

## HOUSE BILL NO. 373

INTRODUCED BY D. DUNN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INSURANCE PRODUCER AFFILIATION REGULATORY  
5 REQUIREMENTS; REVISING BUSINESS ENTITY INSURANCE PRODUCER AFFILIATION REQUIREMENTS;  
6 REQUIRING INSURERS TO REPORT BUSINESS ENTITY AFFILIATION AGREEMENTS TO THE  
7 COMMISSIONER; AND AMENDING SECTIONS 33-17-231, 33-17-236, AND 33-17-238, MCA."

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

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11 **Section 1.** Section 33-17-231, MCA, is amended to read:  
12 **"33-17-231. Appointment of insurance producers -- continuation and termination.** (1) ~~Except as~~  
13 ~~provided in 33-17-238, each~~ Each insurer appointing an insurance producer in this state shall file with the  
14 commissioner the appointment, specifying the kinds of insurance to be transacted by the insurance producer for  
15 the insurer. The appointment may be electronically filed. The commissioner may adopt rules to implement  
16 electronic filing.

17 (2) ~~Except as provided in 33-17-238, each~~ Each appointment remains in effect until the insurance  
18 producer's license is revoked or otherwise terminated unless written notice of earlier termination of the  
19 appointment is filed with the commissioner by the insurer or the insurance producer. The written notice may be  
20 electronically filed. The commissioner may adopt rules to implement electronic filing. Termination of the insurer's  
21 authority in Montana also terminates the appointment.

22 (3) Subject to the insurance producer's contract rights, an insurer may terminate an insurance producer's  
23 appointment at any time. The insurer shall promptly give written notice of the termination to the commissioner and  
24 to the insurance producer, ~~except that the insurer is not required to notify the commissioner of termination of an~~  
25 ~~appointment by affiliation.~~ The commissioner may require reasonable proof that the insurer has given notice to  
26 the insurance producer.

27 (4) As part of the notice of termination given the commissioner, the insurer shall file with the  
28 commissioner a statement of the facts relative to the termination and the cause of termination. Any information  
29 or statement contained in the notice of termination is not admissible as evidence in any action or proceeding  
30 against the insurer or any representative of the insurer by or on behalf of any person affected by the termination.

1 (5) (a) An insurer that sells a qualified health plan in an exchange operating in this state shall appoint  
 2 any producer who is certified by the commissioner pursuant to 33-17-243 and follows the appointment application  
 3 process required by that insurer.

4 (b) To maintain the appointment, the producer shall maintain the producer's certification and license in  
 5 good standing.

6 (6) An appointment by affiliation terminates automatically on termination of the affiliation."  
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8 **Section 2.** Section 33-17-236, MCA, is amended to read:

9 **"33-17-236. Appointments of insurance producers by insurers.** (1) An insurance producer may not  
 10 claim to be a representative of or an authorized or appointed insurance producer of or use another term implying  
 11 a contractual relationship with a particular insurer unless the insurance producer is an appointed insurance  
 12 producer of that insurer pursuant to this section. This does not prevent an insurance producer from obtaining and  
 13 presenting a quotation from an insurer with whom the producer is not appointed. If the insurer consents, the  
 14 insurer may bind coverage on a risk in accordance with 33-15-411 prior to the execution of an agency contract  
 15 and policy issuance.

16 (2) ~~Except as provided in 33-17-238, the~~ The insurer shall, not later than 15 days from the date on which  
 17 the agency contract is executed with an insurance producer, file with the ~~insurance department~~ commissioner  
 18 a written notice of appointment on a form prescribed by the ~~insurance department~~ commissioner. The notice may  
 19 be electronically filed pursuant to rules adopted by the commissioner.

20 (3) Upon receipt of the notice of appointment, the ~~insurance department~~ commissioner shall verify that  
 21 the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for  
 22 appointment, the ~~insurance department~~ commissioner shall notify the insurer of the determination.

23 (4) (a) ~~Except as provided in 33-17-238, an~~ An appointment is effective on the earlier of the date of the  
 24 executed agency contract or the date on which the insurer files the notice of appointment with the ~~insurance~~  
 25 ~~department~~ commissioner, unless the appointment is disapproved by the ~~insurance department~~ commissioner.

26 (b) A disapproved appointment is void on the date the department provides notification to the insurer.

27 (c) An appointment of which notice is not filed within 15 days of execution of the agency contract is not  
 28 effective until the date that the insurer files the notice of appointment with the ~~insurance department~~  
 29 commissioner.

30 (5) ~~Except as provided in 33-17-231, the~~ An appointment is perpetual until canceled by the insurer."

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2           **Section 3.** Section 33-17-238, MCA, is amended to read:

3           "**33-17-238. Appointment by affiliation.** (1) Unless prohibited by the insurer, ~~an individual insurance~~  
4 ~~producer or a~~ business entity insurance producer may satisfy the appointment requirements of 33-17-236(1) by  
5 affiliating with a business entity insurance producer that has been appointed directly by the insurer.

6           (2) A business entity insurance producer obtaining an appointment by affiliation under subsection (1)  
7 shall maintain a copy of each written affiliation agreement for 3 years following termination of the affiliation and  
8 make copies of the agreement available to the commissioner upon request.

9           ~~(3) If an insurance producer is appointed by affiliation under subsection (1), the insurer is not required~~  
10 ~~to file a separate notice of appointment for that insurance producer under 33-17-231(1) and 33-17-236.~~

11           ~~(4)~~(3) An appointment by affiliation under subsection (1) is effective on the date the business entity  
12 insurance producer enters into an affiliation agreement.

13           ~~(5)~~(4) ~~An~~ A business entity insurance producer appointed by affiliation under this section is authorized  
14 to transact the kinds of insurance for which the business entity insurance producer directly appointed by the  
15 insurer is also authorized, except:

16           (a) ~~an~~ a business entity insurance producer appointed by affiliation may not transact kinds of insurance  
17 for which the insurance producer is not otherwise authorized; and

18           (b) the insurer may specify in writing those kinds of insurance the business entity insurance producer  
19 may transact under the appointment."

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