

## LEGISLATIVE BILL 296

Approved by the Governor April 21, 2023

Introduced by Ballard, 21.

A BILL FOR AN ACT relating to insurance; to amend section 44-312, Reissue Revised Statutes of Nebraska; to adopt the Pet Insurance Act; to change provisions relating to the reimbursement rate for telehealth service; to define terms; to require the use of a distinct National Provider Identifier as prescribed; to provide operative dates; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 10 of this act shall be known and may be cited as the Pet Insurance Act.

Sec. 2. (1) The purpose of the Pet Insurance Act is to promote the public welfare by creating a comprehensive legal framework within which pet insurance may be sold in this state.

(2) The requirements of the Pet Insurance Act shall apply to pet insurance policies that are issued to any resident of this state and are sold, solicited, negotiated, or offered in this state and pet insurance policies or certificates that are delivered or issued for delivery in this state.

(3) All other applicable provisions of the insurance laws of this state shall continue to apply to pet insurance, except that the specific provisions of the Pet Insurance Act shall supersede any general provisions of law that would otherwise be applicable to pet insurance.

Sec. 3. (1) A pet insurer that uses any of the terms defined in section 4 of this act in a policy of pet insurance shall use such terms as the terms are defined in section 4 of this act. A pet insurer shall also make the specific definitions available through a clear and conspicuous link on the main page of the website of the pet insurer or pet insurer's program administrator.

(2) Nothing in the Pet Insurance Act shall prohibit or limit the types of exclusions a pet insurer may use in a pet insurance policy or require a pet insurer to use in a pet insurance policy any limitation or exclusion set forth in the Pet Insurance Act.

Sec. 4. For purposes of the Pet Insurance Act:

(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 condition refers to a condition affecting the bones, skeletal muscle, cartilage, tendons, ligaments, and joints. Orthopedic condition includes, but is not limited to, elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and ruptured cranial cruciate ligaments. Orthopedic condition does not include cancer or metabolic, hemopoietic, or autoimmune disease;

(5) Pet insurance policy means a property insurance policy that provides coverage for accidents and illnesses of pets;

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

(i) A veterinarian provided medical advice;

(ii) The pet received previous treatment; or

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

(b) A condition for which coverage is afforded on a policy cannot be considered a preexisting condition on any renewal of the policy;

(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 such veterinarian practices;

(9) Veterinary expenses means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian;

(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. Waiting periods may not be applied to renewals of existing coverage; and

(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 well-being of the pet. If any wellness

program undertakes to indemnify another, pays a specified amount upon determinable contingencies, or provides coverage for a fortuitous event, it is transacting the business of insurance and is subject to the insurance laws of this state. This definition is not intended to classify a contract directly between a service provider and a pet owner that only involves the two parties as being in the business of insurance unless other indications of insurance exist.

Sec. 5. (1) A pet insurer transacting pet insurance shall disclose to consumers:

(a) If the policy excludes coverage due to:

(i) A preexisting condition;

(ii) A hereditary condition;

(iii) A congenital anomaly or disorder; or

(iv) A chronic condition;

(b) If the policy includes any other exclusions and if so, the pet insurer shall include a statement substantially similar to the following:

Other exclusions may apply. Please refer to the exclusions section of the policy for more information;

(c) Any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit;

(d) Whether 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; and

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

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

(b) A pet insurance policy, certificate, or rider shall have a notice prominently printed on the first page or attached thereto, including specific instructions to accomplish a return, and shall include a statement substantially similar to the following:

You have up to thirty days from the day you receive this policy, certificate, or rider to review it and return it to the pet insurer if you decide not to keep it. You do not have to tell the pet insurer why you are returning it. If you decide not to keep it, simply return it to the pet insurer at the insurer's administrative office or you may return it to the insurance producer that you bought it from as long as you have not filed a claim. You must return it within thirty days after the day you first received it. The pet insurer will refund the full amount of any premium paid within thirty days after the pet insurer 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.

(3) A pet insurer shall clearly disclose a summary description of the basis or formula on which the pet insurer determines claim payments 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 website of the pet insurer or pet insurer's program administrator.

