To enact R.S. 22:11(C), relative to the commissioner of insurance; to authorize the commissioner to take certain emergency actions related to insurance; to provide for limitations on these emergency actions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:11(C) is hereby enacted to read as follows:

§11. Rules and regulations by commissioner

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C.(1) When the governor declares a state of emergency pursuant to R.S. 29:724 or a public health emergency pursuant to R.S. 29:766, the commissioner may issue emergency rules or regulations that address any of the following related to insurance policies or health maintenance organization contracts in this state:

(a) Medical coverage relative to each of the following:

(i) Removal of telehealth and telemedicine access restraints.

(ii) Suspension of physician credentialing requirements.

(iii) Expansion of remote access to pharmaceutical drugs.

(b) Grace periods for payment of premiums and performance of other obligations by insurers or insureds. For health and accident insurance and health maintenance organizations, the commissioner may implement a grace period not to exceed sixty days during which the commissioner shall be strictly limited to requiring health insurers to pend all subsequent claims until any arrearages are corrected or the product is permissibly cancelled or nonrenewed at the end of the grace period. The commissioner may require prior notice to providers as a prerequisite for nonpayment of claims. In the event arrearages are not corrected within the duration of the grace period and the product is...
permissibly cancelled or nonrenewed, a healthcare provider may seek payment
for any medical services that were rendered by the healthcare provider but
pended by the insurer directly from the insured.

(c) Temporary postponement of involuntary cancellation or nonrenewal
by the insurer.

(2) An action pursuant to Paragraph (1) of this Subsection shall specify
all of the following:

(a) The kinds of insurance, as defined in R.S. 22:47, affected.

(b) The geographic areas to which the emergency rule or regulation
applies, which may be less extensive but shall not be more extensive than the
geographic areas in the governor's emergency declaration.

(c) The effective dates of the emergency rule or regulation, which shall
not exceed the period of the governor's emergency declaration including any
extensions or an earlier termination of the state of emergency.

(3) Any emergency rules or regulations issued by the commissioner
pursuant to this Subsection shall be subject to legislative oversight in
accordance with R.S. 49:950, et seq. and all of the following:

(a) If the commissioner finds that an imminent peril to the public health,
safety, or welfare requires adoption of a rule upon shorter notice than that
provided in R.S. 49:953(A) and within five days of adoption states in writing to
the governor of the state of Louisiana, the attorney general of Louisiana, the
speaker of the House of Representatives, the president of the Senate, and the
office of the state register, the reasons for that finding, the commissioner may
proceed without prior notice or hearing or upon any abbreviated notice and
hearing that it finds practicable to adopt an emergency rule.

(b) The commissioner's statement of the reasons for finding it necessary
to adopt an emergency rule shall include specific reasons why the failure to
adopt the rule on an emergency basis would result in imminent peril to the
public health, safety, or welfare, or specific reasons why the emergency rule
meets other criteria provided in this Subsection for adoption of an emergency
(c) The commissioner's statement required in this Paragraph shall be submitted to the speaker of the House of Representatives and the president of the Senate at their respective offices in the state capitol by electronic transmission if such means are available. If electronic means are not available, the commissioner's statement shall be submitted to the office of the speaker of the House of Representatives and the president of the Senate in the state capitol by certified mail with the return receipt requested or by messenger who shall provide a receipt for signature. The return receipt, the receipt for signature, or the electronic confirmation receipt shall be proof of receipt of the commissioner's statement by the respective offices.

(d) Within sixty days after receipt of the commissioner's statement by the presiding officer of either house for an emergency rule, an oversight subcommittee of that house may conduct a hearing to review the emergency rule and make a determination of whether the emergency rule meets the criteria for an emergency rule and those determinations as provided in R.S. 49:968(D)(3). If within that time period an oversight subcommittee finds an emergency rule unacceptable, it shall prepare a written report containing a copy of the proposed rule and a summary of the determinations made by the committee and transmit copies thereof as provided in R.S. 49:968(F)(2).

(e) Within sixty days after adoption of an emergency rule, the governor may review the emergency rule and make the determinations as provided in Subparagraph (d) of this Paragraph. If within this time period the governor finds an emergency rule unacceptable, he shall prepare a written report as provided in Subparagraph (d) of this Paragraph and transmit copies thereof to the commissioner and the Louisiana Register no later than four days after the governor makes his determination.

(f) Upon receipt by the commissioner of a report as provided in either Subparagraph (d) or (e) of this Paragraph, the rule shall be nullified and shall be without effect.
(g) Nothing in this Paragraph shall be construed to grant the commissioner authority to issue emergency rules or regulations not otherwise authorized by Paragraph (1) of this Subsection.

(4) No later than June 30, 2021, the commissioner shall promulgate, in accordance with provisions of the Administrative Procedure Act, rules and regulations to govern the business of insurance in the event of a declaration of emergency. The rules and regulations promulgated by the commissioner shall establish requirements related to insurance policies or health maintenance contracts under the authority granted by Paragraph (1) of this Subsection.

(5)(a) Any rule adopted pursuant to the authority granted in Subparagraph (1)(a) of this Subsection and governing medical coverage not specifically enumerated therein shall be presented by the commissioner to the Senate Insurance Committee and House Insurance Committee for review and approval by either committee prior to adoption.

(b) Any temporary postponement of cancellation or nonrenewal pursuant to Subparagraph (1)(c) of this Subsection shall not remain in effect beyond sixty days unless presented by the commissioner to the Senate Insurance Committee and House Insurance Committee for review and approval by either committee prior to any extension.

(c) The House Committee on Insurance and the Senate Committee on Insurance meeting jointly or separately to consider an emergency rule promulgated pursuant to this Subsection may reject the rule or any provision thereof, in which case the rejected rule or provision shall be nullified and shall be without effect.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________

Coding: Words which are struck through are deletions from existing law; words in boldface type and underscored are additions.