

Commissioner's Monthly Column

Department of Insurance Proposed Legislation

June 2013

Following the 2013 Regular Session of the Louisiana Legislature, there are more protections in place for consumers particularly in the area of health. Thanks to the Louisiana Legislature, we have achieved two very significant victories. One related to health care network adequacy and one regarding health care internal and external appeals processes. We were successful in seeing the Fraud Division created within the Louisiana Department of Insurance (LDI) which will improve LDI's ability to combat insurance fraud and give staff law enforcement investigative powers and privileges. Also, LDI's Division of Minority Affairs may now survey insurance companies regarding hiring of minorities. We also successfully fought off attempts to make Citizens a more attractive insurance option through suppression of rates that would put the state in the business of insuring for hurricane losses in place of the private sector. LDI supported bills that passed in this legislative session include:

[Act 205](#) addresses health insurance network adequacy. The Act requires health insurance issuers to submit their provider networks to LDI for approval to determine network adequacy. The process will help ensure that every network has an adequate number of health care providers and facilities including primary care and specialty care providers. Provisional accreditation status for health insurance issuers is allowed until December 31, 2014, after which this Act takes full effect.

[Act 326](#) amends Louisiana's current internal and external health insurance appeals processes for group health plans and individual health insurance coverage to align them with the standards called for in the National Association of Insurance Commissioners (NAIC) Uniform Health Carrier External Review Model Act, which affords Louisiana citizens as many consumer protections as required by federal law, and is in place in 40 other states. With this legislation, Louisiana is now in compliance with the U.S. Department of Health and Human Services (HHS) regulations and can resume providing this consumer protection at the state level. This Act also directs health insurance issuers offering group and individual coverage to comply with the U.S. Department of Labor's Internal Claims and Appeals Process.

These requirements do not apply to grandfathered health plans. Grandfathered health plan coverage is coverage provided by a group health plan, or a group or individual health insurance issuer, in which an individual was enrolled on March 23, 2010 at the time the Patient Protection and Affordable Care Act (PPACA) passed. Such plans allow consumers to maintain their existing health plans, unless changes are made to the health plan that will cause the plan to lose its grandfathered status, which could occur in several ways (i.e., elimination of all or substantially all benefits to diagnose or treat a particular condition, an increase in a coinsurance requirement, an increase in a deductible or out of pocket maximum by an amount that exceeds medical inflation plus 15 percentage points, an increase in a copayment, a decrease in an employer's

contribution rate towards the cost of coverage by more than 5 percentage points or imposition of annual limits on the dollar value of all benefits below specified amounts).

[Act 349](#) regarding the regulation of health insurance navigators authorized in PPACA authorizes the insurance commissioner to promulgate rules and regulations to register and regulate navigators that receive funding or certification from any state or federal governmental agency. It requires oversight by the House and Senate committees on insurance.

[Act 349](#) also adopted Principle-Based Reserving (PBR) for life, annuity, and health and accident insurance. This will lead to more choices in the life insurance and annuities marketplace with more affordable prices. It implements recent changes by the NAIC to the Standard Valuation Law and Standard Non-forfeiture Law for Life Insurance with a Principle-Based Reserving (PBR) approach to establishing insurance company reserves. These changes were adopted by the NAIC in the “Valuation Manual,” which defines the methods used by regulators and insurers to calculate the reserves of insurance companies. PBR incorporates factors beyond interest rates and mortality to better capture portfolio risks and ensure corporate solvency and permits more flexibility in determining reserves. Rule-based reserves is still the option for smaller insurers; thereby not requiring expensive actuarial work, out of proportion to the anticipated benefit.

[Act 203](#) liberalizes the rules for obtaining surplus lines insurance coverage by removing the requirement that authorized insurance be unavailable for personal and commercial lines surplus lines placements. This change eliminates a problem for municipalities, parishes and school boards, as well as individuals and businesses, that were required under the prior law to accept authorized insurance that was sometimes more expensive than available surplus lines insurance.

The Act also addresses affidavit requirements, filing requirements and eligibility requirements for surplus lines insurers. It broadens the definition of “eligible unauthorized insurer” and addresses the “white list” requirement used by surplus lines brokers.

[Act 217](#) creates the Fraud Division within the LDI along with a Deputy Commissioner of Fraud. It enables the Insurance Commissioner to commission Fraud Division personnel that have been certified via Peace Officer Standards and Training (POST) to carry and use firearms. The bill contains specific criminal statutes limiting the scope of their investigations to insurance fraud matters. It also gives access to electronic databases maintained for use by law enforcement agencies.

[Act 85](#) passed relative to the Advisory Committee on Equal Opportunity and [Act 209](#) passed allowing LDI’s Division of Minority Affairs to conduct a survey of insurance companies to seek data related to the hiring of minorities.

Several of the bills LDI proposed did not make it through this session. LDI’s two bills addressing balance billing, HB 228 and HB 342, were voluntarily deferred due to lack of support. Both measures would have banned a practice that generates surprise medical

bills for patients with health insurance for out-of-network services provided without the patient's knowledge by specialists not covered under the insured's plan. One was for medical emergency services and one for in-hospital non-emergency services.

Our bill on long-term care insurance policies, HB 294, and our bill on the payment of insurance premium taxes, HB 374, were also voluntarily deferred. Our health insurance premium rate review and approval bill, SB 126, did not pass in this session. This bill would have created a means for the LDI to review and approve rates charged by insurance companies for unreasonableness just as property and casualty and long-term care rate requests are reviewed. This measure would have increased the transparency of rates in our health insurance market; thereby promoting a more competitive market.

Several insurance related bills that were not introduced by LDI also passed in this legislative session and may be of interest to you as producers. These include the following:

[**Act 283**](#) authorizes agency fees on health and accident insurance policies. This Act was in part driven by PPACA's removal of agents' commissions in the medical loss ratios (MLR) of that law.

[**Act 278**](#) adds a member to the Louisiana Citizens Property Insurance Corporation's board of directors. The member will be appointed by the commissioner of insurance from a list of three nominees by the Louisiana Chapter of the National Association of Insurance and Financial Advisors.

[**Act 201**](#) makes technical changes to group blanket health and accident insurance regarding definitions, allowances and those covered as groups.

[**Act 101**](#) clarifies the time period in which applicant for motorcycle insurance must provide proof to insurer of appropriate license endorsement, which is within ninety days.

[**Act 33**](#) makes technical changes relative to requirements of the Property Insurance Association of Louisiana including such things as residency and stock/non-stock holding requirements of board members, office location, audit rights, and discontinuing of services to members.

[**Act 325**](#) dissolves the Louisiana Health Plan, which has been Louisiana's high risk pool for those who could not obtain insurance through other means. Federal health regulations now prohibit the denial of coverage making the high risk pool unnecessary.

[**Act 21**](#) increases the continuing education requirements from six to 12 hours of approved instruction for title insurance producers.

[**Act 23**](#) extends the commissioner's authority to grant reinsurance credits to captive insurers.

[**HCR 18**](#) establishes the Title Insurance Committee.

[HCR 53](#) memorializes congress to repeal that portion of the federal health care reform legislation which imposes a health insurance tax.

I feel that we went beyond what we had hoped to do this session, and I am grateful for the support of the various Senators and Representatives who introduced this much needed LDI legislation and carried each bill to passage. I also appreciate the technical staff at LDI, who monitor federal legislation and model laws to insure that insurance legislation in Louisiana is in keeping with all legal requirements and standards. With the close of Louisiana's 2013 Regular Legislative Session, our citizens and our insurance companies can be assured that their interests and needs have been further protected and preserved.