(4) A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall:

(a) Clearly disclose the applicable benefit schedule in the policy; and

(b) Disclose all benefit schedules used by the pet insurer under its pet insurance policies through a clear and conspicuous link on the main page of the website of the pet insurer or pet insurer's program administrator.

(5) A pet insurer that determines claim payments under a pet insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary expenses, shall:

(a) 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 claim payments; and

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

(6) If any medical examination by a 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.

(7) Waiting periods and the requirements applicable to them shall be clearly and prominently disclosed to consumers prior to policy purchase.

(8)(a) The pet insurer shall include a summary of all policy provisions required in subsections (1) through (7) of this section in a separate document titled Insurer Disclosure of Important Policy Provisions.

(b) The pet insurer shall:

(i) Provide the consumer with a copy of the Insurer Disclosure of Important Policy Provisions document in at least twelve-point bold type; and

(ii) Post the Insurer Disclosure of Important Policy Provisions document through a clear and conspicuous link on the main page of the website of the pet insurer or pet insurer's program administrator.

(9) At the time a pet insurance policy is issued or delivered to a

policyholder, the pet insurer shall include a written disclosure with the following information printed in twelve-point bold type:

(a) The mailing address, toll-free telephone number, and website of the Department of Insurance;

(b) The mailing address and customer service telephone number of the pet insurer or insurance producer of record; and

(c) If the policy was issued or delivered by an insurance producer, a statement advising the policyholder to contact the insurance producer for assistance.

(10) The disclosures required by this section shall be in addition to any other disclosure requirements required by law or rule and regulation.

Sec. 6. (1) A pet insurer may issue policies that exclude coverage on the basis of one 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) A pet insurer may issue policies that impose waiting periods upon effectuation of the policy that do not exceed thirty days for illness or orthopedic conditions not resulting from an accident. Waiting periods for accidents are prohibited.

(b) A pet insurer utilizing a waiting period shall include a provision in such pet insurer's policy that allows the waiting period to be waived upon completion of a medical examination. The pet insurer may require that:

(i) The examination be conducted by a veterinarian;

(ii) The examination include certain specific elements as long as such elements do not unreasonably restrict a consumer's ability to waive the waiting period; and

(iii) The examination and any required elements be documented and provided to the pet insurer.

(c) The pet insurer shall clearly and prominently disclose if the policy includes a waiting period and any requirements applicable to the waiting period to consumers prior to the policy purchase.

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

(4) If a pet insurer includes any prescriptive, wellness, or noninsurance benefits in the policy form, then such benefits shall be considered part of the policy and the pet insurer shall follow all applicable laws, rules, and regulations related to such benefits.

(5) A consumer's eligibility to purchase a pet insurance policy shall not be based on participation, or lack of participation, in a separate wellness program.

Sec. 7. (1) A pet insurer or insurance producer shall not market a wellness program as pet insurance.

(2) If a pet insurer or insurance producer sells a wellness program:

(a) The purchase of the wellness program shall not be a requirement to the purchase of pet insurance;

(b) The costs of the wellness program shall be separate and identifiable from any pet insurance policy sold by a pet insurer or insurance producer;

(c) The terms and conditions for the wellness program shall be separate from any pet insurance policy sold by a pet insurer or insurance producer;

(d) The products or coverage available through a wellness program shall not duplicate products or coverages available through the pet insurance policy;

(e) The advertising of the wellness program shall not be misleading; and

(f) The pet insurer or insurance producer shall provide a written disclosure to consumers in twelve-point bold font that includes:

(i) A statement that wellness programs are not insurance;

(ii) The mailing address, toll-free telephone number, and website of the Department of Insurance; and

(iii) The address and customer service telephone number of the pet insurer or insurance producer of record.

(3) Coverages included in the pet insurance policy contract described as wellness benefits are insurance.

Sec. 8. (1) An insurance producer shall not sell, solicit, or negotiate a pet insurance product until after the insurance producer is appropriately licensed and has completed the required training as provided in subsection (3) of this section.

