clarification and align the language of the section with Insurance Code §827.006 so that the five-year ban on the resumption

of writing after a withdrawal applies to any insurer or HMO withdrawing from writing "all premium in all lines of insurance," instead of "any line of insurance" in the state. In addition, the proposed amendments clarify that the five-year ban takes effect the later of the date the insurer or HMO intends to begin its withdrawal as stated in the plan approved by the Commissioner or on discovery by the department of an insurer's or HMO's failure to file a withdrawal plan.

The department proposes new §7.1809 to interpret restriction plans under Insurance Code §827.008. The heading for new §7.1809 is "Restriction Plan Contents and Submission Requirements."

New §7.1809(a) references Insurance Code §827.008, which requires that an insurer file a proposed restriction plan with the Commissioner for review and approval.

New §7.1809(b) lists the required content of a restriction plan and states that the plan must be signed by at least one officer of the insurer. Paragraph (1) of the subsection requires identification of the applicable personal automobile and residential property line of insurance restricted. Paragraph (2) of the subsection requires the dates the insurer intends to begin and complete its restriction. Paragraph (3) of the subsection requires an explanation of the reasons for restricting new business. Paragraph (4) of the subsection requires a list of the affected rating territories. Paragraph (5) of the subsection requires information necessary to assist the Commissioner in determining how market availability of the line of business proposed to be restricted may be affected, including: a description of how restricting the writing of new business in a rating territory may affect other related lines of business written by the insurer, such as the potential effect of discounts no longer provided to insureds; a list of other insurer products within the line the insurer will continue to offer in Texas; and any other information related to the restriction plan that the Commissioner deems necessary.

New §7.1809(c) explains where to send restriction plans. An insurer filing a restriction plan must submit the plan at the location specified on the department's website to prevent using outdated information. The department will post forms and instructions on its website to assist filers.

New §7.1809(d) makes clear that the Commissioner may modify, restrict, or limit a restriction plan as provided for under Insurance Code §827.008(b).

New §7.1809(e) states that an insurer may not revise its underwriting guidelines in response to a catastrophic natural event that occurred within the previous six months without receiving Commissioner approval of its restriction plan under Insurance Code §827.008.

New §7.1809(f) states that the insurer must file a withdrawal plan if a restriction plan results in a withdrawal under Insurance Code §827.003 and §827.004.

In addition, the proposed amendments include nonsubstantive editorial and formatting changes to conform the proposal to the agency's current style and to improve the rule's clarity.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Jeff Hunt, director of the Company Licensing and Registration Office, Licensing Section, has determined that for each year of the first five years the proposed amendments and new section will be in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the section, and there will be no effect on local employment or the local economy.

PUBLIC BENEFIT AND COST NOTE. Mr. Hunt also has determined that for each year of the first five years the proposed amendments and new section are in effect, the public benefit expected as a result of enforcing the section will be ensuring that department rules conform to Insurance Code Chapter 827.

The requirement to file a withdrawal or restriction plan is the result of legislative enactment and is not a result of the adoption or enforcement of this proposal.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. The department has determined that the proposed amendments and new section will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities, because the cost to insurers and HMOs is not directly dependent on the size of the company, but on the number of policyholders or enrollees affected by a withdrawal. The proposed amendments and new section are based on the underlying statutes and it is not feasible to waive or modify the requirements for small or micro businesses, or rural communities. As a result, and in accordance with Government Code §2006.002(c), the department is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. The department has determined that the proposed amendments and new section do not impose a cost on regulated persons. No additional rule amendments or repeals are required under Government Code

§2001.0045 because the proposed amendments and new section are necessary to implement legislation.

