

## 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. Annual 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).*

#### HAPPY THANKSGIVING

**As the Editor of LEG REG Review for over two decades, I am grateful to subscribers and interested parties. As a reader, you are interested in being informed about legislative and regulatory issues affecting insurers, insurance producers, and of course the public who needs to better understand insurance and how public policy changes affect risk management. Best wishes, *Vince***

**LEGISLATIVE ACTIVITY** Both House and Senate were in session this past week. There are just three session days left in 2023. Both chambers plan to reconvene on December 11, 12, and 13.

#### FLOOD INSURANCE TASK FORCE BECOMES LAW

Governor Josh Shapiro signed **House Bill 735** (Warren-D-Bucks) into law on November first as Act 22 of 2023. It establishes the Flood Insurance Premium Assistance Task Force. Among other things this Task Force will research potential premium discount programs and examine “*the implementation of necessary changes in statutes and practices of this Commonwealth, policies and procedures relating to the administration of flood insurance.*” **NOTE:** There is no language in the bill requiring that either a licensed insurance producer with experience in selling Flood Insurance or an insurance company or surplus lines carrier that offer either National Flood Insurance Program or private sector policies be named to the Task Force.

#### LEGISLATIVE ACTIONS

- **Senate Bill 429** (Regan-R-York/Cumberland) was reported out by the House Labor & Industry Committee November 15 by a vote of 25-0. It amends the Heart and Lung Act (Enforcement Officer Disability Benefits Law) to add several groups who would now receive Workers Compensation with an automatic upgrade to full salary from the WC Act’s benefit of 2/3 of salary.

*New groups would be: Ft. Indiantown Gap Police; Enforcement Officers of the Office of Inspector General; Allegheny County Housing Authority Police; Several categories of rangers employed by the Department of Conservation & Natural Resources; and Department of Corrections police officers in the Bureau of Investigations.*

- On November 15, the PA Senate voted 50-0 to pass **Senate Bill 668** (J. Ward-R-Blair). It permits Certified Nursing Aides to become Certified Medication Aides in long-term care facilities, assisted living residences, and personal care homes.
- On November 14, the Senate also voted 50-0 to approve **House Bill 507** (Fiedler-D-Phila.). It requires specific informed advance consent by a patient before a pelvic, rectal, or prostate exam requiring anesthesia can be performed. Exceptions may apply if the exam is in the scope of care ordered for the patient, or in an emergency.

#### INSURANCE DEPARTMENT ISSUES EXCHANGE REMINDER

- The PA Insurance Department issued a reminder to health insurance consumers that Pennie’s, open enrollment period is closing December 15, 2023. Coverage will be effective January 1, 2024. Pennie provides subsidized insurance premiums based on income. Details: [www.pennie.com](http://www.pennie.com).

## **MOMENTUM SEEN ON MANDATED BENEFIT**

Momentum is growing for consideration of legislation mandating insurance coverage for biomarker testing, a tool that goes down to the molecular and genetic level to identify proteins or gene mutations signaling cancer or a likelihood of disease reoccurrence. These bills are:

- **Senate Bill 954** (Robinson-R-Allegheny) is in the Banking & Insurance Committee. It is bipartisan with 21 sponsors (15 Republicans and six Democrats). In the Senate Banking & Insurance Committee, eight of the 14 committee members are sponsors. In addition, both the Republican and Democratic Chairs of the Senate Health & Human Services Committee have signed on as sponsors.
- **House Bill 1754** (Mullins-D-Lackawanna) is in the House Insurance Committee. This bipartisan bill has 24 Democrats and 16 Republican sponsors. Ten of the 24 members of the Insurance Committee have signed on as sponsors. This includes Minority Chair Rep. Tina Pickett (R-Bradford). Additionally, House Minority Chair Bryan Cutler (R-Lancaster) is a sponsor as is Minority House Health Committee Majority Chair Dan Frankel (D-Allegheny).
- **House Bill 1594** (Otten-D-Chester) has ten Democratic sponsors. It also is in the House Insurance Committee.

There is also another biomarker bill in the House Health Committee focusing on possible harmful effects from hydraulic fracking. **House Bill 175** (Krajewski-D-Phila.) has 16 Democratic sponsors.

## **POLITICS AND ELECTIONS**

Former Representatives have been elected to head the two most populous counties in Pennsylvania. Philadelphia's new Mayor is former Rep. Cherelle Parker. Allegheny County's new Executive is former Rep. Sara Innamorato. Both are Democrats. A current legislator, Rep. John Galloway (D-Bucks) was elected Magistrate. When he resigns, the PA House will again have a vacancy and the chamber will again have an equal number of Democrats (who now have control) and Republicans until a special election takes place.

## **REGULATORY UPDATES**

- On November 4, the PA Insurance Department issued Notice 2023-16 to remind health insurance companies that they have until January 1, 2024, to become compliant with the Federal Mental Health Parity and Addiction Equity Act and the PA law enacted in 2010. The specific area needing compliance attention is policy form language and claims handling procedures to make sure that autism spectrum disorders are responded to in the same way other diseases are responded to (mental health parity).
- Four applications were received by the Insurance Department from companies seeking designation as a reciprocal jurisdiction reinsurer. The firms are DEVK, Lumen Re Ltd., XL Re Europe SE, and Aviva Insurance Limited.
- Information on the Medical Malpractice Insurance annual assessment to health care providers is found in the PA Bulletin at:  
<https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol53/53-43/1493.html>.

**BACKGROUND:** MCARE (Medical Care Availability & Reduction of Error Fund) is a mandatory second level of Medical Malpractice Insurance. Health care providers secure this insurance from the standard market. Then, MCARE takes care of claims until the third tier of the liability insurance kicks in. This third coverage is obtained from the Surplus & Excess Line market via a Surplus Lines licensee. MCARE is not funded by premiums. Rather, MCARE places an assessment each year on health care providers. To complicate a bit, the assessment is a percentage of an standard insurance premium. In addition, during the Rendell Administration, a lawsuit was brought against MCARE by the PA Medical Society, the Hospital & Healthsystem Association of PA, and the PA Podiatric Medical Association because of \$100 million siphoned off from MCARE to help balance the State Budget. In 2014, a Settlement Agreement was reached between the parties to discount the MCARE assessment to members of those groups.