

## **CHAPTER 19 - MARKET REGULATION DIVISION**

### **SECTION .0100 - GENERAL PROVISIONS**

#### **11 NCAC 19 .0101 REPORT AND COLLECTION PROCEDURES**

*History Note:* Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132; 58-2-133; 58-2-134; 58-2-155; 58-6-5; 58-20-30; 58-21-40; 58-21-75; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-36-85(1); 58-39-70; 58-47-100; 58-48-65; 58-49-55; 58-56-16; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-100;  
Eff. March 1, 1993;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

#### **11 NCAC 19 .0102 MAINTENANCE OF RECORDS**

(a) Every insurer licensed to do business in this State shall maintain for at least five years all records, books, documents, and other business records that are required by this Section and by Chapter 58 of the North Carolina General Statutes.

(b) Every agency, agent, broker, or producer of record shall maintain a file for each policy sold. The file shall contain all work papers and written communications in his or her possession pertaining to that policy. These records shall be retained for at least five years after the final disposition or, for domestic companies, until the Commissioner has adopted a final report of a general examination that contains a review of these records for that calendar year, whichever is later.

*History Note:* Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132; 58-2-133; 58-2-134; 58-2-185; 58-2-190; 58-2-195; 58-2-200; 58-7-50; 58-20-30; 58-21-40; 58-21-75; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-36-85(1); 58-39-70; 58-41-15; 58-41-20; 58-41-25; 58-47-100; 58-48-65; 58-49-55; 58-56-16; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-100;  
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

#### **11 NCAC 19 .0103 COMPLAINT RECORDS**

Each insurer or its agents shall maintain or cause to be maintained an itemization register or log of every written complaint listing the Department's file number, the name of the insured, the nature of the complaint, the insurer's department subject to the complaint, the policy or claim number of the insured, and the final disposition of the complaint. These records shall be retained for at least five years after the final disposition of the complaint or, for domestic companies, until the Commissioner has adopted a final report of a general examination that contains a review of these records for that calendar year, whichever is later.

*History Note:* Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132; 58-2-133; 58-2-134; 58-2-195; 58-7-50; 58-20-30; 58-21-40; 58-36-85(1); 58-47-100; 58-21-75; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-39-70; 58-48-65; 58-49-55; 58-56-16; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-100;  
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#### **11 NCAC 19 .0104 POLICY RECORDS**

Each insurer or its agents shall maintain or cause to be maintained a record of each policy that specifies the policy period, basis for rating, and if terminated, documentation supporting policy termination by the insurer or policyholder, and accounting records indicating return premium amounts. These records shall be retained for at least five years after the termination of the policy or, for domestic companies until the Commissioner has adopted a final report of a general examination that contains a review of these records for that calendar year, whichever is later.

*History Note:* Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132; 58-2-133; 58-2-134; 58-2-190; 58-2-195; 58-7-50; 58-20-30; 58-21-40; 58-21-75; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-36-85(1); 58-39-70; 58-47-100; 58-48-65; 58-49-55; 58-56-16; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-100;  
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#### **11 NCAC 19 .0105 CLAIM RECORDS**

Each insurer or its agents shall maintain or cause to be maintained a record of all claim reports that specifies the inception, handling, and disposition of each claim. These records shall be retained for at least five years after the claim is settled or, for domestic companies, until the Commissioner has adopted a final report of a general examination that contains a review of these records for that calendar year, whichever is later.

*History Note:* Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132; 58-2-133; 58-2-134; 58-2-190; 58-2-195; 58-20-30; 58-21-40; 58-21-75; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-36-85(1); 58-39-70; 58-48-65; 58-47-100; 58-49-55; 58-56-16; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-100;  
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Amended Eff. January 1, 2009;  
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#### **11 NCAC 19 .0106 RECORDS REQUIRED FOR EXAMINATION**

(a) Market conduct examinations of property and liability insurers. Insurers being examined by the Department shall provide examiners access to information about the following areas of operation:

- (1) Company overview: history and profile, company operations and management, and certificates of authority;
- (2) Policyholder treatment: consumer complaints;
- (3) Marketing: policy forms and filings, sales and advertising, agency management;
- (4) Underwriting and rating practices: personal lines and commercial lines; all terminations (cancellations and nonrenewals) and declinations or rejections; and
- (5) Claims practices: organization and procedures, closed with payment, closed without payment, total loss settlements (salvage), subrogation, and litigation.

(b) Market conduct examinations of life and health insurers. Insurers being examined by the Department shall provide examiners access to information about the following areas of operation:

- (1) Company overview: history and profile, company operations and management, and certificates of authority;
- (2) Policyholder treatment: consumer complaints, nonforfeiture benefits (policy loans, cash surrenders, extended term and reduced paid-up);
- (3) Marketing: policy forms and filings, sales and advertising, and agency management;
- (4) Underwriting and rating practices: life (individual and group), health (individual and group), annuities (individual and group); declinations (individual and group); annuity suitability questionnaires; and
- (5) Claims practices: life (individual and group), health (individual and group) annuities (individual and group).

