# ILHIC Legislative Committee – Call Summary

**January 24, 2020**

It is back to reality next week as the General Assembly returns to Springfield this coming Tuesday to get the 2020 spring legislative session underway. It will be the second time the Senate returns to Springfield this month since Senators convened this past Sunday to elect a new Senate President. Senator Don Harmon (D-Oak Park) was elected the 39th President of the Illinois Senate replacing former Senate President John Cullerton who served in that position for the past 11 years and the Senate since 1991. Senate President Harmon has served in the Senate since 2003 and most recently served as Assistant Majority Leader.

Cullerton officially resigned his seat on Monday and Representative Sara Feigenholtz, who has served in the Illinois House since 1994, was appointed to his seat on Tuesday.

ILHIC has enjoyed a good working relationship with Senate President Harmon and we look forward to working with him and his leadership team moving forward.

**A LOOK AHEAD AT NEXT WEEK:**

The Governor is scheduled to deliver his State of the State Address on Wednesday. Governor Pritzker will likely highlight his first year accomplishments that he has been outlining in the press over the past few weeks (a new capital funding plan, increase in the state's minimum wage, legalization of recreational marijuana, the Reproductive Health Act to mandate private insurance coverage of abortions, and a referendum to go before voters this fall to approve a graduated income tax structure).

The Governor has publicly identified a few second year priorities, including ethics reform and voter approval of the constitutional amendment to change the state's income tax to a graduated income tax structure, which the Governor has acknowledged will also require concerted efforts to pass property tax relief in the 2020 session. At this time, the Governor's office has not detailed any health or life insurance-related initiatives, but ILHICA will send an update should any new insurance-related initiatives emerge.

House and Senate Insurance Committees are not scheduled to meet and there are no bills of interest scheduled to be heard in other committees next week.

**LEGISLATIVE PREVIEW:**

The bill filing deadline for new bill introductions is February 14. There have a been a few bills of interest already introduced and some measures ILHICA has been informed of or expects to see in 2020. All bills introduced in the 2019 session carry over into the 2020 session.

**Rate regulation – prior approval (LTC and Health):**

HB 4147 (Gong Gershowitz) is a newly introduced bill that would require prior approval of all long-term care rates. Similar provisions were included in earlier versions of legislation seeking to mandate prior approval of health insurance rates (HB 815 (Morgan)), but those provisions were later removed. Director Muriel currently participates on the NAIC LTC working group and has expressed an interest in the issue; however, the Department indicated late last year that they did not intend to pursue LTC rate legislation in the 2020 session.

Additionally, Senator Fine has confirmed to ILHIC that she intends to continue pushing for the passage of SB 665 (Fine), as amended, which requires Department prior approval of health insurance rates. The bill failed to receive enough votes to pass out of the Senate last spring session. HB 471 (Morgan/Fine) contained similar provisions and did pass out of the House by a vote of 73-41-0, but it failed to advance out of the Senate Insurance Committee.

ILHIC will continue to oppose both pieces of legislation, as well as any other bills that propose prior approval of LTC and health insurance rates.

**Life Insurance – Secondary Notice:**

NAIFA IL will be proposing legislation to require secondary notice to an insured before a lapse in coverage takes effect for long-term care policies. ILHIC has received a copy of the draft language, which is attached to the call summary below. The provisions would also require insurers to reinstate a lapsed policy within 5 months after the date of cancellation if the policyholder or any designated secondary addressee demonstrates that the failure to pay the premium was unintentional and due to the policyholder's cognitive impairment or hospital/nursing home confinement. Proof of such impairment and/or confinement along with full payment of the past due premiums is required before policy reinstatement.

NAIFA IL works closely with the Independent Insurance Agents of IL and both groups have indicated that they do not want to pursue the legislation without working out compromise language with ILHIC and ACLI if possible.

ILHIC welcomes any member feedback on the proposed language attached below.

**Division Law Revisions:**

ILHIC previously circulated draft language from the IL Health and Life Insurance Guaranty Association proposing additional clean-up provisions to the Illinois Domestic Stock Company Division Law. The proposed changes follow the Guaranty Association's previous clean-up legislation (SB 1377/P.A. 101-0549) last fall, which took effect on January 1.

