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BULLETIN 17-06

To: **All Interested Parties Including Insurers, Non-Profit Health Service Plans, Health Maintenance Organizations, Dental Plan Organizations, Pharmacy Benefit Managers, and Producers**

Re: **Summary of Insurance Laws Enacted in 2017**

Date: **July 6, 2017**

The purpose of this Bulletin is to summarize laws enacted during the 2017 Session of the Maryland General Assembly that are enforced by the Maryland Insurance Administration ("MIA"). ***The attached summary is intended only as notice of passage of the legislation and is not a representation of the MIA's interpretation of the new laws, nor is it a representation of how the MIA may enforce these new provisions.*** All regulated entities should refer to the Chapter Laws of Maryland for the 2017 Session for the complete text of these recently enacted laws. Regulated entities are advised that other bills passed by the General Assembly and not listed on the summary may also affect their business operations in Maryland.

You may obtain a copy of a specific law passed by the General Assembly during the 2017 Session by accessing the Maryland General Assembly's web site at http://mgaleg.maryland.gov or by contacting the Department of Legislative Services at (410) 946-5400. You should refer to the House or Senate Bill number when searching for a law on the web site. You may also obtain a copy of "*The 90 Day Report – A Review of the 2017 Legislative Session*" on the Internet or from Library and Information Services, Office of Policy Analysis, Department of Legislative Services.

For additional information concerning the MIA's summary of 2017 insurance legislation, please contact Catherine Grason at 410-468-2201 or catherine.grason@maryland.gov.

2017 INSURANCE LEGISLATION

LIFE AND HEALTH

HOUSE BILL 123 (Chapter 720) – Health Insurance – Required Conformity with Federal Law

- Alters State health insurance law to conform with and implement the federal Patient Protection and Affordable Care Act ("ACA") and corresponding federal regulations.
- Reduces the maximum policy term of a short-term medical insurance policy purchased from a nonadmitted insurer from no more than 11 months, to less than 3 months.
- Alters certain written disclosures required to be provided to an applicant by a nonadmitted insurer for such a policy.
- Adds preventive and wellness services, and chronic disease management to list of required ACA coverages for individual, small group and large group markets.
- Adds new triggering events for special enrollment periods applicable to Small Business Health Options Program ("SHOP") plans and group plans sold outside of SHOP.
- Specifies that to the extent permitted by federal law, an entity that leases employees from a professional employer organization or similar organization and that meets certain requirements shall be treated as a small employer.

Effective Date: ***June 1, 2017***

HOUSE BILL 188 (Chapter 667) – Public Health – Advance Directives – Witness Requirements, Advance Directives Services and Fund

- Alters the definition of "advance directive" and alters witness requirements for an electronic advance directive.
- Requires Department of Health and Mental Hygiene ("DHMH") to issue a request for proposals (RFP) from electronic advance directives services and authorizes it to contract with multiple electronic advance directives services.
- Establishes the Advance Directive Program Fund and repeals the State Board of Spinal Cord Injury Research and the Spinal Cord Injury Research Trust Fund, which consists of money transferred to the Fund under § 6–103.1 of the Insurance Article or received from any other lawful source.
- Requires DHMH to report annually to the Governor and the General Assembly on the implementation of the Advance Directive Program, the costs to establish and maintain the program, and the fees charged to registrants by January 15 each year.

Effective Date: ***July 1, 2017***

HOUSE BILL 298 (Chapter 219) – Health Insurance – Licensed Clinical Professional Art Therapists - Reimbursement

- Adds licensed clinical professional art therapists to the list of professional counselors and therapists who are entitled to reimbursement for services within the scope of their license.
- **Applies to individual, group, or blanket health insurance policies, contracts or certificates and non-profit health service plans issued, delivered or renewed after October 1, 2017.**

Effective Date: ***October 1, 2017***

HOUSE BILL 403/SENATE BILL 369 (Chapter 225/Chapter 226) – <u>Maryland Patient Referral Law – Compensation Arrangements Under Federally Approved Programs and Models</u>

