

MARTIN O'MALLEY
Governor

ANTHONY G. BROWN
Lt. Governor



THERESE M. GOLDSMITH
Commissioner

KAREN STAKEM HORNIG
Deputy Commissioner

CATHERINE E. GRASON
Director of Special Projects

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
Direct Dial: 410-468-2201 Fax: 410-468-2020
1-800-492-6116 TTY: 1-800-735-2258
catherine.grason@maryland.gov
www.mdinsurance.state.md.us

May 5, 2014

Administrative, Executive and Legislative Review (AELR) Committee
90 State Circle
Annapolis, MD 21401

Governor's Office
Attn: Peggy Watson
State House
Annapolis, MD 21401

Division of State Documents
State House
Annapolis, MD 21401

State Publications Depository and Distribution Program
Attn: Brigid Sye-Jones
Enoch Pratt Free Library
400 Cathedral St.
Baltimore, MD 21201

Department of Legislative Services Library
90 State Circle
Annapolis, MD 21401

RE: Regulatory Review and Evaluation Act Evaluation Report-COMAR § 31.14 (updated)

Dear Sir or Madam:

On April 28, 2014 the Maryland Insurance Administration (MIA) mailed the required number of copies of the Evaluation Report for COMAR § 31.14.02 to the parties to whom this letter is addressed. Since the Evaluation Report's submission, the MIA has made several technical changes to its proposed amendments to COMAR § 31.14.02. Accordingly, the MIA is resubmitting an updated Evaluation Report to reflect the MIA's present intentions for amendments to this chapter.

The "Summary" section of this Evaluation Report has been amended to reflect the following changes:

- The MIA intends to propose additional technical amendments to the statutory authority section of COMAR § 31.14.02--specifically, the MIA will propose that §§ 14-126, 14-136, and 15-412 of the Insurance Article be omitted from the list of cited statutory authority; and
- The MIA no longer intends to propose that "Health Maintenance Organizations (HMOs)" be omitted from the scope sections in COMAR §§ 31.14.02.01 and 31.14.02.02. In its original Evaluation Report, the MIA noted that an HMO is not permitted to sell stand-alone long-term care insurance and is therefore, not subject to COMAR § 31.14.02. Upon further review of the definitions set forth in Ins. Art. § 18-101(f)(1), the MIA interprets COMAR § 31.14.02 to apply to a long-term care rider attached to an HMO policy. Therefore, the MIA believes that the scope sections in COMAR §§ 31.14.02.01 and 31.14.02.02 correctly include HMOs in the list of entities subject to these regulations.

Please accept the enclosed, updated Evaluation Report on COMAR § 31.14.02 for your consideration.

I am submitting the following number of copies of the updated report on behalf of the MIA as follows:

- AELR Committee-one copy
- Governor's Office (Peggy Watson)-one copy
- Division of State Documents-one copy
- State Library Resource Center via State Publications Depository and Distribution Program (Brigid Sye-Jones)-sixteen copies
- Department of Legislative Services Library-five copies

If you have any questions, or require additional information, please contact me at the above-referenced telephone number and email address.

Sincerely,

signature on original

Catherine Grason
Director of Special Projects, Office of the Commissioner

cc: Therese Goldsmith, Insurance Commissioner
Karen Stakem Hornig, Deputy Commissioner
Katrina Lawhorn, Regulatory & Facilities Supervisor
Vivian Laxton, Director of Public Affairs

Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020
Report Updated 5/5/14

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A. There were no comments received on this chapter.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

National Association of Insurance Commissioners (NAIC) Model 10 (Health Insurance Reserves Model Regulation) and its appendices were consulted in reviewing this regulation.

(8) Provide a summary of any other relevant information gathered.

N/A

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to long-term care insurance premium rate and reserve requirements being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to long-term care insurance premium rate and reserve requirements requiring promulgation of regulations or amendments to COMAR 31.14.02.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

no action

X amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

Proposed substantive amendments to COMAR §§ 31.14.02.11, .13, and .14 have been drafted and will be published in the *Maryland Register* as soon as possible.

The substantive purpose of this action is to make long-term care reserve standards consistent with the latest NAIC model regulation (Model 10). The MIA is proposing updated standards for interest, mortality, and lapse assumptions, consistent with the model.

The proposed amendments also make certain technical corrections and stylistic changes to the language of the regulations. Technical amendments to the statutory authority for COMAR § 31.14.02 will omit Ins. Article §§ 10-115, 10-116.1, 14-126, 14-136, and 15-412. §§ 10-115 and 10-116.1 deal with producer licensing and producer reinstatement, and are not relevant to long-term care rating and reserving requirements. §§ 14-126 and 14-136 are unnecessary and redundant since § 14-124 gives the Commissioner the necessary authority to regulate long-term care policies issued by nonprofit health service plans. § 15-412 was repealed by House Bill 360, Chapter 106, Acts of 2013, effective January 1, 2014.

A technical amendment was also made to COMAR § 31.14.02.14 to fix a grammatical error in the title to the regulation section. The section is currently entitled “Reinsurance *Affect* on Reserves,” and as amended, will be entitled “Reinsurance *Effect* on Reserves” (emphasis added).

Finally, a technical change to the scope sections of COMAR §§ 31.14.02.01 and 31.14.01.01 will be proposed. These regulations currently state that they apply to all long-term care insurance delivered or issued for delivery in Maryland by insurers, nonprofit health service plans, health maintenance organizations (HMOs), and *preferred provider organizations* (PPOs) (emphasis added); however, a PPO is not an entity that can sell insurance. To correct this prior drafting error, the proposed amendments will omit PPOs from the list of entities subject to COMAR § 31.14.02.

Person performing review:

Catherine Grason

Title:

Director of Special
Projects, Office of the
Commissioner