GOVERNMENT GROWTH IMPACT STATEMENT. During the first five years that the proposed rule will be in effect, the proposed rule or its implementation: will not create or eliminate a government program; will not require the creation of new employee positions or the elimination of existing employee positions; will not require an increase or decrease in future legislative appropriations to the department; will not require an increase or decrease in fees paid to the department; will create a new regulation at §7.1809; will expand and will limit existing regulations, as described in this proposal; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively nor adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action, and so does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. Submit any written comments on the proposal no later than 5:00 p.m., Central time, on April 9, 2018, by mail to the Texas Department of Insurance, Office of the Chief Clerk, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104; or by email to chiefclerk@tdi.texas.gov. Simultaneously, submit an additional copy of the comments to Texas Department of Insurance, Jeff Hunt, Director of Company Licensing and Registration Office, Licensing Section, Financial Regulation Division, Mail Code 103-CL, P.O. Box 149104, Austin, Texas 78714-9104; or by email to jeff.hunt@tdi.texas.gov. The Commissioner will also consider written and oral comments on the proposal in a public hearing under Docket No. 2805 at 9:30 a.m., Central time, on April 4, 2018, in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street, Austin, Texas.

STATUTORY AUTHORITY. The amended and new sections are proposed under Insurance Code §§827.001(2), 827.002, 827.003, 827.004, 827.005, 827.006, 827.008, 827.011, 843.051(b)(2) and 36.001.

Insurance Code §827.001(2) states that "rating territory" means a rating territory established by the department.

Insurance Code §827.002 provides that Chapter 827 does not apply to a transfer of business from an insurer to a company that is within the same insurance group as the insurer; is authorized to engage in the business of insurance in this state; and is not a reciprocal or interinsurance exchange, a Lloyd's plan, a county mutual insurance company, or a farm mutual insurance company.

Insurance Code §827.003 requires that an insurer must file with the Commissioner a plan for orderly withdrawal if the insurer proposes to reduce the insurer's total annual premium volume by 50 percent or more; reduce the insurer's annual premium by 75 percent or more in a line of insurance in this state; or reduce in this state, or in any applicable rating territory, the insurer's total annual premium volume in a line of personal automobile or residential property insurance by 50 percent or more.

Insurance Code §827.004 requires that a withdrawal plan filed under §827.003 must be constructed to protect the interests of the people of this state; indicate the dates on which the insurer intends to begin and to complete the plan; and provide for meeting the insurer's contractual obligations, provide service to the insurer's policyholders and claimants in this state; and meet any applicable statutory obligations, such as payment of assessments to the guaranty fund and participation in an assigned risk plan or joint underwriting arrangement.

Insurance Code §827.005(a) states that except as provided by subsection (b) of the section, the Commissioner will approve a withdrawal plan that adequately provides for meeting the requirements in §827.004(3). Section 827.005(b) provides that the Commissioner may modify, restrict, or limit a withdrawal plan under this section as necessary if the Commissioner finds that a line of insurance subject to the withdrawal plan is not offered in a quantity or manner to adequately cover the risks in this state or to adequately protect the residents of this state and policyholders in this state. The Commissioner may by order set the date on which the insurer's withdrawal begins. Section 827.005(c) provides that a withdrawal plan is deemed approved if the Commissioner does not hold a hearing on the plan before the 61st day after the date the plan is

filed with the Commissioner or does not deny approval before the 61st day after the date a hearing on the plan is held.

Insurance Code §827.006 requires that an insurer that withdraws from writing all lines of insurance in this state may not, without the approval of the Commissioner, resume writing insurance in this state before the fifth anniversary of the date of withdrawal.

Insurance Code §827.008(a) states that before an insurer, in response to a catastrophic natural event that occurred during the preceding six months, may restrict writing new business in a rating territory in a line of personal automobile or residential property insurance, the insurer must file a proposed restriction plan with the Commissioner for the Commissioner's review and approval. Section 827.008(b) provides that the Commissioner may modify, restrict, or limit a restriction plan under this section as necessary if the Commissioner finds that a line of insurance subject to the restriction plan is not offered in this state in a quantity or manner to adequately cover the risks in this state or to adequately protect the residents of this state and policyholders in this state in light of the impact of the catastrophic natural event. The Commissioner may by order set the date on which the insurer's restriction begins. Section 827.008(c) requires that a withdrawal plan must be filed and approved under §827.003 and §827.004 if an insurer's decision not to accept new business in a line of personal automobile or residential property insurance results in a reduction of the insurer's total annual premium volume by 50 percent or more.

