

Annual List of Rulemaking Activity
Rules Adopted January 1, 2019 to December 31, 2019
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance
Umbrella-Unit: **02-031**
Statutory authority: 24 MRS §§ 212, 707(3)
Chapter number/title: **Ch. 135** (*New*), Employee Benefit Excess Insurance
Filing number: **2019-164**
Effective date: 9/18/2019
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The primary purpose of the rule is to set forth standards for employee benefit excess insurance that is provided to employers maintaining group health plans, such as minimum attachment points for coverage, tail coverage, and disclosure of annual limits on coverage. The rule also includes standards specific to small groups under which they may purchase employee benefit excess insurance.

Basis statement:

In this rulemaking, Superintendent of Insurance Eric Cioppa adopts a new rule chapter, Ch. 135, *Employee Benefit Excess Insurance*. Pursuant to a March 20, 2019 Notice of Rulemaking, Superintendent Cioppa held a public hearing on April 10, 2019, and the public comment period was open until April 22, 2019 at 4:30 p.m. The primary purpose of this rule is to set forth standards for employee benefit excess insurance, also known as stop loss insurance, that is provided to employers maintaining group health plans, such as minimum attachment points for coverage, tail coverage, and disclosure of annual limits on coverage. The rule also includes standards specific to small groups under which they may purchase employee benefit excess insurance.

Fiscal impact of rule:

No fiscal impact on state government.

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Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance
Umbrella-Unit: **02-031**
Statutory authority: 24 MRS §2317(2); 24-A §§ 212, 221-A(5), 4218
Chapter number/title: **Ch. 235**, Annual Audited Financial Reports
Filing number: **2019-192**
Effective date: 11/6/2019
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments update the current regulation in response to changes adopted by the National Association of Insurance Commissioners in 2014 and 2015. The amendments require certain large insurers or insurance groups to establish an internal audit function. The audit function must be organizationally independent from management.

Basis statement:

The Superintendent of Insurance hereby amends Bureau of Insurance Rule 235, *Annual Audited Financial Reports*, pursuant to 24 MRS §2317(2) and 24 A MRS §§ 212, 221-A(5), and 4218, to require certain large insurers or insurance groups to establish an internal audit function that is organizationally independent from management.

On June 28, 2019, the Superintendent issued a Notice of Rulemaking, which was published in newspapers of general circulation on July 10, 2019. He held a hearing on July 29, 2019, and the comment period expired on August 9, 2019. No comments were submitted, either in person or in writing, and the amendments are adopted as proposed.

The Amendments are based on recent amendments adopted by the National Association of Insurance Commissioners (NAIC) to its Annual Financial Reporting Model Regulation, and adoption of these Amendments is one of the requirements for the Bureau's continuing accreditation by the NAIC. A new Section 14 has been added to Rule 235, requiring each insurer or insurance group with sufficient annual premium volume to trigger the Own Risk and Solvency Assessment requirements (currently \$1 billion for a group or \$500 million for a single insurer)¹ to "establish an internal audit function that brings a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes." The internal audit may be conducted at either the ultimate controlling parent level, an intermediate holding company level, or the individual legal entity level. The audit function must be organizationally independent of management, may not defer ultimate judgment on audit matters to others, and must be headed by someone with direct and unrestricted access to the board of directors. In addition, Section 13 has been amended to add the supervision of the internal audit function to the duties of the audit committee if an internal audit is required. Sections following the new Section 14 have been renumbered, cross-references have been updated, and miscellaneous non-substantive editorial corrections have also been made.

Fiscal impact of rule:

No fiscal impact on state government.

¹ 24-A MRS §222(8)(B-3)

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Agency name: Department of Professional and Financial Regulation,
Bureau of Insurance
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 423-G(6)
Chapter number/title: **Ch. 705** (*New*), Corporate Governance Annual Disclosure
Filing number: **2019-193**
Effective date: 11/6/2019
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule implements part of 2017 PL ch. 169, *An Act To Update the Maine Insurance Code to Maintain Conformance with Uniform National Standards* (LS 1544), enacted at 24-A MRS §423-F. The rule sets forth the required contents and filing procedures for the Corporate Governance Annual Disclosure.

Basis statement:

The Superintendent of Insurance hereby adopts Bureau of Insurance Rule 705, *Corporate Governance Annual Disclosure*, pursuant to 24-A MRS §§ 212 and 423-G(6), to set forth the required contents and filing procedures for the Corporate Governance Annual Disclosure (CGAD). The rule is adopted as proposed, correcting a typographical error in Section 1.

On June 28, 2019, the Superintendent issued a Notice of Rulemaking, which was published in newspapers of general circulation on July 10, 2019. He held a hearing on July 29, 2019.² No members of the public offered comments at the hearing, and the comment period expired on August 9, 2019. One written comment was submitted, on behalf of the American Council of Life Insurers (ACLI), by Michelle Carroll Foster, ACLI's Regional Vice President for State Relations.

Fiscal impact of rule:

No fiscal impact on state government.

² The notice erroneously referenced 24-A M.R.S. §423-F (governing an insurer's Own Risk and Solvency Assessment) rather than §423-G, and included an additional reference to 24-A M.R.S. §6718(2), granting rulemaking authority for captive risk retention groups. The rule does not apply to captive risk retention groups.