(c) Market conduct examinations of full service and single service health maintenance organizations. Health maintenance organizations being examined by the Department shall provide examiners access to information about the following areas of operation:

- (1) Company overview: articles of incorporation, bylaws, history and profile, company operations and management, risk management policies, and data protection plan;
- (2) Provider delivery systems: provider manual, provider contracting policies and procedures, provider directories, and availability and accessibility standards and monitoring reports related to these standards;

- (3) Management agreements: management agreements, intermediary contracts, intermediary certifications, and provider agreements;
- (4) Utilization management: utilization management plan, utilization management policies and procedures, annual utilization management certifications, utilization management monthly telephone reports, precertification records, and appeals of noncertification records;
- (5) Quality management: quality management plan, quality management policies and procedures, quality management committee minutes, quality of care complaints, and quality management annual program evaluation;
- (6) Provider credentialing: credentialing plan, credentialing policies and procedures, and credential files;
- (7) Claims practices: policies and procedures, reports of processed and denied claims, claims records;
- (8) Policyholder treatment: member services' policies and procedures, member services complaint logs, member complaint records, member services monthly telephone reports, late enrollment guidelines, and member materials;
- (9) Marketing: agent and broker files, agent appointment and termination listings, marketing training materials, sales and advertising materials, and policy forms and filings;
- (10) Underwriting and rating practices: underwriting manual, annual rate filings, overview of rate development for each filed methodology, and underwriting files; and
- (11) Oversight of delegated functions: oversight committee activity, oversight monitoring tools, and audits.

(d) Market conduct examinations of managed care plans, Managed care plans being examined by the Department shall provide examiners access to information about the areas of operation referenced in Paragraphs (b) and (c) of this Rule.

(e) If the Department requests specific records relative to the areas of operations referenced in Paragraphs (a), (b), (c), and (d) of this Rule by prior written notification or in a pre-examination conference, the records shall be made available to the examinations staff when the staff arrives at the insurer's office, or shall be sent to the Department if requested.

(f) Additional records shall be made available by the insurer on the date of arrival if the Department has requested that those records be made available for the examination. Additional records, not previously requested, may be required during and after an examination. Work space that will accommodate the exam team and equipment shall be provided by the insurer to the examiners to expedite the examiners' review of the records.

(g) Information about the areas of operation referenced in Paragraphs (a), (b), (c), and (d) of this Rule shall be maintained by every insurer for at least five years.

*History Note: Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132; 58-2-133; 58-2-134; 58-2-190; 58-2-195; 58-7-50; 58-20-30; 58-21-40; 58-21-75; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-36-85(1); 58-39-70; 58-47-100; 58-48-65; 58-49-55; 58-50-56; 58-50-61; 58-50-62; 58-56-16; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-10; 58-67-11; 58-67-100; Eff. March 1, 1993;*

*Amended Eff. January 1, 2009; August 1, 1998;*

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## **11 NCAC 19 .0107 ORIGINAL AND DUPLICATE RECORDS**

(a) All records that are required to be maintained by this Chapter shall be either original or duplicate records, as defined in this Rule.

(b) For the purpose of this Chapter, an "original record" is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data are, in the normal and ordinary course of business, stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an "original record".

(c) For the purpose of this Chapter, a "duplicate record" is a counterpart produced by the same impression as the original record, or from the same matrix, or by mechanical or electronic re-recording or by chemical reproduction, or by equivalent techniques, such as imaging or image processing, that accurately reproduce the original record.

(d) If only duplicate records are maintained, the following requirements must be met:

- (1) The data must be easily accessible to the Department in readable form; and readable, reproduced copies must be obtainable;

- (2) Before the destruction of any original records, the person in possession of the original records shall verify that the records stored consist of all information contained in the original records and that the original records can be constructed therefrom in a form acceptable to the Department; and
- (3) Adequate controls must be established with respect to the transfer and maintenance of data.
- (e) Disaster preparedness or disaster recovery procedures that include provisions for the maintenance or reconstruction of original or duplicate records at another location must be maintained.
- (f) Every foreign insurer licensed in North Carolina shall be in substantial compliance with this Rule.

*History Note:* Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132; 58-2-133; 58-2-134; 58-2-185; 58-2-190; 58-2-195; 58-20-30; 58-21-40; 58-21-75; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-36-85(1); 58-39-70; 58-47-100; 58-48-65; 58-49-55; 58-56-16; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-100;  
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## **11 NCAC 19 .0108 DEFINITIONS**

As used in this Chapter:

- (1) Examination is defined in G.S. 58-2-131(b)(2).
- (2) Examiner is defined in G.S. 58-2-131(b)(3).
- (3) Health maintenance organization is defined in G.S. 58-67-5(f).
- (4) Insurer includes a health maintenance organization, service corporation, and a multiple employer welfare arrangement.
- (5) Managed care plan is defined in G.S. 58-50-61(a)(11).
- (6) Provider is defined in G.S. 58-67-5(h).

*History Note:* Authority G.S. 58-2-40(1); 58-2-50; 58-2-131; 58-2-132; 58-2-133; 58-2-134; 58-2-190; 58-2-195; 58-7-50; 58-20-30; 58-21-40; 58-21-75; 58-22-20(6); 58-23-25; 58-24-135; 58-27-10; 58-36-85(1); 58-39-70; 58-47-100; 58-48-65; 58-49-55; 58-50-56, 58-50-61, 58-50-62, 58-56-16; 58-62-66; 58-63-20; 58-64-55; 58-65-105; 58-67-10; 58-67-11; 58-67-100;  
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