Insurance Code §827.011 states that the Commissioner may adopt rules as necessary to enforce Chapter 827.

Insurance Code §843.051(b)(2) states that a health maintenance organization is subject to Chapter 827 and is an authorized insurer for purposes of that chapter.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of Texas.

CROSS REFERENCE TO STATUTE. Amendments in this proposal to §§7.1801, 7.1802, 7.1804, 7.1805, 7.1806, 7.1807, and 7.1808, and new §7.1809, affect Insurance Code §§827.001(2); 827.002(3); 827.003; 827.005(b) and (c); 827.006; and 827.008.

TEXT.

§7.1801. Purpose.

The purpose of this subchapter is to provide orderly and uniform procedures, as required by law and dictated by sound public policy, for any authorized insurer or HMO filing a plan of withdrawal with the Commissioner of Insurance under [~~pursuant to the~~] Insurance Code Chapter 827 [~~, Article 21.49-2C~~]. Nothing in this subchapter authorizes or allows an insurer or HMO to withdraw from any coverage if such withdrawal would violate any federal or state law or any provisions contained in a contract or evidence of coverage or a policy or certificate of insurance itself.

§7.1802. Definitions.

The following words and terms, when used in this subchapter, [~~shall~~] have the following meanings, unless the context clearly indicates otherwise.

(1) Annual Statement--Annual statement most recently filed by the insurer or HMO with the Texas Department of Insurance.

(2) Association coverage--Coverage under a health benefit plan issued to an association or bona fide association as those terms are defined in §21.2702 of this title (relating to Association Plans).

(3) Commissioner--Commissioner of Insurance.

(4) Department--Texas Department of Insurance.

(5) Individual coverage--Coverage issued by an HMO that provides an individual health care plan as defined in Insurance Code §1271.004 [~~Article 20A.09(l)~~].

(6) Large employer coverage--Coverage under a health benefit plan issued to a large employer as those terms are defined in §26.4 of this title (relating to Definitions).

(7) Line of insurance--Each line of business as specified in §7.1803 of this title (relating to What Constitutes a Line of Insurance).

(8) HMO--A health maintenance organization licensed under Insurance Code Chapter 843 [~~20A~~].

(9) Medicaid--The Medicaid program under Title XIX of the Social Security Act of 1965.

(10) Medicare--Has the same meaning as specified in §3.3303 of this title (relating to Definitions).

(11) Medicare+Choice plan--Has the same meaning as specified in §3.3303 of this title.

(12) Small employer coverage--Coverage under a health benefit plan issued to a small employer as those terms are defined in §26.4 of this title.

(13) Enrollees of special circumstances--As described in Insurance Code §§1301.152 – 1301.154 [~~Articles 3.70-3C, §4~~] and §843.362 [~~20A.18A(c)~~].

(14) CHIP--The Texas Children's Health Insurance Program under Texas Health and Safety Code Chapter 62.

(15) Withdrawal--The event that occurs when the actions of an insurer or HMO meets the criteria under Insurance Code §827.003.

[~~(A) Substantial withdrawal occurs when an insurer or HMO on its own initiative plans to reduce the company's total annual premium volume for a line of insurance, as defined in §7.1803 of this title, by 75% or more, except when the insurer or HMO meets any exception specified in §7.1804(b) of this title (relating to When a Plan Is Required).~~]

[~~(B) Total withdrawal occurs when an insurer or HMO on its own initiative plans to no longer engage in the writing of a line of insurance, as defined in §7.1803 of this title except when the insurer or HMO meets any exception specified in §7.1804(b) of this title.~~]

(16) Rating territory--A county in Texas.

§7.1804. When a Withdrawal Plan is [~~Is~~] Required.

