

LEG REG REVIEW

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LEG REG REVIEW is a periodic newsletter produced by PHILLIPS ASSOCIATES, a professional lobbying and consultant firm located near the State Capitol. It contains news on Pennsylvania legislation and regulations impacting the Insurance and Business Communities. Subscriptions are \$100 per year and further information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 FAX 717/232-7005 or e-mail at xenobun@aol.com.

INSURANCE LEGISLATION SIGNED INTO LAW

Governor Tom Wolf signed the following bills into law:

- **Unlicensed Retail Sale of Insurance. House Bill 504 sponsored by Rep. Alex Charlton (R-Delaware) was signed into law as Act 97 of 2018.** It permits unlicensed retail clerks working for self-storage companies to sell property (contents) insurance as long as the firm's owner or manager has a limited license. Effective December 23, 2018.
- **Insurer Solvency. Senate Bill 1205 sponsored by Senator Dan Laughlin (R-Erie) was signed into law as Act 163 of 2018.** This legislation adds new solvency assessment tools for the PA Insurance Department. Supported by insurance companies, SB 1205 also helps the Insurance Department keep its NAIC solvency accreditation. Effective now.
- **Diagnostic Testing. House Bill 1884 sponsored by Marguerite Quinn (R-Bucks) was signed into law as Act 112 of 2018.** It provides for notifications of patient diagnostic imaging test results to be sent directly to the patient or his/her designee if a significant abnormality was discovered. The notice to patients would state: *"You are receiving this notice as a result of a determination by your diagnostic imaging service that further discussions of your test results are warranted and would be beneficial to you."* Effective now.
- **Prescriptions. House Bill 270 sponsored by Rep. Frank Farry (R-Bucks) expands PACENET income eligibility limits and provides for medical synchronization.** Synchronization occurs when prescription refill dates are moved to one date. This is to help patients for whom it is difficult or impossible to make repeated trips to the pharmacy. Insurers would be required to pay for the "gap" prescription.
- **EMS Payment/Vision Care. House Bill 1013 sponsored by Rep. Steve Barrar (R-Delaware) was signed into law as Act 103 of 2018.** It is effective December 23, 2018.
 - This law requires insurers to pay claims from EMS (responding to an accident report) when the patient declines transport to a medical facility.
 - Language dealing with vision insurance was amended into the bill. Called the **Quality Eye Care Act**, the new language allows an insured receiving eye care from an in-network vision care provider to go out-of-network for related services, provided that he or she is notified that the insured may refuse a non-network provider and that there may be an additional cost for going out-of-network.
- **Workers' Compensation. House Bill 1840 sponsored by Rep. Rob Kauffman (R-Franklin) was signed into law as Act 111 of 2018.** It addresses the PA Supreme Court decision in *Protz vs. WCAB* which struck down a major component of the Workers' Compensation Act ruling that the section allowing for Impairment Rating Evaluations which determine disability status was voided. Act 111 specifies specific American Medical Association (AMA) guidelines to validate disabilities. The law allows for a possible retraction of part of a 6.06% rate increase imposed because of *Protz*. It also increased WC death benefits from \$3,000 to \$7,000. Effective now
- **Workers' Compensation: Senate Bill 676 sponsored by Senator John Gordner (R-Columbia) was signed into law as Act 132 of 2018.** It provides for solvency of the Uninsured Employers Guarantee Fund which pays Workers Compensation claims when the employer is found not to have mandated Workers' Compensation coverage. It also lays out criteria for claims.

ALSO SIGNED INTO LAW

These bills have some insurance implications in that the first reduces liability while the second increases it.

- **House Bill 544 as Act 98 of 2018 sponsored by Rep. Dan Moul (R-Adams)** limits liability for property owners who permit recreational use of property where no admission fee is charged.
- **House Bill 1346 sponsored by Rep. Jeff Pyle (R-Armstrong/Indiana/Butler)** was signed into law as **Act 78 of 2018**. It bans drone flying over restricted areas (correctional institutions) and where there is an intentional invasion of privacy.

WOLF, ALTMAN ADAMANT ON TRUMP HEALTH PLANS

On October 24, Governor Tom Wolf and Insurance Commissioner Jessica Altman held a media event to state that Pennsylvania will not seek a waiver allowing Trump Administration health insurance proposals to take root. At issue is whether Affordable Care Act (ACA) comprehensive benefits would be watered down by association health plans and short-term limited duration plans. Per the Governor, *“This most recent action by the federal government is just another attempt to roll back vital consumer protections on pre-existing conditions, lifetime caps, and essential health benefits. Coverage for pre-existing conditions like cancer and multiple sclerosis is an essential protection for millions of Pennsylvanians and my administration will stand in the way of any attempt to roll back those protections.”*

This statement reinforces an August 24 statement from Altman that the U.S. Department of Labor fully recognizes Pennsylvania authority to regulate association health plans. This means that PA regards new AHP requirements federally as not applicable to insurance plans in the Commonwealth. It also reinforces the Commissioner’s August 21 statement that short-term plans may be marketed as “comprehensive” when they in fact can exclude coverage for pre-existing conditions and cap insurance payments.

On October 24, Governor Wolf noted that he has joined a group of eight other Governors from both parties expressing disappointment with the Trump Administration’s decision *“threatens health care coverage for many in our states with pre-existing conditions and adds uncertainty and higher costs for Americans who purchase their own health insurance.”* The eight other Governors joining this statement include those from Ohio, Colorado, Alaska, Nevada, North Carolina, Montana, Washington, and Maryland. Of these, two are Republican (MD, OH).

REGULATORY UPDATES

- Goodville Mutual Casualty Company is seeking to acquire the Reamstown Mutual Insurance Company, a domestic mutual property insurance company.
- Two insurers are seeking renewal of their designations as certified reinsurers. They are Arch Reinsurance Company and Swiss Reinsurance Company.
- The Patient Safety Authority meets October 31 in Summerdale, PA. Details: 717-346-0469

MCARE ASSESSMENT ANNOUNCED

On October 27, the Insurance Department announced that the mandatory assessment for health care providers will be 19% applied to the prevailing primary premium. This is required by MCARE (Medical Care Availability and Reduction of Error Fund), a state-run middle tier of medical malpractice insurance.

DEER WARNING...The Insurance Department and the PA State Police issued a joint press release warning motorists to be especially mindful of deer since this is breeding season. PennDOT reported that the number of deer-related crashes rose from 2016’s 5,468 to 5,674 in 2017. State Farm said that the Pennsylvania drivers had a 1-in-63 chance of a deer related crash from July 1, 2017 through June 30, 2018.