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TO: Office of the Commissioner, Maryland Insurance Administration

FROM: National Association of Professional Employer Organizations ("NAPEO")

RE: Public Hearing: PEO Study HB 827/SB 821

DATE: August 9, 2024

Thank you for the opportunity to testify on July 24, 2024, during the virtual public hearing regarding the Maryland Insurance Administration's mandated study of Professional Employer Organizations (PEO) in Maryland as outlined in HB 827 / SB 821 of the 2024 legislative session of the Maryland General Assembly.

In addition to the oral comments provided by our organization on July 24, we wanted to provide supplemental information in response to several comments offered by those who testified to clarify how the PEO industry currently operates.

Do PEOs typically sponsor self-funded group health plans?

No. With the exception of a few PEOs that sponsor self-funded plans in a state like Utah (where such plans are expressly permitted to be offered without a carrier license), PEOs typically sponsor fully insured group health plans using ACA and state law compliant insurance policies where the benefits and coverage are underwritten and guaranteed by licensed and regulated health carriers.

Do PEOs bundle the cost of the services provided to their clients in a manner that obscures the cost of health coverage?

One of the speakers at the July 24 hearing suggested that PEOs bundle the cost of the comprehensive services they provide (payroll administration, health insurance, ancillary insurance like dental/vision/disability, human resources support, workers' compensation insurance, etc.) and quote their prospective clients an "all-in-one" price in a manner that prevents the cost of the PEO's health plan from being truly transparent. While such a pricing strategy was more commonly used during the early years of the industry, given the competitive market pressures within the industry and beyond, the industry has moved to a pricing methodology that breaks out for the client employer the respective costs of the health care coverage available. This is true with respect to each of the different coverage options that may be available under the PEO-sponsored plan, such as dental, vision, etc., or with respect to different major medical plan options that may be available (such as low-, mid- or high-deductible coverage options). The current pricing methodology used by the industry allows for fulsome transparency for client employers when considering whether to participate in the PEO's health plan offerings.

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We would also note that because PEOs typically sponsor fully insured group health plans, and health insurers adjust their premiums annually, PEOs are providing clear and transparent information to the client employer at annual renewal/enrollment of any change in their health costs regardless of whether the client seeks to maintain or change their health offerings for the upcoming year.

Are employees covered by PEO health plans at risk of not being adequately protected, or inadvertently being enrolled in low-quality coverage sponsored by PEOs?

The answer is a resounding "no." PEO-sponsored health plans provide coverage through high quality group insurance policies that are ACA-compliant, underwritten by carriers that are licensed, and approved by the applicable state insurance regulator. The dynamics of the marketplace for PEO services are such that PEOs must distinguish themselves by providing the best level of comprehensive benefits possible at an affordable value. As a result, the ACA's (and other) requirements and protections apply to PEO-sponsored plans.

NAPEO would also note for the MIA that because most PEOs must offer comprehensive major medical coverage in order to compete in the marketplace (e.g., with respect to other PEOs), common actuarial sense compels that PEOs not offer so-called "skinny" alternatives that provide minimal benefits at a low employee cost. If these offerings were made available alongside the comprehensive major medical coverage, it could result in risk segmentation across the plan population by encouraging younger, healthier employees to elect the cheaper "skinny" option, which would in turn weaken the risk pool covered under the PEO's comprehensive insured arrangement and drive up the costs of that arrangement and affect the marketability of the PEO services more generally. Thus, it is very uncommon for PEOs to offer anything other than market-differentiating, comprehensive, fully-insured health plan coverage.

Do PEOs "cherry-pick" good risk from the small group or individual health markets?

PEOs do not cherry-pick good risk from the small group market. PEO-sponsored plans generally cover any worksite employee of a client employer that has elected to participate in the PEO-sponsored plan so long as the worksite employee otherwise meets the plan's standard eligibility rules, e.g., regarding full-time status or the like. In this way, PEOs operate just like any other employer.

Notably, PEOs do <u>not</u> exclude worksite employees from coverage or participating more generally based on their individual claims experience or pre-existing conditions, etc. and they understand that to do so would be in violation of certain state and federal laws. Nor would a PEO subject such a worksite employee to an increased premium or the like.

We also note that PEOs have been administering group health plans and offering group medical coverage to small businesses for many years and all indications are that PEO-sponsored plans have not materially adversely affected the small group insurance markets. For example, Massachusetts' Merged Market

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Advisory Council ("MMAC") issued a report analyzing the health and stability of its merged market and concluded that "[t]o date, there is no evidence that off-market product offering [specifically including PEO-sponsored plans] have materially affected the merged market's composition or stability, but such trends bear monitoring." [Report available at https://www.mass.gov/doc/final-report-of-the-merged-market-advisory-council/download] This dates back to the enactment of the ACA in 2010 and the start of the ACA Health Exchanges in 2013. NAPEO is unaware of any evidence demonstrating that PEO health coverage has destabilized or materially affected the ACA Health Exchanges, including in Maryland's neighboring states of Virginia and the District of Columbia, where PEO-sponsored plans have co-existed alongside robust small group markets for many decades.

We hope the information above is helpful. Please do not hesitate to reach out if you would like any additional information or if we can be of further assistance.