(a) Any authorized insurer or HMO must file with the Commissioner of Insurance a plan of orderly withdrawal before the insurer or HMO undertakes a [~~total or substantial~~] withdrawal from a line of insurance.

(1) The insurer or HMO undertakes a [~~total~~] withdrawal from a line of insurance when it takes any action on its own initiative that will result in the insurer or HMO meeting the criteria under Insurance Code §827.003 [~~insurer's or HMO's ceasing to write a line of insurance, as defined in §7.1803 of this title (relating to What Constitutes a Line of Insurance)~~].

(2) An insurer or HMO will not be held to have acted on its own initiative in effecting a [~~total~~] withdrawal from a line of insurance when it acts under [~~pursuant to~~] a Commissioner disciplinary or administrative directive or order, or when the insurer or HMO acts under [~~pursuant to~~] a directive of a supervisor, conservator, or receiver. If an [~~any~~] out-of-state

directive or order is not provided to the Commissioner within 30 days of the issuance of [~~any~~] such directive or order, the insurer or HMO will be held to have acted on its own initiative.

[~~(2) The insurer or HMO undertakes substantial withdrawal from a line of insurance when it takes any action on its own initiative that will result in reducing the insurer's or HMO's total annual premium volume in Texas for the current calendar year for a line of insurance, as defined in §7.1803 of this title, by 75% or more of the total annual premium volume in Texas for the immediately preceding calendar year for such line of insurance. An insurer or HMO will not be held to have acted on its own initiative in effecting a substantial withdrawal from a line of insurance when it acts pursuant to a Commissioner disciplinary or administrative directive or order, or when the insurer or HMO acts pursuant to a directive of a supervisor, conservator, or receiver. If any out-of-state directive or order is not provided to the Commissioner within 30 days of the issuance of any such directive or order, the insurer or HMO will be held to have acted on its own initiative.~~]

(b) [~~Exceptions.~~] An insurer or HMO is not required to file a plan of orderly withdrawal, but must [~~shall~~] instead notify the department [~~Department~~], when:

(1) the insurer meets the exemption under Insurance Code §827.002 [~~is transferring business from the insurer to a company within the same insurance holding company system, as defined in the Insurance Holding Company System Regulatory Act, the Insurance Code, Article 21.49-1, §2, and admitted to do business in this state~~];

(2) the line of business is written by a stipulated premium company unless such line is written under [~~pursuant to the Texas~~] Insurance Code §884.303 and §884.307 [~~, Article 22.23(b)~~] or Chapter 884, Subchapter I [~~Article 22.23A~~];

(3) the HMO is transferring business from the HMO to an affiliated HMO; or

(4) the line of insurance from which the HMO is withdrawing is Medicare, a Medicare+Choice plan or a Medicaid contract as provided in §7.1803(a) of this title (relating to What Constitutes a Line of Insurance).

(c) If an insurer or HMO comes within an exception provided in subsection (b) of this section, such notification must be sent to the department [~~Department~~] simultaneously with any notification required to be provided to any other state or federal agency. The notification will be accepted for information only and must [~~shall~~] affirm that any appropriate state or federal agency has been notified of the company's intent to withdraw, and must [~~shall~~] include the effective date

of nonrenewal [~~non-renewal~~], the names of the Texas counties affected, and the number of insureds or enrollees affected.

(d) This subchapter does not modify or supercede any requirement under the Insurance Code or any other state or federal law to notify policyholders or enrollees that an insurer or HMO will not renew any coverage; however, before any such notice is given a withdrawal plan must be filed with the department [~~Department~~] and approved by the department [~~Department~~] under §7.1806 of this title (relating to Withdrawal Plan Submission and Approval Procedures) when a plan is required by this section.

§7.1805. Contents of Withdrawal Plan.

