

New York Poised to More Actively Regulate the Pet Insurance Market



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The New York State legislature recently passed a bill that will, if approved by Governor Hochul, create a regulatory framework for the issuance of pet insurance in New York, mirroring similar legislation enacted in states like California and Maine. Although only 4% of dogs and 1% of cats in the United States are insured for veterinary care, [1] more and more pet owners across the nation are buying pet insurance, fueling an average annual growth rate of 22.6% in the pet insurance industry since the COVID-19 pandemic pet ownership boom in 2020. [2] As pet insurance grows more popular, states are taking steps to more actively regulate the expanding industry, addressing reported industry issues involving “surprise” coverage exclusions, predatory premiums, and lengthy coverage waiting periods.

Accordingly, the New York legislature, citing consumer protection as a primary driver, adopted this legislation to create several key marketing standards for the pet insurance industry within the state. Given the growing number of pets that are covered by pet insurance in New York, [3] this legislation, if enacted into law, could impact veterinarian practices throughout the state as it facilitates greater clarity and awareness among pet owners about

how their pet insurance might cover proposed veterinary procedures.

The legislation has passed in both the Assembly and the Senate and is awaiting signature by Governor Hochul. The legislation will be effective 180 days after Governor Hochul signs it into law.

WHAT THE REGULATORY FRAMEWORK LOOKS LIKE

Modeled after the National Association of Insurance Commissioners' ("NAIC") Pet Insurance Model Act (2022), the legislation establishes uniform definitions and disclosure requirements for pet insurance policies that are issued or renewed on and after the legislation's effective date. The legislation also contains other consumer protection measures, particularly with respect to waiting periods and wellness programs.

The legislation allows insurers to require the covered pet to undergo a medical examination administered by a veterinarian to initiate the insurance policy. However, an insurer cannot mandate a medical examination of the covered pet for renewal of an insurance policy. Insurers are permitted to exclude coverage for pre-existing conditions, but to exclude coverage, the burden is on the insurer to prove that the pet's condition was actually pre-existing. Further, an insurer cannot consider a covered pet's condition as pre-existing after renewal of a policy if that condition was afforded coverage under the insurer's initial policy.

If an insurer imposes waiting periods under a policy, such waiting period cannot exceed 30 days and the insurance policy must include a provision that allows the waiting period to be waived upon completion of a medical examination by a veterinarian. Coverage waiting periods cannot be imposed for treatment that is required for conditions that were caused by an accident, but waiting periods can be imposed for illnesses or orthopedic conditions that do not result from an accident.

To protect consumers, the legislation mandates insurers to provide a summary of certain disclosures in a document entitled "Insurer Disclosure of Important Policy Provisions" ("Policy Summary"). Insurers are required to distribute this Policy Summary to new policyholders upon the issuance of a new pet insurance policy, as well as post the Policy Summary conspicuously on their websites. The legislation provides that policyholders have 30 days after purchase to cancel the policy and requires insurers to disclose the 30-day cancellation period to purchasers clearly on the first page of the insurance policy or otherwise stated clearly in an attachment to the policy.

In particular, pet insurers are required to disclose in their Policy Summary, at a minimum, the following:

- A description of any policy provision that excludes coverage due to a preexisting condition, hereditary disorder, a congenital anomaly or disorder, or a chronic condition;
- if any medical examination by a licensed veterinarian is required to effectuate coverage, the Policy Summary must describe the required aspects of such an examination and disclose the possibility that the examination documentation could result in a finding of an excluded preexisting condition;
- a description of the basis or formula for calculating claim payments;
 - If the policy is based upon a benefit schedule, the insurer must disclose the applicable benefit schedule within the policy, as well as all benefit schedules on their website.
 - Alternatively, if the policy is based upon usual and customary fees, the insurer must include a usual and customary fee limitation provision that clearly describes the insurer's basis for determining usual and

customary fees and how that basis is applied in calculating claim payments.

- a description of any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit;
- a description of any policy provision that reduces coverage or increases premiums based on the insured's claim history, the age of the covered pet, or a change in the geographic location of the insured; and
- when a policy requires waiting periods, the Policy Summary must include a statement saying so, together with the corresponding requirements to successfully complete such a waiting period.

The legislation also imposes strict rules on the administration and marketing of wellness programs for pets. Insurers must ensure that their pet wellness programs are marketed and sold as distinct products from their pet insurance and that advertising for the wellness programs is not misleading. The terms, conditions, and costs of pet insurance and wellness programs must remain separate from each other, and the product and coverage offerings of both cannot overlap. Notably, insurers are prohibited from marketing pet wellness programs as pet insurance or requiring policyholders to purchase a wellness program as a condition to being permitted to buy any pet insurance.

Finally, the legislation requires pet insurance salespersons to be licensed and trained on the coverage and conditions of the pet insurance policies they are selling. Training topics must include: (1) preexisting conditions and waiting periods, (2) the difference between pet insurance and wellness programs, (3) how pet insurance interacts with different conditions and disorders, and (4) rating, underwriting, renewal, and other administrative topics.

IMPLICATIONS FOR YOUR VETERINARY PRACTICE

As New Yorkers continue to buy pet insurance in greater numbers year after year, veterinary practices will likely come across more and more pet owners who have insurance coverage that could end up impacting their treatment decisions. Therefore, we encourage veterinarians to familiarize themselves with this new legislation and take steps to remain informed about the way in which pet insurance covers veterinary treatment in New York.

For more information about this pet insurance legislation or if you would like assistance in better understanding the pet insurance market in New York, please contact Frank J. Fanshawe at ffanshawe@lippes.com or Matthew L. Hosford at mhosford@lippes.com.

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[1] Jason Metz, *Pet Insurance Statistics 2024*, FORBES (Jan. 3, 2024, 7:40 AM), <https://www.forbes.com/advisor/pet-insurance/pet-insurance-statistics/>.

[2] North American Pet Health Insurance Association, *Section #2: Total Pets Insured*, <https://naphia.org/industry-data/section-2-total-pets-insured/> (last accessed July 22, 2024).

[3] Ryan Whalen, *New York bill would create regulatory structure for pet insurance*, Spectrum News 1 (June 27, 2024, 7:41 PM), <https://spectrumlocalnews.com/nys/central-ny/politics/2024/06/27/ny-bill-would-create-regulatory-structure-for-pet-insurance>

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