- Exempts a health care practitioner who has a specified compensation arrangement with a health care entity from the prohibition against self-referral if the arrangement is funded by or paid under:
  - a Medicare Shared Savings Program accountable care organization (ACO);
  - an advance payment ACO model, a pioneer ACO model, or a next generation ACO model, as authorized under federal law;
  - an alternative payment model approved by the federal Centers for Medicare and Medicaid Services (CMS); or
  - another model approved by CMS that may be applied to health care services provided to both Medicare and non-Medicare beneficiaries.
- Requires that at least 60 days before an exemption is implemented, the "participation agreement" and other relevant documents must be filed with the Insurance Commissioner. Provides for a filing fee of $125.00.
- Exempts the filing of a compensation arrangement if it is funded fully by the Medicare or Medicaid programs.
- Requires that after the participation agreement is filed, the Commissioner shall determine if an exempt compensation arrangement is permissible within 60 days. If the Commissioner determines that a compensation arrangement is insurance business and violates this law or a regulation adopted under this law, the Commissioner must issue an order that specifies the ways in which the compensation arrangement violates the law or a regulation adopted under the law. Prior to issuing the order, the Commissioner must hold a hearing, and give written notice at least 10 days before the hearing to the filer specifying the matters to be considered at the hearing. An exemption from the prohibition against self-referral is null and void if the Commissioner issues such an order.
- Requires a revised filing to the Commissioner for a new determination if the compensation arrangement changes during its term.

Effective Date: ***June 1, 2017***

HOUSE BILL 493 (Chapter 672) – <u>Long-Term Care Insurance – Premium Rates</u>

- Prohibits a carrier from either charging a premium to an insured under a long-term care policy or contract or from changing the premium charged, before the premium rate or rate change has been filed with and approved by the Insurance Commissioner.
- Requires the Commissioner to provide information on the MIA's website about the factors that carriers use to determine premium rates for policies or contracts of long-term care insurance, and the process and factors that the administration uses in reviewing and approving premium rates for policies or contracts of long-term care insurance.
- Requires the Commissioner to disapprove or modify a proposed premium rate filing based on actuarial analysis and reasonable assumptions, under certain defined circumstances.

- Provides that premium rate filings and supporting information are open to public inspection upon filing, subject to certain requests to the Commissioner to find the information confidential.
- Requires the Commissioner to hold a public hearing to review long-term care insurance rate filings received during the preceding three-month period.
- Requires a long-term care insurance carrier to provide a one-time written notice to its insureds that an insured may access information about proposed rate increases on the Maryland Insurance Administration's website.
- Requires producers who offer or sell long-term care insurance to advise individuals considering purchasing long-term care insurance about the availability and benefits of Qualified State Long-Term Care Insurance Partnership and to provide the individual with a disclosure approved by the Commissioner.
- Requires the MIA to conduct an assessment and make a determination regarding nonforfeiture benefits and report to the Senate Finance and House Health and Government Operations committees of the General Assembly by January 1, 2018.

Effective Date: ***October 1, 2017***

HOUSE BILL 584 (Chapter 771) – <u>Investigation Drugs, Biological Products, and Devices – Right to Try Act</u>

- Permits a manufacturer of an "investigational drug, biological product, or device" to provide the investigational drug, biological product, or device to an "eligible patient."
- Permits the manufacturer to either provide the drug, biological product, or device without compensation or charge the patient, subject to limitations, such as for the cost of, or associated with, the manufacture of the specific drug, biological product, or device provided to the patient.
- Defines an "eligible patient" as an individual who has (1) a terminal illness; (2) considered all other treatment options currently approved by the FDA; (3) received a recommendation by the treating physician for the use of an investigational drug, biological product, or device; (4) given informed consent or, if the individual is a minor or lacks the mental capacity to provide informed consent, the parent or legal guardian has given informed consent; (5) been found ineligible for or unable to participate in a clinical trial; and (6) documentation from the individual's treating physician that the individual meets the other eligibility requirements.
- Defines "informed consent" and requires the Office of the Attorney General to develop the informed consent form containing certain minimum provisions.