(a) Except for withdrawing HMOs, which are addressed under subsection (b) of this section and insurers meeting the criteria under §7.1804(b) of this title (relating to When a Plan is Required), a withdrawing insurer must [~~shall~~] file a plan of orderly withdrawal with the Commissioner that is constructed to protect the interests of the people of this state. The plan must be signed by at least one officer of the insurer and [~~, for each line of insurance being withdrawn or having total annual premium volume reduced by 75% or more,~~] must contain the following:

(1) identification, in accordance with the line of insurance designations in §7.1803 of this title (relating to What Constitutes a Line of Insurance), of the line or lines of insurance being [~~totally~~] withdrawn [~~or affected by having total annual premium volume reduced by 75% or more~~];

(2) identification of the policy forms by number and type affected by the withdrawal;

(3) the dates the insurer intends to begin and complete its withdrawal;

(4) an explanation of the reasons for the withdrawal;

(5) provisions for notifying all of the affected Texas policyholders and certificate holders [~~certificateholders~~] of the dates of the beginning and completion of the [~~total or substantial~~] withdrawal and how the withdrawal will affect them, including, but not limited to:

(A) a copy of the notice and an explanation of the manner in which the notice will be provided to policyholders and certificate holders [~~certificateholders~~]; and

(B) either affirmation that such notice will be provided within 30 days of the approval of the withdrawal plan or a request to provide the notice at some other specified date or time, and such request must be approved by the Commissioner; and

(C) identification of any provision of the Insurance Code or Texas Administrative Code under which notice is mandated;[.]

(6) provisions for meeting all of the insurer's contractual obligations, including, but not limited to:

(A) notification of all affected agents of the insurer of the date the insurer intends to begin and complete the withdrawal;

(B) for fire and casualty insurers, a statement affirming the insurer's compliance with the provisions of [the] Insurance Code Chapter 4051, Subchapter H [, Article 21.11-1], relating to cancellation of agency contracts;

(C) for insurers writing liability coverage as specified in [the] Insurance Code Chapter 551, Subchapter B [, Article 21.49-2A], a statement affirming the insurer's compliance with the provisions of Insurance Code Chapter 551, Subchapter B [Article 21.49-2A], relating to cancellation and nonrenewal of certain liability insurance coverage; [and]

(D) for insurers writing property and casualty coverage as specified in [the] Insurance Code Chapter 551, Subchapter C [, Article 21.49-2B], a statement affirming the insurer's compliance with the provisions of Insurance Code Chapter 551, Subchapter C [Article 21.49-2B], relating to cancellation and nonrenewal of certain property and casualty policies; and

(E) for insurers writing guaranteed renewable or noncancelable coverage, a statement affirming the insurer's compliance with the provisions of Insurance Code §1202.051, concerning renewability and continuation of individual health insurance policies, and Insurance Code §1501.109, concerning refusal to renew and discontinuation of coverage, and any corresponding regulations;

(7) provisions for providing service to the insurer's Texas policyholders and claimants;

(8) information on Texas business, including:

(A) [for insurers filing total withdrawal plans,] the total annual premium volume and the number of policies and certificates and covered persons in Texas by rating territory

for each line to be withdrawn and the estimated total annual premium volume and number of policies and certificates and covered persons in Texas by rating territory after withdrawal;

[~~(B) for insurers filing substantial withdrawal plans, the total annual premium volume and number of policies and certificates and covered persons in Texas before substantial withdrawal is effected and the estimated total annual premium volume and number of policies and certificates and covered persons in Texas after substantial withdrawal is effected for each line to be substantially withdrawn;~~]

(B) [~~(C)~~] an estimate of what percentage of the market for each affected line of insurance in each rating territory [~~Texas market~~] the withdrawal impacts [~~constitutes~~];

(C) [~~(D)~~] any other information necessary to assist the Commissioner in determining whether a market availability problem is created by the [~~total or substantial~~] withdrawal; and [~~, the extent of the problem, and what market assistance may be needed to alleviate the problem, including, but not limited to, the following:~~]

[~~(i) type of location and geographic area subject to the withdrawal if not statewide (identify type of area such as suburban, urban, rural, or list specific rating territories) and zip codes if entire state not included in withdrawal; and~~]

