

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
PROPOSED
FORTY-EIGHTH AMENDMENT TO 11 NYCRR 52
(INSURANCE REGULATION 62)**

**MINIMUM STANDARDS FOR FORM, CONTENT AND SALE OF HEALTH
INSURANCE, INCLUDING STANDARDS OF FULL AND FAIR DISCLOSURE**

I, Maria T. Vullo, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 3201, 3217, 3221, 4235, 4237, and 4303 of the Insurance Law, do hereby promulgate the Forty-Eighth Amendment to Part 52 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation No. 62), to take effect 60 days after publication in the State Register, to read as follows:

(ALL MATERIAL IS NEW)

Subdivision 52.1(p) is added as follows:

(p)(1) Subject to certain limited exceptions, Insurance Law section 3217 and regulations promulgated thereunder (section 52.16(c) of this Part) have long prohibited health insurance policies from limiting or excluding coverage based on type of illness, accident, treatment or medical condition. None of the exceptions apply to medically necessary abortions. As a result, insurance policies that provide hospital, surgical, or medical expense coverage are required to include coverage for abortions that are medically necessary.

(2) Section 52.16(o) of this Part makes explicit that group and blanket insurance policies that provide hospital, surgical, or medical expense coverage delivered or issued for delivery in this State shall not exclude coverage for medically necessary abortions. Section 52.16(o) of this Part also provides for an optional, limited exemption for religious employers and qualified religious organization employers as provided in that section while ensuring that coverage is maintained for any insured seeking a medically necessary abortion.

Subdivisions 52.2(y), (z), and (aa) are added as follows:

(y) *Religious employer* shall have the meaning set forth in Insurance Law sections 3221(l)(16)(A)(1) and 4303(cc)(1)(A).

(z) *Qualified religious organization employer* means an organization that:

(1) opposes medically necessary abortions on account of a sincerely held religious belief;
and

(2)(i) is organized and operates as a nonprofit entity and holds itself out as a religious organization; or

(ii) is organized and operates as a closely held for-profit entity, as defined in subdivision (aa) of this section, and the organization's highest governing body (such as its board of directors, board of trustees, or owners, if managed directly by its owners) has adopted a resolution or similar action, under the organization's applicable rules of governance and consistent with state law, establishing that it objects to covering medically necessary abortions on account of the owners' sincerely held religious beliefs.

(aa) *Closely held for-profit entity* means an entity that:

(1) is not a nonprofit entity;

(2) has no publicly traded ownership interests (for this purpose, a publicly traded ownership interest is any class of common equity securities required to be registered under section 12 of the Securities Exchange Act of 1934); and

(3) has more than 50 percent of the value of its ownership interest owned directly or indirectly by five or fewer individuals, or has an ownership structure that is substantially similar thereto, as of the date of the entity's certification described in section 52.16(o)(2) of this Part; provided, however, that:

(i) ownership interests owned by a corporation, partnership, estate, or trust are considered owned proportionately by such entity's shareholders, partners, or beneficiaries and ownership interests owned by a nonprofit entity are considered owned by a single owner;

(ii) an individual is considered to own the ownership interests owned, directly or indirectly, by or for the individual's family, provided that, for the purposes of this subdivision, "family" includes only brothers, sisters, a spouse, ancestors, and lineal descendants; and

(iii) if an individual holds an option to purchase ownership interests, then the individual is considered to be the owner of those ownership interests.

Subdivision 52.16(o) is added as follows:

(o)(1) No policy delivered or issued for delivery in this State that provides hospital, surgical, or medical expense coverage shall limit or exclude coverage for abortions that are medically necessary. Coverage for abortions that are medically necessary shall not be subject to copayments, or coinsurance, or annual deductibles, unless the policy is a high deductible health plan as defined in section 223(c)(2) of the Internal Revenue Code in which case coverage for medically necessary abortions may be subject to the plan's annual deductible.

(2) Notwithstanding any other provision of this Part, a group or blanket policy that provides hospital, surgical, or medical expense coverage delivered or issued for delivery in this State to a religious employer or qualified religious organization employer may exclude coverage for medically necessary abortions only if the insurer:

(i) obtains an annual certification from the group or blanket policyholder or contract holder that the policyholder or contract holder is a religious employer or qualified religious organization employer and that it has a religious objection to coverage for medically necessary abortions; and

(ii) issues a rider to each certificate holder (i.e., primary insured) at no premium to be charged to the certificate holder (i.e., primary insured), religious employer, or qualified religious organization employer for the rider, that provides coverage for medically necessary abortions subject to the same rules as would have been applied to the same category of treatment in the policy issued to the religious employer or qualified religious organization employer. The rider must clearly and conspicuously specify that the religious employer or qualified religious organization employer does not administer medically necessary abortion benefits, but that the insurer is issuing a rider for coverage of medically necessary abortions, and shall provide the insurer's contact information for questions.