

Act No. 227  
Public Acts of 2009  
Approved by the Governor  
January 5, 2010  
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January 5, 2010  
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**STATE OF MICHIGAN**  
**95TH LEGISLATURE**  
**REGULAR SESSION OF 2009**

Introduced by Senator Allen

# **ENROLLED SENATE BILL No. 973**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 3405, 3475, and 3631 (MCL 500.3405, 500.3475, and 500.3631), sections 3405 and 3631 as amended by 1994 PA 438 and section 3475 as amended by 1984 PA 280.

*The People of the State of Michigan enact:*

Sec. 3405. (1) For the purpose of doing business as an organization under the prudent purchaser act, 1984 PA 233, MCL 550.51 to 550.63, an insurer authorized in this state to write disability insurance that provides coverage for

hospital, nursing, medical, surgical, or sick-care benefits may enter into prudent purchaser agreements with providers of hospital, nursing, medical, surgical, or sick-care services pursuant to this section and the prudent purchaser act, 1984 PA 233, MCL 550.51 to 550.63.

(2) An insurer may offer disability insurance policies under which the insured persons shall be required, as a condition of coverage, to obtain hospital, nursing, medical, surgical, or sick-care services exclusively from health care providers who have entered into prudent purchaser agreements. A person to whom such a policy is offered shall also be offered a policy that:

(a) Does not, as a condition of coverage, require insured persons to obtain services exclusively from health care providers who have entered into prudent purchaser agreements.

(b) Does not give a financial advantage or other advantage to an insured person who elects to obtain services from health care providers who have entered into prudent purchaser agreements.

(3) An insurer may offer disability insurance policies under which insured persons who elect to obtain hospital, nursing, medical, surgical, or sick-care services from health care providers who have entered into prudent purchaser agreements shall realize a financial advantage or other advantage by selecting such providers. Policies offered pursuant to this subsection shall not, as a condition of coverage, require insured persons to obtain such services exclusively from health care providers who have entered into prudent purchaser agreements. A person to whom such a policy is offered shall also be offered a policy that:

(a) Does not, as a condition of coverage, require insured persons to obtain services exclusively from health care providers who have entered into prudent purchaser agreements.

(b) Does not give a financial advantage or other advantage to an insured person who elects to obtain services from health care providers who have entered into prudent purchaser agreements.

(4) The rates charged by an insurer for coverage under policies issued under this section shall not be unreasonably lower than what is necessary to meet the expenses of the insurer for providing this coverage and shall not have an anticompetitive effect or result in predatory pricing in relation to prudent purchaser agreement coverages offered by other organizations.

(5) An insurer shall not discriminate against a class of health care providers when entering into prudent purchaser agreements with health care providers for its provider panel. This subsection does not:

(a) Prohibit the formation of a provider panel consisting of a single class of providers when a service provided for in the specifications of a purchaser may legally be provided only by a single class of providers.

(b) Prohibit the formation of a provider panel that conforms to the specifications of a purchaser of the coverage authorized by this section so long as the specifications do not exclude any class of health care providers who may legally perform the services included in the coverage.

(c) Require an organization that has uniformly applied the standards filed pursuant to section 3(3) of the prudent purchaser act, 1984 PA 233, MCL 550.53, to contract with any individual provider.

(6) Nothing in this 1984 amendatory act applies to any contract that is in existence before December 20, 1984, or the renewal of such contract.

(7) Notwithstanding any other provision of this act, if coverage under a prudent purchaser agreement provides for benefits for services that are within the scope of practice of optometry, an insurer is not required to provide coverage or reimburse for a practice of optometric service unless that service was included in the definition of practice of optometry under section 17401 of the public health code, 1978 PA 368, MCL 333.17401, as of May 20, 1992.

(8) Notwithstanding any other provision of this act, if coverage under a prudent purchaser agreement provides for benefits for services that are within the scope of practice of chiropractic, an insurer is not required to provide coverage or reimburse for a practice of chiropractic service unless that service was included in the definition of practice of chiropractic under section 16401 of the public health code, 1978 PA 368, MCL 333.16401, as of January 1, 2009.

Sec. 3475. Notwithstanding any provision of any policy of insurance or certificate, if an insurance policy or certificate provides for reimbursement for any service which may be legally performed by a person fully licensed as a psychologist under part 182 of the public health code, 1978 PA 368, MCL 333.18201 to 333.18237; by a podiatrist licensed under part 180 of the public health code, 1978 PA 368, MCL 333.18001 to 333.18058; by a chiropractor licensed under part 164 of the public health code, 1978 PA 368, MCL 333.16401 to 333.16431; reimbursement under the insurance policy or certificate shall not be denied if the service is rendered by a person fully licensed as a psychologist under part 182 of the public health code, 1978 PA 368, MCL 333.18201 to 333.18237; by a podiatrist licensed under part 180 of the public health code, 1978 PA 368, MCL 333.18001 to 333.18058; or by a chiropractor licensed under part 164 of the public health code, 1978 PA 368, MCL 333.16401 to 333.16431; within the statutory provisions provided in his or her individual practice act. This section does not require coverage for a psychologist in any insurance policy and does not require coverage or reimbursement for a practice of chiropractic service unless that service was included in the definition of practice of chiropractic under section 16401 of the public health code, 1978 PA 368, MCL 333.16401, as of January 1, 2009.

