WEST VIRGINIA CODE: §33-46-5

§33-46-5. Maintenance of information.

(a) An administrator shall maintain and make available to the insurer complete books and records of all transactions performed on behalf of the insurer. The books and records shall be maintained in accordance with prudent standards of insurance recordkeeping and shall be maintained for a period of not less than ten years from the date of their creation.

(b) The commissioner shall have access to books and records maintained by an administrator for the purposes of examination, audit and inspection. Any documents, materials or other information in the possession or control of the commissioner that is furnished by an administrator, insurer, insurance producer or an employee or agent thereof acting on behalf of the administrator, insurer or insurance producer, or obtained by the commissioner in an investigation is confidential by law and privileged, is not subject to chapter twenty-nine-b of this code, is not subject to subpoena and is not subject to discovery or admissible as evidence in any private civil action. However, the commissioner may use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

(c) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (b) of this section.

(d) In order to assist in the performance of his or her duties, the commissioner may:

(1) Share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (b) of this section, with other state, federal and international regulatory agencies, with the national association of Insurance Commissioners, its affiliates or subsidiaries and with state, federal and international law-enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;

(2) Receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the national association of Insurance Commissioners, its affiliates or subsidiaries and from regulatory and law-enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(3) Enter into agreements governing the sharing and use of information consistent with this subsection.

www.Legislature

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (d) of this section.

(f) Nothing in this article prohibits the commissioner from releasing final, adjudicated actions, including for cause terminations, that are open to public inspection pursuant to chapter twenty-nine-b of this code to a database or other clearinghouse service maintained by the national association of Insurance Commissioners, its affiliates or subsidiaries.

(g) The insurer owns the records generated by the administrator pertaining to the insurer; however, the administrator shall retain the right to continuing access to books and records to permit the administrator to fulfill all of its contractual obligations to insured parties, claimants and the insurer.

(h) In the event the insurer and the administrator cancel their agreement, the administrator may, by written agreement with the insurer, transfer all records to a new administrator rather than retain them for ten years notwithstanding the provisions of subsection (a) of this section. In those cases, the new administrator shall acknowledge, in writing, that it is responsible for retaining the records of the prior administrator as required in subsection (a) of this section.

WV Legislature