[~~(ii) if applicable, types of risks no longer being covered (for example, if no longer writing private passenger auto insurance coverage for single-car families or for persons without supporting business; or if no longer providing homeowner's insurance coverage for low-value homes, or in areas with high loss ratios, or in areas with historically high exposure to natural disasters). The information listed in this clause is provided for purposes of example only and is not intended to be a comprehensive or exhaustive list.~~]

(D) [~~(E)~~] if an insurer is unable to provide the exact number of policies and certificates and covered persons, the insurer must [~~shall~~] provide estimates and explain how the estimates were determined;

(9) provisions for identifying policyholders or certificate holders [~~certificateholders~~] of special circumstances;

(10) identification of any third party contracts which may provide for the continuity of care to enrollees of special circumstances;

(11) number of and estimated amount of all losses outstanding in Texas, including claims incurred but not reported;

(12) a plan to handle the losses specified in paragraph (11) of this subsection, including, but not limited to:

(A) identification of what assets will be available for paying outstanding incurred but not reported claims, claims in the course of settlement, and associated loss adjustment expenses; and

(B) identification of who specifically will administer the run off [~~run-off~~] of the business; [~~and~~]

[~~(C) an actuarial opinion certifying that adequate reserves are available to pay outstanding claims.~~]

(13) if Texas policyholders or certificate holders [~~certificateholders~~] are to be reinsured, the filing of a reinsurance agreement under [~~pursuant to~~] all statutory and regulatory requirements and, when applicable, the filing of an assumption certificate;

(14) provisions for meeting any applicable statutory obligations, including, but not limited to:

(A) payment of any guaranty fund assessments;

(B) participation in any assigned risk plan, pool, fund, facility, or joint underwriting arrangement; and

(C) payment of any taxes;[~~.~~]

(15) a list of any other products the insurer will continue to offer in Texas; and

(16) [~~for insurers filing total withdrawal plans,~~] affirmation that [~~no new business will be solicited by the insurer in this state during or following the withdrawal period unless~~] the insurer will comply [~~first complies~~] with §7.1808 of this title (relating to Requirements to [~~To~~] Resume Writing Insurance), as applicable.

(b) Unless it meets the criteria under §7.1804(b) of this title, a [~~A~~] withdrawing HMO must [~~shall~~] file a plan of orderly withdrawal with the Commissioner that is constructed to protect the interests of the people of Texas [~~this state~~]. The plan must be signed by at least one officer of the HMO and [~~, for each line of insurance being withdrawn or having total annual premium reduced by 75% or more,~~] must contain the following:

(1) identification, in accordance with the line of insurance designations in §7.1803 of this title, of the line or lines of insurance being [~~totally~~] withdrawn [~~or affected by having total annual premium volume reduced by 75% or more~~];

(2) identification by form number of the evidences of coverage affected by withdrawal;

(3) the dates the HMO intends to begin and complete its withdrawal;

(4) an explanation of the reasons for the withdrawal;

(5) provisions for notifying all of the affected Texas enrollees and contract holders [~~contractholders~~] of the dates of the beginning and completion of the [~~total or substantial~~] withdrawal and how the withdrawal will affect them, including, but not limited to:

(A) a copy of the notice and an explanation of the manner in which the notice will be provided to enrollees or contract holders [~~contractholders~~];

(B) either an affirmation that such notice will be provided within 30 days of the approval of the withdrawal plan or a request to provide the notice at some other specified date or time, and such request must be approved by the Commissioner; and

(C) identification of any provisions of the Insurance Code or the Texas Administrative Code under which notice is mandated;

(6) provisions for meeting all of the HMO's contractual obligations, including, but not limited to: [~~,~~]

(A) notification to all affected agents of the HMO of the dates the HMO intends to begin and complete the withdrawal; and

(B) for HMOs writing guaranteed renewable or noncancelable coverage, a statement affirming the insurer's compliance with the provisions of Insurance Code §843.208, concerning cancellation or nonrenewal of coverage; §1271.307, concerning renewability of coverage for individual health care plans and conversion contracts; and §1501.109, concerning refusal to renew and discontinuation of coverage, and any corresponding regulations;