The additional proposed changes seek revisions to section 35B-25 of the Division Law regarding the conditions in which the plan of division may receive Department approval. The proposed changes would:

1. Require a public hearing (instead of making it at the request and option of the dividing company) and further requires the dividing company to give notice of the filing of a plan of division and the date of the public hearing to all policyholders and all guaranty associations/funds of which the dividing company is a member;
2. Delete the consideration of non-admitted assets in the determination of compliance with the Uniform Fraudulent Transfer Act and the resulting company's support of policyholder liabilities; and
3. Allows all business, financial, and actuarial information related to the plan of division to be made available for public inspection once the notice of division and hearing are issued (instead of maintaining confidentiality at the request of the dividing company even after issuance of a notice and a hearing).

There are currently no proposed plans of division before the Department and while ILHIC understands the importance of protecting policyholders, the Council will not be able to support without agreement from the membership.

**Insurance Diversity Supplier Reporting:**

HB 3965 (Welch) – requiring IL insurers with assets of $50 million or more to submit an annual report on their voluntary supplier diversity program with the Department – was introduced last fall but could not procedurally advance until this session. The legislation has been introduced in the past by former Senator Martin Sandoval, but the House sponsor - Representative Welch - has been especially active on corporate diversity issues over the last few years. Most recently, he was the sponsor of a new law that requires publicly-traded companies in IL to report the number of women and minorities on their corporate boards, as well as plans to promote diversity.

ILHIC is opposed to the legislation.

**Travel Insurance Transparency:**

Senator Fine has expressed interest in pursuing updates to Travel Insurance regulatory provisions to require disclosure of any pre-existing condition exclusions in the policy prior to purchase. ILHIC has encouraged the Senator to pursue legislation that aligns with the NAIC Model Travel Insurance Act approved in 2018 that includes these transparency provisions. She has agreed to work with the Council and the Department to draft language.

**Trauma Center Funding – Insurer Assessment:**

As mentioned on last week's call, House Insurance Chair Thaddeus Jones has introduced a new proposal (HB 4028 (Jones)) that would authorize the Department of Insurance to impose a new fee on all insurance companies doing business in Illinois to help fund new trauma centers around the state. ILHIC plans to meet with Chairman Jones next week on the matter and to relay concerns about the proposal.

**Data Privacy:**

While there have been no new legislative developments to date on data privacy activity, newly elected Senate President Harmon has previously expressed interest in this issue. As mentioned on last week's call, Senator Tom Cullerton filed SB 2330 (T. Cullerton) on January 8 containing new Data Transparency and Privacy Act provisions. The provisions are different than those included in earlier versions of HB 3358 (Turner/T. Cullerton), including replacing the entity-level GLBA and HIPAA exemptions with data-level GLBA and HIPAA exemptions, restoration of previously eliminated right of private action provisions, and inclusion of new "right to be forgotten" provisions.

**Health Insurance-Related Proposals:**

***Telehealth coverage:*** HB 4162 (Spain) mandates insurers that cover telehealth services to also cover telehealth services for the treatment of behavioral health and substance use disorders.

***Proton beam coverage:*** Health insurer members should have received previously circulated draft language that would require coverage of proton beam therapy at parity with radiation therapy for cancer patients in clinical trials or in a registry. No legislation has been introduced to date, but the Council anticipates a bill will be introduced prior to the bill filing deadline in February.

***Autism coverage – therapy outside the clinical setting:*** Senator Fine has indicated to ILHIC that she intends to pursue an expansion of the current autism coverage mandate to include coverage for outpatient therapists that deliver services outside of their office setting (which could include accompanied visits to public parks, shopping centers, schools and other public areas).

***Mental Health – Network Adequacy Requirements:*** Senator Fine has also indicated to the Council that she intends to introduce legislation establishing network adequacy requirements for mental health providers.

**Unfair Discrimination – Gender Identity in Rating Proposed Regulation- ILHIC Comment Letter**

ILHIC is preparing a joint comment letter with ACLI and NAIFA IL to relay concerns regarding the Department's proposed amendatory changes to 50 Ill. Adm. Code 2603 on Unfair Discrimination Based on Sex, Sexual Orientation, Gender Identity or Marital Status. The proposed amendments (beginning on page 49 of the December 27 Illinois Register) include proposed changes to the rating provisions to prohibit insurance companies (including life policies) from using differential rate setting on the basis of actual or perceived gender identity. The proposed amendments currently lack clarity around the allowed use of "sound actuarial principles" after July 1, 2020.

