

## **LEG REG REVIEW**

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*LEG REG REVIEW is a periodic newsletter produced by Vince Phillips who retired from active lobbying after 31 years of advocacy in Harrisburg. It contains news on the legislative and regulatory scene in Pennsylvania that may be of interest to the Insurance and Business Communities. Subscriptions are \$100 and information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 or e-mail to [xenobun@aol.com](mailto:xenobun@aol.com).*

#### **BUDGET SEASON**

June is one of the focal points of the General Assembly's year. The State Budget for FY 2022-23 starting July 1 takes center stage with 15 session days scheduled for the month. The deliberations will not affect funding for the PA Insurance Department since its general government operations comes from a dedicated fund which receives its money from insurance industry licensing fees.

The major budgetary question remains how to spend the multi-billion-dollar surplus Pennsylvania now has. Democrats generally want more spending on social programs and education. Republicans tend to be more cautious in not wanting to make up for Federal one-time cash infusions when they run out. There is some bipartisan consensus on some programs such as some additional funding for schools and for agricultural conservation/preservation. The impact of the primary election on the State Budget is unclear since major negotiator House Appropriations Committee Majority Chair Stan Saylor (R-York) lost his bid for renomination. His Senate counterpart Pat Browne (R-Lehigh) was losing by a razor-thin margin pre-recounting. With potentially both heading for retirement November 30, the negotiations may have a different pace, compounded by the fact that this is also Governor Tom Wolf's last year and final State Budget in office.

That does not mean that other issues won't arise. Numbers of incendiary topics will receive lawmakers' attention – gun control, abortion, election reforms, etc.

#### **INSURANCE COMMITTEE TO MEET ON NAIC CYBERSECURITY MODEL**

On June 8, the House Insurance Committee plans to meet to discuss amendments to House Bill 2499 (Pickett-R-Bradford). The sponsorship memo gives the bill's purpose:

The Pennsylvania Insurance Data Security Act adopts the National Association of Insurance Commissioners (NAIC) model law requiring licensees, with exceptions for small insurers, to conduct an annual risk assessment.

Under the Act, each insurer domiciled in Pennsylvania would be required to submit an annual written statement to the Pennsylvania Insurance Department certifying that the insurer is in compliance with the risk assessment, information security program, and oversight portions of the Act. In addition, if a licensee learns that a cybersecurity event has or may have occurred, the licensee or an outside vendor and/or service provider shall conduct a prompt investigation and notify the Commissioner of the Pennsylvania Insurance Department within three (3) business days from a determination that a cybersecurity event involving nonpublic information in the possession of the licensee has occurred.

**HB 2499 provides an exception for small insurance companies in section 4532 (page 25).** These are insurers with less than ten employees, less than 5.0 million dollars in gross revenue, or less than 10.0 million dollars in end of year assets. In addition, insurers already governed by HIPAA and HITECH laws relating to protected health information are considered compliant with the PA Insurance Data Security Act except for certain notification requirements of a cybersecurity event.

#### **HEARING TO TAKE PLACE ON PERSONAL INFO NOTIFICATION ACT**

On June 7, a joint hearing of the House State Government Committee and the Senate Communications & Technology Committee will discuss Senate Bill 696 (Laughlin-R-Erie), which amends the Breach of Personal Information Notification Act. If reviewing the bill's text, make sure you are looking at Printer's Number 1330 as the bill has already been amended twice:

<https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2021&sInd=0&body=S&type=B&bn=0696>.

## REGULATORY UPDATES

- The PA Insurance Department announced via the May 28 [PA Bulletin](#) that the U.S. Centers for Medicare & Medicaid Services (CMS) approved PA's Affordable Care Act 1332 Waiver Application. This extends the Commonwealth's authority to operate a state-based Exchange reinsurance through December 31, 2025. Notice 2022-07 specifies that beginning January 1, 2023, a percentage of claims exceeding \$60,000 and a reinsurance cap of \$100,000 can be reimbursed to health insurance carriers. Questions: Bureau of Life, Accident and Health, [RE-RATEFORM@pa.gov](mailto:RE-RATEFORM@pa.gov).
- On June 16, the Independent Regulatory Review Commission (IRRC) considers Regulation No. 11-260, the Insurance Department's Term and Universal Life Insurance Reserve Financing Standards.
- The PA Long-Term Care Council will meet June 9, August 11, and October 13, 2022 at a new location. Details: Sasha Santana 717-787-3368. The law establishing the LTC Council expressly requires that a licensed insurance producer be a member. Currently, that appointee is Eric Beittel of Enders Insurance.

## DEPARTMENT ISSUES MH PARITY REMINDER

On May 26, the Insurance Department issued a press release reminding PA insurance consumers that insurance companies must abide by Federal and state laws regarding the Mental Health Parity and Addiction Equity Act and PA's Act 14 of 2010. They specify that health insurance plans and insurers must offer mental health and substance abuse disorder benefits that are no less restrictive than their coverage for medical and surgical costs. These benefits include copays, deductibles, limits on outpatient or inpatient visits that are covered, pre-authorizations, providers through a plan's network, and what a plan deems as 'medically necessary'.

## COMMITTEE WORK THIS WEEK

- The Senate Appropriations Committee will take up **Senate Bill 1235** (DiSanto-R-Dauphin) to prevent the Department of Human Services from forcing Capital Blue Cross to abide by Medicaid regional county service areas in marketing CHIP. This conflicts with the legal requirement that the insurer only can market in 27 specified counties and in effect, would prevent any CHIP marketing. Previously, on May 24, SB 1235 was reported out by the Senate Banking & Insurance Committee 13-0. Its counterpart, **House Bill 2585** (Pickett-R-Bradford) moved 23-0 through the House Insurance Committee May 23. HB 2585 was re-referred to the House Appropriations Committee.
- Reported out by the Senate Banking & Insurance Committee by 13-0 votes on May 24 were:
  - **Senate Bill 1222** (DiSanto-R-Dauphin) to adopt National Association of Insurance Commissioners (NAIC) insurer Group Capital Calculation and Liquidity Stress Test.
  - **House Bill 2419** (Pickett-R-Bradford) to expand the Outpatient Psychiatric Oversight Act to apply to psychiatric Telemedicine care.
- The House Environmental Resources & Energy Committee will consider **House Bill 2644** (Causer-R-Cameron/McKean/Potter). It would take away the Environment Quality Board's authority to increase bonding requirements for plugging orphan oil and gas wells and make that a General Assembly responsibility.
- **House Bill 761** (DeLuca-D-Allegheny) was reported by the House Consumer Affairs Committee 25-0 on May 24. It amends the Unfair Trade Practices & Consumer Protection Law to allow a person to sue for actual damages or \$500 (currently \$100) whichever is greater.
- On May 24, the Senate Labor & Industry Committee voted 9-1 to report **Senate Bill 1147** (Robinson-R-Allegheny/Washington). This requires public works contractors to register with E-Verify (legal employment eligibility for new hires).

**TO REMEMBER...** Two former legislators have passed away. Former Senator Jim Ferlo (D-Allegheny/Armstrong/Westmoreland) served in the General Assembly from 2003 until 2015. He was the prime sponsor of single payer legislation. Former Representative Peter J. Daley (D-Fayette/Washington) served in the House of Representatives from 1982 until 2017. He served as Chair of the House Consumer Affairs Committee.