(2) A pet insurer shall ensure that its insurance producers are appropriately trained on the coverages and conditions of such insurer's pet insurance products and have received the training required in subsection (3) of this section.

(3) Training required for an insurance producer shall include information on:

(a) Preexisting conditions and waiting periods;

(b) The differences between pet insurance and noninsurance wellness programs;

(c) Hereditary disorders, congenital anomalies or disorders, and chronic conditions, and how pet insurance policies interact with such conditions or disorders; and

(d) Rating, underwriting, renewal, and other related administrative topics.

(4) An insurance producer that has satisfied substantially similar training requirements in another state shall be considered to have satisfied the training requirements in this state.

Sec. 9. The Director of Insurance may adopt and promulgate rules and

regulations to carry out the Pet Insurance Act.

Sec. 10. Any violation of the Pet Insurance Act or the rules and regulations adopted and promulgated under the act shall be considered an unfair trade practice under the Unfair Insurance Trade Practices Act in addition to any other remedies and penalties available under the laws of this state.

Sec. 11. Section 44-312, Reissue Revised Statutes of Nebraska, is amended to read:

44-312 (1) For purposes of this section:

(a)(i) Telehealth means the use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a health care provider in the diagnosis or treatment of a patient.

(ii) Telehealth includes (A) services originating from a patient's home or any other location where such patient is located, (B) asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care provider at another site for medical evaluation, and (C) telemonitoring.

(iii) Telehealth also includes audio-only services for the delivery of individual behavioral health services for an established patient, when appropriate, or crisis management and intervention for an established patient as allowed by federal law; and

(b) Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care provider for analysis and storage.

(2) Any insurer offering (a) any individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state, (b) any hospital, medical, or surgical expense-incurred policy, except for policies that provide coverage for a specified disease or other limited-benefit coverage, or (c) any self-funded employee benefit plan to the extent not preempted by federal law, shall provide upon request to a policyholder, certificate holder, or health care provider a description of the telehealth and telemonitoring services covered under the relevant policy, certificate, contract, or plan.

(3) The description shall include:

(a) A description of services included in telehealth and telemonitoring coverage, including, but not limited to, any coverage for transmission costs;

(b) Exclusions or limitations for telehealth and telemonitoring coverage, including, but not limited to, any limitation on coverage for transmission costs; and

(c) Requirements for the licensing status of health care providers providing telehealth and telemonitoring services.

(4) Except as otherwise provided in section 44-793, the reimbursement rate for any telehealth service shall, at a minimum, be the same as a comparable in-person health care service if the licensed provider providing the telehealth service also provides in-person health care services at a physical location in Nebraska or is employed by or holds medical staff privileges at a licensed facility in Nebraska and such facility provides in-person health care services in Nebraska.

Sec. 12. (1) For purposes of this section:

(a) National Provider Identifier means the standard, unique health identifier number for a health care provider that is issued by the National Provider System in accordance with 45 C.F.R. part 162, as such regulations existed on January 1, 2023; and

(b) Off-campus location means a facility:

(i) With operations that are directly or indirectly owned or controlled by, in whole or in part, a hospital, or that is affiliated with a hospital, regardless of whether such off-campus location is operated by the same governing body as the hospital;

(ii) That is located in its entirety, including all real estate, structures, and permanent fixtures, more than one mile from the main campus of the hospital as measured from the closest real estate, structure, or permanent fixture of the main campus;

(iii) That provides services which are organizationally and functionally integrated with the hospital; and

(iv) That is an outpatient facility providing ambulatory surgery, urgent care, or emergency room services.

(2) An off-campus location of a hospital shall obtain a National Provider Identifier that is distinct from the National Provider Identifier used by the main campus of the affiliated hospital and any other off-campus location of such hospital and shall use such identifier on all claims for reimbursement or payment for health care services provided at such location.

Sec. 13. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of this act become operative on January 1, 2024. The other sections of this act become operative on their effective date.

Sec. 14. Original section 44-312, Reissue Revised Statutes of Nebraska, is repealed.