(7) provisions for providing service to the HMO's Texas enrollees and providers;

(8) information on Texas business, including:

(A) [~~for HMOs filing total withdrawal plans,~~] the total annual premium volume and the number of affected contract holders [~~contractholders~~] and enrollees in Texas by rating territory for each line to be withdrawn and the estimated total annual premium volume and number of enrollees and contract holders in Texas by rating territory after withdrawal;

[~~(B) for HMOs filing substantial withdrawal plans, the total annual premium volume and the number of affected enrollees and contractholders in Texas before~~

~~substantial withdrawal is effected and the estimated total annual premium volume and number of enrollees and contractholders in Texas after substantial withdrawal is effected for each line to be substantially withdrawn;~~]

(B) [~~(C)~~] an estimate of what percentage of the market for each affected line of insurance in each service area county [~~Texas HMO market~~] the withdrawal impacts [~~constitutes~~], as measured by enrollee; and

[~~(D) an estimate of what percentage of the HMO's service area or service areas the withdrawal constitutes and the counties affected by the withdrawal; and~~]

(C) [~~(E)~~] any other information necessary to assist the Commissioner in determining whether a market availability problem is created by the [~~total or substantial~~] withdrawal [~~, the extent of the problem, and what market assistance may be needed to alleviate the problem~~];

(9) provisions for identifying enrollees of special circumstance;

(10) identification of any third-party [~~third-party~~] contracts that [~~which~~] may provide for the continuity of care to enrollees of special circumstance;

(11) number of and estimated amount of all losses outstanding in Texas, including claims incurred but not reported;

(12) a plan to handle the losses specified in paragraph (11) of this subsection, including, but not limited to:

(A) identification of what assets will be available for paying outstanding incurred but not reported claims, claims in the course of settlement, and associated loss adjustment expenses; and

(B) identification of who specifically will administer the run off [~~run-off~~] of the business, if any; [~~and~~]

[~~(C) an actuarial opinion certifying that adequate reserves are available to pay outstanding claims;~~]

(13) provisions for meeting any applicable statutory obligations;

(14) [~~for HMOs filing total withdrawal plans, an~~] affirmation that [~~no new business will be solicited by the HMO in this state during or following the withdrawal period unless~~] the HMO will comply [~~first complies~~] with §7.1808 of this title, as applicable; and

(15) a list of any other products the HMO will continue to sell in Texas in each service area. [~~; and~~]

[~~(16) for HMOs filing total withdrawal plans, quarterly financial projections from the beginning of the withdrawal to the completion of the withdrawal. The quarterly financial projections shall include:~~]

[~~(A) a balance sheet;~~]

[~~(B) an income statement;~~]

[~~(C) a statement of cash flows; and~~]

[~~(D) members.~~]

(c) The filing of a single consolidated withdrawal plan for all withdrawing insurance companies or HMOs in the same holding company system, as defined in [~~the Insurance Holding Company System Regulatory Act, the Texas~~] Insurance Code §823.006 [~~Article 21.49-1, §2~~], does not meet the requirements of this subchapter. A separate withdrawal plan must be filed for each insurance company or HMO intending to [~~totally or substantially~~] withdraw from a line or lines of insurance.

§7.1806. Withdrawal Plan Submission and Approval Procedures.

(a) The department will post forms and instructions on its website to assist persons in complying with the requirements of this subchapter. Any insurer or HMO filing a plan of orderly withdrawal must [~~should~~] submit the plan at the location specified on the department website [~~to the Texas Department of Insurance, Company Licensing and Registration, Mail Code 305-2C, P.O. Box 149104, Austin, Texas 78714-9104 or 333 Guadalupe Street, Austin, TX 78701~~].

(b) The withdrawal plan will [~~shall~~] be deemed approved if the Commissioner has not held a hearing within 60 [~~30~~] days after the complete plan is filed or has not been denied approval within 60 [~~30~~] days after the hearing.

