

## 1 HOUSE BILL NO. 78

2 INTRODUCED BY G. OVERSTREET

3 BY REQUEST OF THE STATE AUDITOR

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PET INSURANCE; CREATING THE  
6 MONTANA PET INSURANCE ACT; PROVIDING DEFINITIONS; PROVIDING FOR INSURER  
7 DISCLOSURES; PROVIDING REQUIREMENTS FOR PET INSURANCE POLICIES; PROVIDING  
8 REQUIREMENTS FOR WELLNESS PROGRAMS; PROVIDING REQUIREMENTS FOR TRAINING  
9 REQUIREMENTS; AND PROVIDING RULEMAKING AUTHORITY."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 NEW SECTION. **Section 1. Short title.** [Sections 1 through 9] may be cited as the "Montana Pet  
14 Insurance Act."

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16 NEW SECTION. **Section 2. Scope and purpose.** (1) The purpose of [sections 1 through 9] is to  
17 promote the public welfare by creating a comprehensive legal framework within which pet insurance may be  
18 sold in this state.

19 (2) The requirements of [sections 1 through 9] apply to pet insurance policies that are issued to a  
20 resident of this state and are sold, solicited, negotiated, or offered in this state, and policies or certificates that  
21 are delivered or issued for delivery in this state.

22 (3) All other applicable provisions of Title 33 continue to apply to pet insurance, except that  
23 specific provisions of [sections 1 through 9] supersede any general provisions of law that would otherwise be  
24 applicable to pet insurance.

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26 NEW SECTION. **Section 3. Definitions.** (1) If a pet insurer uses any of the terms in [sections 1  
27 through 9] in a policy of pet insurance, the pet insurer shall use the definition of each of those terms as set forth  
28 in this section and include the definition of the terms in the policy.

(2) Nothing in [sections 1 through 9] prohibits or limits the types of exclusions pet insurers may use in their policies or require pet insurers to have any of the limitations or exclusions defined below.

(3) As used in [sections 1 through 9], the following definitions apply:

(a) "Chronic condition" means a condition that can be treated or managed, but not cured.

(b) "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.

(c) "Hereditary disorder" means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

(d) "Orthopedic" refers to conditions affecting the bones, skeletal muscle, cartilage, tendons, ligaments, and joints. It includes but is not limited to elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and ruptured cranial cruciate ligaments. It does not include cancers or metabolic, hemopoietic, or autoimmune diseases.

(e) "Pet" means any domesticated animal normally maintained in or near the household of its owner. It does not include livestock as defined in 81-8-213 kept for any commercial purpose.

(f) "Pet insurance" means a property insurance policy that provides coverage for accidents and illnesses of pets.

(g) (i) "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:

(A) a veterinarian provided medical advice;

(B) the pet received previous treatment; or

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

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

(h) "Renewal" means to issue and deliver at the end of an insurance policy period a policy that supersedes a policy previously issued and delivered by the same pet insurer or affiliated pet insurer and that provides types and limits of coverage substantially similar to those contained in the policy being superseded.

(i) "Veterinarian" means an individual who holds a valid license to practice veterinary medicine

1 under 37-18-305 or a similar state law in the jurisdiction in which the veterinarian practices.

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

4 (k) "Waiting period" means the period of time specified in a pet insurance policy that is required to  
5 transpire before some or all of the coverage in the policy can begin. Waiting periods may not be applied to  
6 renewals of existing coverage.

7 (l) "Wellness program" means a subscription or reimbursement-based program that is separate  
8 from an insurance policy and that provides goods and services to promote the general health, safety, or  
9 wellbeing of the pet. A wellness program otherwise meeting the definition of insurance set forth in 33-1-201 is  
10 still subject to Title 33. This definition is not intended to classify a contract directly between a service provider  
11 and a pet owner that only involves the two parties as being insurance unless other indicia of an insurance  
12 contract also exist.