Effective Date: ***October 1, 2017***

HOUSE BILL 613/SENATE BILL 363 (Chapter 820/Chapter 821) – <u>Pharmacists – Contraceptives – Prescribing and Dispensing</u>

- Expands the scope of practice for a licensed pharmacist who completes certain training requirements, provides a self-screening risk assessment tool to patients and follows procedures established by the State Board of Pharmacy, to include prescribing and

dispensing contraceptive medications and self-administered contraceptive devices approved by the FDA.

- Requires by September 1, 2018, the State Board of Pharmacy, in consultation with specified stakeholders, to adopt regulations establishing: (1) standard procedures a pharmacist must use to select the appropriate contraceptive to prescribe or to refer a patient to a health care practitioner for treatment; and (2) the conditions under which a pharmacist may prescribe and dispense contraceptives.
- Prohibits a pharmacist from prescribing contraceptives before January 1, 2019.

Effective Date: ***July 1, 2017***

HOUSE BILL 675/SENATE BILL 61 (Chapter 676/Chapter 667) – Health Insurance – Coverage for Digital Tomosynethesis

- Defines "Digital tomosynthesis" to mean a radiologic procedure that involves the acquisition of projection images over the stationary breast to produce cross-sectional digital three-dimensional images.
- Expands the health insurance mandate for coverage of breast cancer screenings to include coverage for "digital tomosynthesis" that the treating physician determines is medically appropriate and necessary.
- Requires that a carrier not impose a copayment or coinsurance requirement for digital tomosynthesis that is greater than such a requirement for other breast cancer screenings for which coverage is required.
- Applies to all expense-incurred hospital, medical or surgical benefits policies issued by insurers and nonprofit health service plans as well as health maintenance organization contracts that are issued or delivered in the state on or after January 1, 2018.

Effective Date: ***May 25, 2017***

HOUSE BILL 740/SENATE BILL 919 (Chapter678/Chapter 679) – President Jimmy Carter Cancer Treatment Access Act

- Prohibits an insurer, nonprofit health service plan, or health maintenance organization (collectively known as carriers) from imposing a step therapy or fail-first protocol on an insured or enrollee for a prescription drug approved by the FDA if: (1) the drug is used to treat the insured's or enrollee's stage four advanced metastatic cancer; and (2) the use of the drug is consistent with the FDA-approved indication or the National Comprehensive Cancer Network Drugs & Biologics Compendium indication for the treatment of stage four metastatic cancer and is supported by peer-reviewed medical literature.

Effective Date: ***October 1, 2017***

HOUSE BILL 774/SENATE BILL 380 (Chapter 223/Chapter 224) – Insurance – Short – Term Medical Insurance - Study

- Requires the MIA to conduct a study to assess the need in the State for short-term medical insurance offered by nonadmitted insurers.

- Requires the MIA in conducting the study to: (1) identify why individuals are in need of short-term medical insurance; (2) assess the availability of short-term medical insurance offered by admitted insurers; (3) determine whether short-term medical insurance policies are being offered online and, if so, whether they are procured through licensed Maryland insurance producers; (4) compare the coverages under and premiums for short-term medical insurance offered by admitted insurers and the underwriting practices of those insurers with those of policies offered by nonadmitted insurers as a surplus line and the underwriting practices of those insurers; (5) assess the impact on the admitted health insurance market and consumers of authorizing nonadmitted insurers to offer short-term medical insurance as a surplus line to specified individuals in Maryland; (6) review and provide information about consumer complaints and enforcement activities relating to short-term medical insurance; and (7) make specified recommendations.
- Requires the MIA to solicit input from specified stakeholders, including admitted and nonadmitted insurers, producers, and consumers.
- Requires the MIA to submit a report on its findings and recommendations to the Governor, the Senate Finance and House Health and Government Operations committees of the General Assembly by December 31, 2017.