(c) No plan will [~~shall~~] be considered "filed" until such date as the withdrawing insurer or HMO has provided to the Commissioner all information and material necessary to constitute a completed plan of orderly withdrawal, as required under this subchapter.

[~~(d) Within 10 business days of the Commissioner's receipt of the withdrawal plan, the insurer or HMO will be notified by letter either that the plan is sufficient to constitute a completed plan of orderly withdrawal that meets all of the requirements of this subchapter or that the plan is insufficient to constitute a completed plan of orderly withdrawal that meets all of the requirements of this subchapter and what information and material must be provided in order for the insurer or HMO to have filed a completed plan of orderly withdrawal, as required under this subchapter.~~]

§7.1807. Filing of Annual Financial Statement and Other Required Data and Information.

Any insurer or HMO filing a [~~total~~] withdrawal plan must [~~or a substantial withdrawal plan shall~~] continue to file all annual financial statement data, other required statistical and data filings, other reporting, and any other department-requested information applicable to any withdrawn line until all policyholder obligations for such line in this state are fulfilled. This section does not exempt an insurer or HMO from any filings or information requests required by the department [~~Department~~].

§7.1808. Requirements to [~~To~~] Resume Writing Insurance.

Any insurer or HMO [~~totally or substantially~~] withdrawing from writing all premium in all lines [~~any line~~] of insurance in this state and required to file a plan of orderly withdrawal under [~~pursuant to the~~] Insurance Code Chapter 827 [~~, Article 21.49-2C~~], may not resume writing the withdrawn lines [~~line~~] in this state before the fifth anniversary of the date of the withdrawal without complying with all applicable statutory and regulatory provisions governing authorization to write such lines [~~line~~] of insurance in this state and receiving the written approval of the Commissioner to resume such writing. The five-year ban under Insurance Code §827.006, for the resumption of writing insurance after a withdrawal, takes effect the later of the date the insurer or HMO intends to begin its withdrawal as stated in the plan approved by the Commissioner or discovery by the department of the insurer's or HMO's failure to file a withdrawal plan.

§7.1809. Restriction Plan Contents and Submission Requirements.

(a) An insurer that meets the criteria under Insurance Code §827.008 must file a proposed restriction plan with the Commissioner for review and approval.

(b) The plan must be signed by at least one officer of the insurer and must contain the following:

(1) identification, in accordance with the line of insurance designations in §7.1803 of this title (relating to What Constitutes a Line of Insurance), as applicable to personal automobile or residential property insurance being restricted;

(2) the dates the insurer intends to begin and complete its restriction;

(3) an explanation of the reasons for restricting the writing of new business;

(4) a list of the affected rating territories; and

(5) information on Texas business, including any information necessary to assist the Commissioner in determining how market availability of the line of business proposed to be restricted may be affected including, but not limited to, the following:

(A) a description of how restricting writing new business in a rating territory may affect other related residential property or personal automobile insurance lines of business written by the insurer, such as the potential effect of discounts no longer provided to insureds;

(B) a list of any other products within the line the insurer will continue to offer in Texas; and

(C) any other information related to the restriction plan that the Commissioner deems necessary.

(c) The department will post forms and instructions on its website to assist persons in compliance with the requirements of this subchapter. Any insurer filing a restriction plan must submit the plan at the location specified on the department website.

(d) The Commissioner may modify, restrict, or limit a restriction plan as provided for under Insurance Code §827.008(b).

(e) An insurer may not revise its underwriting guidelines in response to a catastrophic natural event that occurred within the previous six months without receiving Commissioner approval of its restriction plan under Insurance Code §827.008.

(f) If a restriction plan results in a withdrawal under Insurance Code §827.003 and §827.004, the insurer must file a withdrawal plan.

10. CERTIFICATION. This agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's authority to adopt.

Issued at Austin, Texas, on February 22, 2018.

/s/ Norma Garcia
Norma Garcia
General Counsel
Texas Department of Insurance