



## **RULES AND REGULATIONS OF THE STATE OF NEW YORK**

### **TITLE 11. INSURANCE DEPARTMENT**

#### **Chapter X — RECORDS**

#### **Part 243. Standards of Records Retention by Insurance Companies (Regulation 152)**

##### **11 NYCRR 243.0 Purpose**

The purpose of this Part is to clarify and provide minimum recordkeeping requirements regarding the origin, maintenance and reproduction of information by insurers doing business in this state and certain other entities.

**Statutory Authority** - Insurance Law, §§ 201, 301, 309, 310 and 2344.

**History** Sec. filed June 25, 1996 eff. Sept. 1, 1996.

##### **11 NYCRR 243.1 Definitions**

For the purposes of this Part, the following terms shall apply:

(a) "Insurer" means an authorized insurer, as such term is defined in Insurance Law Section 107(a)(10); a joint underwriting association; the state insurance fund; the medical malpractice insurance plan; the New York property insurance underwriting association; the New York automobile insurance plan; the motor vehicle accident indemnification corporation; a health maintenance organization subject to Public Health Law Article 44; an employee welfare fund; a charitable annuity society, pension fund, retirement system, fraternal benefit society, or other entity exempt from the doing of an insurance business pursuant to Insurance Law Section 1108 or other section of the Insurance Law and which is subject to examination by the superintendent; a viatical settlement company; or a licensed rate service organization.

(b) "Records" means books, records, files, securities, data compilations, and other documents.

(c) "Durable Medium" means a medium for maintaining a record where the properties of such medium provide reasonable assurances against tampering with the information contained in the original and degradation of any reproduction generated, and where the reproduction is an exact copy of the original. The medium may include paper; facsimile; or photographic, micrographic, magnetic, optical, mechanical or electronic media.

**Statutory Authority** - Insurance Law, §§ 201, 301, 309, 310 and 2344.

**History**      Filed June 25, 1996; Sept. 5, 2003 eff. Sept. 24, 2003.

## 11 NYCRR 243.2 Records required for examination purposes and retention period

(a) In addition to any other requirement contained in Insurance Law Section 325, any other Section of the Insurance Law or other law, or any other provision of this Title, every insurer shall maintain its claims, rating, underwriting, marketing, complaint, financial, and producer licensing records, and such other records subject to examination by the superintendent, in accordance with the provisions of this Part.

(b) Except as otherwise required by law or regulation, an insurer shall maintain:

(1) A policy record for each insurance contract or policy for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record was subject to review, whichever is longer. Policy records need not be segregated from the policy records of other states as long as they are maintained in accordance with the provisions of this Part. A separate copy need not be maintained in an individual policy record, provided that any data relating to a specific contract or policy can be retrieved pursuant to Section 243.3(a) of this Part. A policy record shall include:

- (i) The policy term, basis for rating, and return premium amounts, if any;
- (ii) The application, including any application form or enrollment form for coverage under any insurance contract or policy;
- (iii) The contract or policy forms issued including the declaration pages, endorsements, riders, and termination notices of the contract or policy. Binders shall be retained if a contract or policy was not issued; and
- (iv) Other information necessary for reconstructing the solicitation, rating, and underwriting of the contract or policy.

(2) An application where no policy or contract was issued for six calendar years or until after the filing of the report on examination in which the record was subject to review, whichever is longer.

(3) A record required under Section 218.7 of this Title for six years after the required report is filed or, if the filing requirement is waived, for six years after the report would have been filed.

(4) A claim file for six calendar years after all elements of the claim are resolved and the file is closed or until after the filing of the report on examination in which the claim file was subject to review, whichever is longer. A claim file shall show clearly the inception, handling and disposition of the claim, including the dates that forms and other documents were received.

(5) A licensing record for six calendar years after the relationship is terminated for each Insurance Law licensee with which the insurer establishes a relationship. Licensing records shall be maintained so as to show clearly the dates of appointment and termination of each licensee.

(6) A complaint record required to be maintained under Chapter IX of this Title for six calendar years after all elements of the complaint are resolved and the file is closed.

(7) A financial record necessary to verify the financial condition of an insurer, including ledgers, journals, trial balances, annual and quarterly statement workpapers, evidence of asset ownership, and source documents, for six calendar years from its creation or until after the filing of the report on examination in which the record was subject to review, whichever is longer.

(8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review.

(c) If the superintendent is not required to conduct an examination of an insurer, the requirement that the record be maintained until after the filing of the report on examination shall not apply. However, if an examination in which the record is subject to review has begun, the insurer shall retain the record until after the filing of the report on examination.

(d) An insurer shall require, by contract or other means, that a person authorized to act on its behalf in connection with the doing of an insurance business, including a managing general agent, an administrator, or other person or entity, shall comply with the provisions of this Part in maintaining records that the insurer would otherwise be required to maintain. Notwithstanding the above, the insurer shall be responsible if the person or entity fails to maintain the records in the required manner.

(e) The records shall be readily available and easily accessible to the superintendent in accordance with Insurance Law, Section 310. The records shall be in a readable form. If any such records are kept in a language other than English, they shall be accompanied by accurate translations. Upon request of the superintendent, the insurer shall provide a hard copy of the record, or, if the record is maintained in a medium which is used by the superintendent, the insurer may provide the record in that medium. Failure to produce and provide a record within a reasonable time frame shall be deemed a violation of Insurance Law, Section 308 unless the insurer can demonstrate that there is a reasonable justification for that delay.

(f) Nothing in this Part shall prevent or restrict an insurer from maintaining records for a longer period.

**Statutory Authority** - Insurance Law, §§ 201, 301, 309, 310 and 2344.

**History**      Sec. filed June 25, 1996 eff. Sept. 1, 1996.

## 11 NYCRR 243.3 Standards for maintenance and reproduction of records

(a)(1) Records and indices of records required to be maintained under this Part may be maintained in any durable medium.

(2) Where the original record was not a paper document, an insurer shall be able to produce information or data which accurately represents a record of communications between a person or entity and the insurer or accurately reflects a transaction or event.

(3) Upon transfer of an original record to a durable medium, the insurer may destroy the original record after assuring that all information contained in the original record, including signatures, handwritten notations, or pictures, is contained in the durable medium.

(4) If the insurer does not retain the original paper record, or if there was no original paper record, a duplicate or back-up system sufficient to permit reconstruction of the record shall be established at a separate location. The record may be retained in any form permitted by this Part.

(b) The superintendent may perform on-site visits to determine that the insurer is in compliance with this Part.

(c) An insurer shall establish and maintain a records retention plan. The plan shall include a description of the types of records being retained, the method of retention, and the safeguards established to prevent alteration of the records. Such plan shall be provided to the superintendent upon request. The insurer shall certify the accuracy of any records that are provided in accordance with its record retention plan.

(d) Nothing in this Part shall be construed as requiring the utilization of any particular method of record retention by any insurer.

**Statutory Authority** - Insurance Law, §§ 201, 301, 309, 310 and 2344.

**History**      Sec. filed June 25, 1996 eff. Sept. 1, 1996.