Effective Date: ***June 1, 2017***

HOUSE BILL 786 (Chapter 583) – Education – Individualized or Group Behavioral Counseling Services - Establishment

- Requires the Maryland State Department of Education in conjunction with the Maryland Department of Health and Mental Hygiene to recommend best practices for local boards of education to provide to students with: (1) behavioral needs assessments; and (2) individualized or group behavioral health counseling services with a health care provider through a school-based health center or community-partnered school-based behavioral health services.
- Prohibits an insurer, nonprofit health service plan, or health maintenance organization from denying a covered, medically necessary behavioral health care service provided by a participating provider to a member who is a student solely on the basis that the service is provided at a public school or through a school-based health center.

Effective Date: ***July 1, 2017***

HOUSE BILL 887 (Chapter 581) – Health Insurance – Prior Authorization for Drug Products to Treat an Opioid Use Disorder - Prohibition

- Prohibits insurers, nonprofit health service plans, and health maintenance organizations that provide coverage for substance use disorder benefits under the medical benefit or for prescription drugs, including coverage through a pharmacy benefits manager ("PBM"), from applying a preauthorization requirement for a prescription drug: (1) when used for treatment of an opioid use disorder; and (2) that contains methadone, buprenorphine, or naltrexone.
- Applies to insurers and nonprofit health benefit plans that provide coverage for substance use disorder benefits or prescription drugs under individual, group or blanket health insurance policies or contracts that are issued or delivered in the state, and health

maintenance organizations that provide coverage for substance use disorder benefits or prescription drugs under individual or group contracts that are issued or delivered in the state, on or after the effective date of this bill. Applies to a PBM utilized by an insurer, nonprofit health service plan, or health maintenance organization that is subject to this law.

Effective Date: ***May 25, 2017***

SENATE BILL 571 (Chapter 17) – Maryland Health Insurance Coverage Protection Act

- Establishes the Maryland Health Insurance Coverage Protection Commission to: (1) monitor potential and actual federal changes to the ACA, Medicaid, the Maryland Children's Health Program, Medicare, and the Maryland All-Payer Model; (2) assess the impact of such changes; and (3) provide recommendations for State and local action to protect access to affordable health coverage.
- Requires the Commission, for a period of 3 years, to submit by December 31 of each year an annual report on its findings and recommendations.

Effective Date: ***June 1, 2017***

HOUSE BILL 953/SENATE BILL 696 (Chapter 213/Chapter 212) – Task Force on Long-Term Care Education and Planning

- Establishes the Task Force on Long-Term Care Education and Planning to: (1) examine the status of long-term care education in the State; (2) consider options for improving efforts to educate residents of the State about planning for long-term care; and (3) make specified recommendations regarding long-term care education that ensure no Maryland resident reaches the age of 50 without having received complete information about the risk of needing long-term care and the private options available to pay for long-term care, including information about the Maryland Medical Assistance Program, how the Program is funded, and whom the Program is intended to serve.
- Requires the United Seniors of Maryland to provide staffing for the Task Force.
- Requires the Task Force to report its findings and recommendations to the Governor and the General Assembly by December 1, 2017.

Effective Date: ***June 1, 2017***

HOUSE BILL 983 (Chapter 765) – Health Insurance – Health Care Services Delivered Through Telehealth Coverage

- Substitutes the term "telehealth" for "telemedicine." "Telehealth" means, as it relates to the delivery of health care services, the use of interactive audio, video, or other telecommunications or electronic technology by a health care provider to deliver a health care service that is within the scope of practice of the health care provider at a location other than the location of the patient.
- Establishes that currently mandated health insurance coverage for health care services appropriately delivered through telehealth must include counseling for substance use disorders.

Effective Date: ***October 1, 2017***

HOUSE BILL 1127 (Chapter 579) – Health Insurance – Coverage Requirements for Behavioral Health Disorders – Modifications

- Establishes that certain health benefit plans must provide: (1) residential treatment center benefits; and (2) outpatient and intensive outpatient benefits, including diagnostic evaluation, opioid treatment services, and medication evaluation and management.
- Clarifies that benefits for the diagnosis and treatment of mental illness and emotional, drug use, and alcohol use disorders must comply with 45 C.F.R. § 146.136(a) through (d) and 29 C.F.R. § 2590.712(a) through (d) under the federal Mental Health Parity and Addiction Equity Act.