This section shall not apply to a policy or certificate written pursuant to section 3405 or 3631 involving a prudent purchaser agreement.

Sec. 3631. (1) For the purpose of doing business as an organization under the prudent purchaser act, 1984 PA 233, MCL 550.51 to 550.63, an insurer authorized to write group disability insurance or family expense insurance that provides coverage for hospital, nursing, medical, surgical, or sick-care benefits may enter into prudent purchaser agreements with providers of hospital, nursing, medical, surgical, or sick-care services pursuant to this section and the prudent purchaser act, 1984 PA 233, MCL 550.51 to 550.63.

(2) An insurer may offer group disability insurance policies or family expense policies under which the insured persons shall be required, as a condition of coverage, to obtain hospital, nursing, medical, surgical, or sick-care services exclusively from health care providers who have entered into prudent purchaser agreements.

(3) An individual who is a member of a group who is offered the option of being under a policy pursuant to subsection (2) shall also be offered the option of being insured under a policy pursuant to subsection (4). This subsection applies only if the group in which the individual is a member has 25 or more members or if the provider panel that is providing the services under the group policy is limited by the organization to a specific number pursuant to section 3(1) of the prudent purchaser act, 1984 PA 233, MCL 550.53.

(4) An insurer may offer group disability insurance policies or family expense policies under which insured persons who elect to obtain hospital, nursing, medical, surgical, or sick-care services from health care providers who have entered into prudent purchaser agreements shall realize a financial advantage or other advantage by selecting such a provider. Policies offered pursuant to this subsection shall not, as a condition of coverage, require insured persons to obtain such services exclusively from health care providers who have entered into prudent purchaser agreements.

(5) An individual who is a member of a group who is offered the option of being insured under a policy pursuant to subsection (2) or (4) shall also be offered the option of being insured under a policy that:

(a) Does not, as a condition of coverage, require insured persons to obtain services exclusively from health care providers who have entered into prudent purchaser agreements.

(b) Does not give a financial advantage or other advantage to an insured person who elects to obtain services from health care providers who have entered into prudent purchaser agreements.

(6) Subsection (5) applies only if the group in which the individual is a member has 25 or more members and if the group on December 20, 1984 had health care coverage through the group sponsor.

(7) The rates charged by an insurer for coverage under policies issued under this section shall not be unreasonably lower than what is necessary to meet the expenses of the insurer for providing this coverage and shall not have an anticompetitive effect or result in predatory pricing in relation to prudent purchaser agreement coverages offered by other organizations.

(8) An insurer shall not discriminate against a class of health care providers when entering into prudent purchaser agreements with health care providers for its provider panel. This subsection does not:

(a) Prohibit the formation of a provider panel consisting of a single class of providers when a service provided for in the specifications of a purchaser may legally be provided only by a single class of providers.

(b) Prohibit the formation of a provider panel that conforms to the specifications of a purchaser of the coverage authorized by this section so long as the specifications do not exclude any class of health care providers who may legally perform the services included in the coverage.

(c) Require an organization that has uniformly applied the standards filed pursuant to section 3(3) of the prudent purchaser act, 1984 PA 233, MCL 550.53, to contract with any individual provider.

(9) Nothing in this 1984 amendatory act applies to any contract that is in existence before December 20, 1984, or the renewal of such contract.

(10) Notwithstanding any other provision of this act, if coverage under a prudent purchaser agreement provides for benefits for services that are within the scope of practice of optometry, an insurer is not required to provide coverage or reimburse for a practice of optometric service unless that service was included in the definition of practice of optometry under section 17401 of the public health code, 1978 PA 368, MCL 333.17401, as of May 20, 1992.

(11) Notwithstanding any other provision of this act, if coverage under a prudent purchaser agreement provides for benefits for services that are within the scope of practice of chiropractic, an insurer is not required to provide coverage or reimburse for a practice of chiropractic service unless that service was included in the definition of practice of chiropractic under section 16401 of the public health code, 1978 PA 368, MCL 333.16401, as of January 1, 2009.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

(a) Senate Bill No. 968.

(b) Senate Bill No. 970.

- (c) Senate Bill No. 971.
- (d) Senate Bill No. 972.
- (e) House Bill No. 5091.
- (f) House Bill No. 5105.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Richard J. Brown*

Clerk of the House of Representatives

Approved .....

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Governor

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 968 was filed with the Secretary of State January 5, 2010, and became 2009 PA 223, Imd. Eff. Jan. 5, 2010.

Senate Bill No. 970 was filed with the Secretary of State January 5, 2010, and became 2009 PA 224, Imd. Eff. Jan. 5, 2010.

Senate Bill No. 971 was filed with the Secretary of State January 5, 2010, and became 2009 PA 225, Imd. Eff. Jan. 5, 2010.

Senate Bill No. 972 was filed with the Secretary of State January 5, 2010, and became 2009 PA 226, Imd. Eff. Jan. 5, 2010.

House Bill No. 5091 was filed with the Secretary of State January 5, 2010, and became 2009 PA 221, Imd. Eff. Jan. 5, 2010.

House Bill No. 5105 was filed with the Secretary of State January 5, 2010, and became 2009 PA 222, Imd. Eff. Jan. 5, 2010.