13  
14 **NEW SECTION. Section 4. Disclosures.** (1) Before completing the sale of a pet insurance policy, a  
15 pet insurer transacting in pet insurance shall disclose the following to consumers:

16 (a) if the policy excludes coverage due to any of the following:

17 (i) a preexisting condition;

18 (ii) a hereditary disorder;

19 (iii) a congenital anomaly or disorder; or

20 (iv) a chronic condition;

21 (b) if the policy includes any other exclusions, the following statement: "Other exclusions may  
22 apply. Please refer to the exclusions section of the policy for more information."

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

25 (d) whether the pet insurer reduces coverage or increases premiums based on the insured's claim  
26 history, the age of the covered pet or a change in the geographic location of the insured; and

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

28 (2) As provided in this subsection (2), an insured has the right to examine and return the policy.

1 (a) Unless the insured has filed a claim under the pet insurance policy, pet insurance applicants  
2 have the right to examine and return the policy, certificate, or rider to the company or an insurance producer of  
3 the company within 15 days of its receipt and to have the premium refunded if, after examination of the policy,  
4 certificate, or rider, the applicant is not satisfied for any reason.

5 (b) Pet insurance policies, certificates, and riders must have a notice prominently printed on the  
6 first page or attached to the first page including specific instructions to accomplish a return. The following free  
7 look statement or language that is substantially similar must be included:

8 "You have 15 days from the day you receive this policy, certificate, or rider to review it and  
9 return it to the company if you decide not to keep it. You do not have to tell the company why you are returning  
10 it. If you decide not to keep it, simply return it to the company at its administrative office or to the  
11 agent/insurance producer that you bought it from, so long as you have not filed a claim. You must return it  
12 within 15 days of the day you first received it. The company will refund the full amount of any premium paid  
13 within 30 days after it receives the returned policy, certificate, or rider. The premium refund will be sent directly  
14 to the person who paid it. The policy, certificate, or rider will be void as if it had never been issued."

15 (3) A pet insurer shall clearly disclose a summary description of the basis or formula on which the  
16 pet insurer determines claim payments under a pet insurance policy within the policy, prior to policy issuance.

17 (4) A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance  
18 policy shall clearly disclose the applicable benefit schedule in the policy.

19 (5) A pet insurer that determines claim payments under a pet insurance policy based on usual and  
20 customary fees, or any other reimbursement limitation based on prevailing veterinary service provider charges,  
21 shall include a usual and customary fee limitation provision in the policy that clearly describes the pet insurer's  
22 basis for determining usual and customary fees and how that basis is applied in calculating claim payments.

23 (6) If a medical examination by a licensed veterinarian is required to effectuate coverage, the pet  
24 insurer shall clearly and conspicuously disclose the required aspects of the examination prior to purchase and  
25 disclose that examination documentation may result in a preexisting condition exclusion.

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

28 (8) The pet insurer shall include a summary of all policy provisions required in subsections (1)

1 through (7) in a separate document titled "Insurer Disclosure of Important Policy Provisions".

2 (9) In connection with the issuance of a new pet insurance policy, the pet insurer shall provide the  
3 consumer with a copy of the "Insurer Disclosure of Important Policy Provisions" document required pursuant to  
4 subsection (8) in at least 12-point type when it delivers the policy.

5 (10) (a) At the time a pet insurance policy is issued or delivered to a policyholder, the pet insurer  
6 shall include a written disclosure with the following information, printed in at least 12-point boldface type:

7 (i) the commissioner's mailing address, toll-free telephone number, and website address; and

8 (ii) the address and customer service telephone number of the pet insurer and the agent or broker  
9 of record, if the policy was issued or delivered by an agent or broker.

10 (b) The disclosures required in this section are in addition to any other disclosure requirements  
11 required by law or rules promulgated by the commissioner.

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13 **NEW SECTION. Section 5. Policy conditions.** (1) A pet insurer may issue policies that exclude  
14 coverage on the basis of one or more preexisting conditions with appropriate disclosure to the consumer. The  
15 pet insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which  
16 a claim is being made.

17 (2) (a) A pet insurer may issue policies that impose waiting periods upon effectuation of the policy  
18 that do not exceed 30 days for illnesses or orthopedic conditions not resulting from an accident. Waiting periods  
19 for accidents are prohibited.