Effective Date: ***June 1, 2017***

HOUSE BILL 1147/SENATE BILL 898 (Chapter 766/Chapter 767) – Health Insurance – Prescription Drugs – Dispensing Synchronization

- Requires insurers, nonprofit health service plans, and health maintenance organizations that provide coverage for prescription drugs, including coverage provided through a PBM, to allow and apply a prorated daily copayment or coinsurance amount for a partial supply of a prescription drug dispensed by an in-network pharmacy.
- Applies only if: (1) the prescriber or pharmacist determines dispensing a partial supply to be in the best interest of the member; (2) the prescription is anticipated to be required for more than three months; (3) the member requests or agrees to a partial supply to synchronize the dispensing of the member's prescription drugs; (4) the prescription is not a Schedule II controlled dangerous substance; and (5) the supply and dispensing of the drug meets prior authorization and utilization management requirements specific to the prescription drug at the time of the synchronized dispensing.

Effective Date: ***January 1, 2019***

HOUSE BILL 1329/SENATE BILL 967 (Chapter 571/Chapter 572) – Heroin and Opioid Prevention Effort (HOPE) and Treatment Act of 2017

- Requires each health care facility and system to make the services of providers who are authorized to prescribe opioid addiction treatment medication, including buprenorphine-containing formulations, available to patients.
- Authorizes local fatality review teams to review nonfatal overdoses.
- Broadens the authority of the Maryland Department of Health and Mental Hygiene ("DHMH") to take certain actions relating to controlled dangerous substance (CDS) registration.
- Requires the State Court Administrator to assess drug court programs in circuit courts, juvenile courts, and district courts to determine how to increase these programs based on each county's needs.

- Requires DHMH to establish crisis treatment centers, a crisis hotline, and disseminate specified opioid use disorder information. Requires the Behavioral Health Administration with DHMH to establish at least one crisis center by June 1, 2018.
- Requires DHMH to establish guidelines for the co-prescribing of opioid reversal drugs for those licensed health care providers authorized to prescribe a monitored prescription drug.
- Requires the Governor's proposed budget for fiscal 2019 through 2021 to include specified rate adjustments for community behavioral health providers.
- Requires the Department of Public Safety and Correctional Services and local jails and detention centers to develop plans for substance use disorder treatment.
- Expresses the intent of the General Assembly that the $10 million fund for the opioid crisis in the fiscal 2018 operating budget be used to implement the bill's provisions.
- Requires hospitals, by January 1, 2018, to a have discharge protocol in place for an individual who was treated for a drug overdose or identified as having a substance use disorder.
- Applies to insurers, non-profit health service plans, and health maintenance organizations that provide coverage for prescription drugs under individual or group contracts issued or delivered in the State.
- Beginning January 1, 2018, authorizes insurers, nonprofit health service plans, and health maintenance organizations to apply a prior authorization requirement for an "opioid antagonist" on the carrier's formulary only if coverage is provided for at least one formulation of the opioid antagonist without a prior authorization requirement.

Effective Date: ***May 25, 2017***

SENATE BILL 48 (Chapter 42) – Health Insurance – Medicare Supplement Policies for Dual Eligible Individuals – Open Enrollment Period

- Requires a carrier to offer Medicare supplement policy plans A and C to an individual younger than age 65 who is eligible for Medicare due to a disability during the six-month period following notification of Medicare enrollment if the applicant is notified of the applicant's retroactive enrollment in Medicare.
- Repeals an obsolete provision regarding an open enrollment period for individuals no longer eligible for the Maryland Health Insurance Plan due to eligibility for Medicare.

Effective Date ***June 1, 2017***

PROPERTY AND CASUALTY

HOUSE BILL 5 (Chapter 20) – Private Passenger Motor Vehicle Liability Insurance – Enhanced Underinsured Motorist Coverage

- Establishes a new optional coverage entitled enhanced underinsured motorist coverage ("EUIM") to be offered by authorized motor vehicle liability insurers at the time of application as an alternative to existing uninsured and underinsured motorist ("UM") coverage.
- Provides that the amount of EUIM coverage must equal the amount of liability coverage provided under the policy.

