

## ILHIC Legislative Committee – Call Summary

January 31, 2020

The Governor delivered his second State of the State Address on Wednesday, highlighting the accomplishments of his Administration, focusing on the positive developments the state's economy has made over the past year, and reinforcing his Administration's commitment and value of diversity and inclusion. His speech also acknowledged the additional work that he believes lies ahead - most notably ethics and property tax reform along with voter approval of the graduated income tax measure known as the "Fair Tax" this November. The Governor did not discuss any issues or initiatives specific to the insurance industry.

### **A LOOK AHEAD - NEXT WEEK:**

The House Insurance Committee is scheduled to meet on Tuesday, February 4. The only bill posted for the committee hearing is [HB 4137 \(Morgan\)](#) creating the Flood Insurance Act to allow insurers to issue private flood insurance subject to form approval by the Department. The legislation does not require prior approval of the rates but does allow the Department to audit insurer residential flood insurance rates to ensure they are actuarially sound and non-discriminatory.

[HB 2736 \(Buckner\)](#) creating the "Right to Know Act" requiring personal data privacy disclosures (with no HIPAA/GLBA exemptions) is posted for the House Cybersecurity, Data Analytics & IT Committee on Wednesday, February 5. The bill was introduced last year, but did not move as other data privacy measures and negotiations advanced. The bill faces heavy opposition from ILHIC, the business community and other industry groups.

The Senate Insurance Committee also meets Wednesday with two bills posted, including [SB 2457 \(Morrison\)](#) that proposes eliminating the age limit (18 or under) on the newly enacted law requiring coverage for medically necessary epinephrine injectors (P.A. 101-281). The mandate took effect on 1/1/2020 and the bill would retroactively remove the age limitation to 1/1.

### **LEGISLATIVE ISSUES OF INTEREST:**

#### **Medicare Supplement – Open Enrollment**

[SB 2501 \(Murphy\)](#) provides that an existing Medicare supplement policyholder would be entitled to an annual open enrollment period of 60 days or more commencing on their birthday with guaranteed issuance of a replacement policy that offers benefits equal or less than those provided by the previous coverage. Several states, including California, require Med Supp insurers to offer a birthday-triggered open enrollment period with no medical underwriting rules allowed. ILHIC is opposed to this bill and will talk to sponsor to relay concerns and find out more information with respect to the genesis and her intent with this bill.

#### **LTC Rate Prior Approval Update**

ILHIC met with the sponsor of [HB 4147 \(Gong Gershowitz\)](#), which requires prior approval of long-term care rates (including public comment), to outline concerns with the legislation. The sponsor indicated she introduced the legislation after a constituent raised concerns about recent LTC rate increases he received on his existing policy. ILHIC is preparing a memo outlining current law with respect to LTC rate review, NAIC activity on the issue, as

well as outlining reasons for opposition to the legislation at the request of the sponsor. The Council also expects further discussions on the issue with the Department.

**Life Insurance – Secondary Notice Update:**

NAIFA IL has indicated that the language they provided last week (that was circulated for review as part of the 1/24 call summary) is not the language they intend to pursue. While they have not yet provided an updated version of language, they have indicated that their proposal would seek to expand secondary notification for life insurance policies (and not LTC) to include the agent of record. We have encouraged NAIFA IL to meet with the Council prior to introducing any language to discuss outstanding concerns and better understand what they intend to solve that current law does not already address.

**Division Law Revisions Update:**

The IL Health and Life Insurance Guaranty Association’s proposed revisions to section 35B-25 of the Illinois Domestic Stock Company Division Law the Council circulated previously have now been formally introduced in [HB 4372 \(Jones\)](#). As indicated on last week’s call that while ILHIC understands the importance of protecting policyholders, the Council will not be able to support without agreement from the membership.

**Dental & Health Insurance-Related Proposals:**

***IL State Dental Society Initiative:*** The ISDS has indicated to ILHIC that [HB 4033 \(Morgan\)](#) will serve as a vehicle for future language that may address unidentified issues related to a recent [class action lawsuit](#) filed against Delta Dental alleging anti-competitive behavior. ISDS anticipates further discussions with the industry as they determine what issues they want to address. In the meantime, the Council is neutral on HB 4033, but will monitor this issue closely as it could have ramifications for all dental plans.

***Telehealth – Reimbursement Parity:*** [SB 2561 \(Fine\)](#) requires insurers to reimburse providers of telehealth services at the same rate as same services reimbursed for an in-person consultation and further mandates originating site facility fee reimbursement of \$25 per telehealth services giving the Department of Insurance authority to increase the facility fee every 5 years. ILHIC is opposed to the bill. Legislation introduced last year - [SB 27 \(Manar\)](#) – included similar rate parity proposals and the industry provided compromise provisions at that time to provide for parity on the benefits rather than parity on the rates.

***Network Adequacy – Mental Health Providers:*** [SB 2740 \(Fine\)](#) sets forth time and distance standards for mental health providers. The proposed changes do not amend the existing network adequacy law ([P.A. 100-502](#)) and instead set these specific standards forth in Section 370c of the Insurance Code addressing mental health parity coverage. P.A. 100-502, which was negotiated by the industry, gave the Department authority to determine network standards for different providers annually and while mental health and substance abuse providers were not explicitly included in the list of specialists, the law allows the Department to consider other specialties. ILHIC is opposed to SB 2740.

**Unfair Discrimination – Gender Identity in Rating Proposed Regulation**

Upon further discussions with ACLI and other companies, the concerns initially raised 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 may not warrant comments from ILHIC. 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 “unless the classification or differentiation is based upon expected claim costs and expenses derived by applying sound actuarial principles to relevant and reasonably current company or intercompany studies, claim costs, and expense experience.

There were some concerns raised initially about the following sentence that states that “after July 1, 2020, no company shall charge a differential by actual or perceived gender identity, or by the fact that the insured or prospective insured is a transgender person, that is larger than the differential indicated by the criterion stated in this Section;” however, that language mirrors language that has been in place previously in subsection (a) prohibiting rating discrimination on the basis of sex, sexual orientation or marital status that would also apply to life insurance.

If members still have concerns about the proposed revisions to the rule, please relay those concerns as soon as possible so that we can capture those appropriately in a comment letter ahead of the February 10 deadline for comments.

**UPCOMING MEETINGS/IMPORTANT DATES:**

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