20 (b) (i) A pet insurer utilizing a waiting period permitted in this subsection (2) shall include a  
21 provision in its contract that allows the waiting period to be waived upon completion of a medical examination.  
22 Pet insurers may require the examination to be conducted by a licensed veterinarian after the purchase of the  
23 policy.

24 (ii) A medical examination under this subsection (2)(b) must be paid for by the policyholder unless  
25 the policy specifies that the pet insurer will pay for the examination.

26 (iii) A pet insurer may specify elements to be included as part of the examination and require  
27 documentation of the included elements, provided the specifications do not unreasonably restrict a consumer's  
28 ability to waive the waiting periods in this subsection (2).

(c) Waiting periods, and the requirements applicable to them, must be clearly and prominently disclosed to consumers prior to the policy purchase.

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

(4) If a pet insurer includes any prescriptive, wellness, or noninsurance benefits in the policy form, then it is made part of the policy contract and must follow all applicable laws and regulations in Title 33.

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

**NEW SECTION. Section 6. Sales practices for wellness programs.** (1) A pet insurer and producer selling pet insurance may not:

(a) market a wellness program as pet insurance; or

(b) market a wellness program during the sale, solicitation, or negotiation of pet insurance.

(2) If a wellness program is sold by a pet insurer and producer:

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

(b) the costs of the wellness program must be separate and identifiable from any pet insurance policy;

(c) the terms and conditions for the wellness program must be separate from any pet insurance policy;

(d) the products or coverages available through the wellness program may not duplicate products or coverages available through the pet insurance policy;

(e) the advertising of the wellness program may not be misleading and must be in accordance with this subsection (2); and

(f) the pet insurer and producer shall clearly disclose the following to consumers, printed in at least 12-point boldface type:

(i) that wellness programs are not insurance;

(ii) the address and customer service telephone number of the pet insurer and producer or broker

1 of record, if the policy was issued or delivered by an agent or broker; and

2 (iii) the mailing address, telephone number, and website address for the commissioner's office.

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

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6 **NEW SECTION. Section 7. Insurance producer training.** (1) An insurance producer may not sell,  
7 solicit, or negotiate a pet insurance product until after the producer is appropriately licensed and has completed  
8 the required training identified in subsection (4), and completes the training once within every 24-month period  
9 after the initial training.

10 (2) The training requirements of this section may be approved as continuing education courses  
11 under Title 33, chapter 17, part 12.

12 (3) An insurer covered by [sections 1 through 9] shall ensure that its producers are trained under  
13 subsection (4) and that its producers have been appropriately trained on the coverages and conditions of its pet  
14 insurance products.

15 (4) The training required under this subsection must include 2 total hours of training covering the  
16 following topics:

17 (a) preexisting conditions and waiting periods;

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

19 (c) hereditary disorders, congenital anomalies or disorders, and chronic conditions and how pet  
20 insurance policies interact with those conditions or disorders; and

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

22 (5) The satisfaction of the training requirements of another state that are substantially similar to the  
23 provisions of subsection (4) satisfy these training requirements.

24 (6) (a) An insurer subject to this section shall obtain verification that an insurance producer acting  
25 on the insurer's behalf receives the training required by this section before the insurance producer is permitted  
26 to sell, solicit, or negotiate the insurer's pet insurance products.

27 (b) The insurer shall maintain records subject to this state's record retention requirements and  
28 make the verification of the insurance producer's compliance with training requirements available to the

1 commissioner upon request.

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3 NEW SECTION. **Section 8. Rulemaking.** The commissioner may adopt rules implementing [sections  
4 1 through 9].

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6 NEW SECTION. **Section 9. Violations.** Violations of [sections 1 through 9] are subject to penalties  
7 and remedies set forth in 33-1-317, 33-1-318, and Title 33, chapter 18.

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9 NEW SECTION. **Section 10. Codification instruction.** [Sections 1 through 9] are intended to be  
10 codified as a new part in Title 33, chapter 24, and the provisions of Title 33, chapter 24, apply to [sections 1  
11 through 9].

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