Our comments will seek to clarify that the rating provisions are applied as intended by the existing federal 1557 (ACA) nondiscrimination rules.

ILHIC will circulate a draft of the comment letter for member input next week. The 45-day comment period closes on February 10, but the Council intends to submit the letter to the Joint Commission on Administrative Rules (JCAR) the first week of February.

**SAVE THE DATE – Legislative Day/Committee Meeting – March 18; ANNUAL MEETING – June 8-10**

Please join us in Springfield on Wednesday, March 18 for the joint ILHIC, Independent Agents of IL, NAIFA – IL, ISAHU, and IL Insurance Association Insurance Industry Legislative Day. Industry Legislative Day registration should be live soon and once we have the details we will circulate to all members.

We are also hosting a separate legislative committee meeting at the Abraham Lincoln Presidential Library before the Legislative Day events get underway. We will circulate the agenda for this meeting shortly.

The Council has also scheduled its Annual Meeting for June 8 – 10 at Lake Geneva.

**UPCOMING MEETINGS/IMPORTANT DATES:**

January 29, 2020– State of the State Address

February 19, 2020 – Budget Address

March 17, 2020 – Primary Election Day

***March 18 – Legislative Committee Meeting; Insurance Industry Legislative Day - Springfield***

***June 8-10 – ILHIC Annual Meeting – Lake Geneva***

November 3, 2020 – General Election Day

## NAIFA IL Proposed LTC Secondary Notice Language

**627.94073 Notice of cancellation; grace period.** —

(1) A long-term care policy shall provide that the insured is entitled to a grace period of not less than 30 days, within which payment of any premium after the first may be made. The insurer may require payment of an interest charge not in excess of 8 percent per year for the number of days elapsing before the payment of the premium, during which period the policy shall continue in force. If the policy becomes a claim during the grace period before the overdue premium is paid, the amount of such premium or premiums with interest not in excess of 8 percent per year may be deducted in any settlement under the policy.

(2) A long-term care policy may not be canceled for nonpayment of premium unless, after expiration of the grace period in subsection (1), and at least 30 days prior to the effective date of such cancellation, the insurer has mailed a notification of possible lapse in coverage to the policyholder and to a specified secondary addressee if such addressee has been designated in writing by name and address by the policyholder. For policies issued or renewed on or after October 1, 1996, the insurer shall notify the policyholder, at least once annually, of the right to designate a secondary addressee. The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured. Designation shall not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one person. The form must also inform the policyholder to update any change made to the address of the secondary addressee. The designation shall include each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver shall state: "Protection against unintended lapse. — I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care or limited benefit insurance policy for nonpayment of premium. I understand that notice will not be given until 30 days after a premium is due and unpaid. I elect NOT to designate any person to receive such notice." Notice of possible lapse in coverage due to nonpayment of premium shall be given by United States Postal Service proof of mailing or certified or registered mail to the policyholder and secondary designee at the address shown in the policy or the last known address provided to the insurer. Notice may not be given until 30 days after a premium is due and unpaid. Notice shall be deemed to have been given as of 5 days after the date of mailing.

(3) If a policy is canceled due to nonpayment of premium, the policyholder is entitled to have the policy reinstated if, within a period of not less than 5 months after the date of cancellation, the policyholder or any secondary addressee designated pursuant to subsection (2) demonstrates that the failure to pay the premium when due was unintentional and due to the policyholder's cognitive impairment, loss of functional capacity, or continuous confinement in a hospital, skilled nursing facility, or assisted living facility for a period in excess of 60 days. Policy reinstatement shall be subject to payment of overdue premiums. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility

criteria for cognitive impairment or the loss of functional capacity, if any, contained in the policy and certificate. The insurer may require payment of an interest charge not in excess of 8 percent per year for the number of days elapsing before the payment of the premium, during which period the policy shall continue in force if the demonstration of cognitive impairment is made. If the policy becomes a claim during the 180-day period before the overdue premium is paid, the amount of the premium or premiums with interest not in excess of 8 percent per year may be deducted in any settlement under the policy.

(4) When the policyholder or certificate holder pays premium for a long-term care insurance policy or certificate policy through a payroll or pension deduction plan, the requirements in subsection (2) need not be met until 60 days after the policyholder or certificate holder is no longer on such a payment plan. The application or enrollment form for such policies or certificates shall clearly indicate the payment plan selected by the applicant.