- Requires the Insurance Commissioner to develop the form for the offering of EUIM.
- Applies to each policy of private passenger motor vehicle insurance issued, sold, or delivered in the State on or after July 1, 2018.

Effective Date: ***October 1, 2017***

HOUSE BILL 291/SENATE BILL 279 (Chapter 123/Chapter 124) – Homeowner's Insurance – Notices

- Authorizes a homeowner's insurer to send certain offers, renewal notices, and statements to an insured or applicant for a policy using electronic means if the notices sent in this manner meet existing requirements for notices sent using electronic means.
- Requires the Insurance Commissioner to adopt by regulation a notice containing information about homeowner's insurance policies such as flood, coverage from loss from water that backs up through sewers and drains, deductibles, storm loss protective device discounts, claims history and increased hazard.
- Permits a homeowner's insurer to fulfill certain notice requirements at renewal by using the Commissioner's notice instead of having to send individual notices.

Effective Date: ***October 1, 2017***

HOUSE BILL 1294/SENATE BILL 426 (Chapter 70/Chapter 69) – Workers' Compensation – Permanent Total Disability – Survival of Claim

- Increases the cap – from $45,000 to $65,000 – on unpaid benefits that may survive to a covered employee's dependents or spouse when the employee was receiving permanent total disability benefits and died from causes unrelated to the claim.
- Applies only prospectively and may not be applied or interpreted to have any effect on, or application to, any claims arising before the effective date.

Effective Date ***October 1, 2017***

HOUSE BILL 916/SENATE BILL 534 (Chapter 639/Chapter 640) – Motor Vehicle Insurance – Discrimination in Underwriting and Rating – Prohibitions

- Prohibits the insurer of a private passenger motor vehicle insurance policy from increasing the premium for an insured who becomes a surviving spouse based solely on the insured's change in marital status.

Effective Date: ***October 1, 2017***

HOUSE BILL 1315/SENATE BILL 72 (Chapter 264/Chapter 263) – Workers' Compensation – Tiered Rating Plans and Merit Rating Plans

- Authorizes a workers' compensation insurer to develop a tiered rating plan containing risk tiers that are applied to the uniform classification system that must be used for rate making.

- Requires a tiered rating plan to: (1) establish discrete tiers based on defined risk attributes that are reasonably related to the insurer's business and economic purposes and are not arbitrary, capricious, or unfairly discriminatory; (2) place each insured in the highest quality tier for which the insured qualifies; and (3) be filed with the Insurance Commissioner at least 30 days before it may be used.
- Requires the Commissioner to disapprove a tiered rating plan if the data produced under the plan cannot be reported in a manner consistent with the uniform classification system and statistical plan.
- Authorizes an insurer to file a merit rating plan with the Commissioner for insureds who do not qualify for a uniform experience rating plan.

Effective Date ***October 1, 2017***

SENATE BILL 910 (Chapter 509) – Maryland Automobile Insurance Fund - Operations

- Exempts Maryland Automobile Insurance Fund ("MAIF") from paying the 2% premium tax for its insurance policies for the period of January 1, 2018 through June 30, 2022.
- Alters MAIF's rate review process from prior approval of rates to file and use, the same procedure used by other automobile insurance carriers.
- Expands eligibility to apply for a policy from MAIF without meeting the "two turn down rule" requirement for individuals who have had a motor vehicle insurance policy but have been uninsured for a continuous period of one year preceding the effective date with MAIF. This information must be verified by a third-party database or a State agency.
- Requires MAIF to file a premium tax exemption report for a period of 3 years beginning on or before October 1, 2018 with the Insurance Commissioner relating to the premium tax exemption's effect on its operations and finances.
- Requires the Commissioner to review MAIF's surplus and premium structure based on MAIF's premium tax exemption report and report the findings to the General Assembly annually for a period of 3 years beginning December 1, 2019.

Effective Date ***July 1, 2017, January 1, 2018***

HOUSE BILL 1476/SENATE BILL 867 (Chapter 565/Chapter 566) – Workers' Compensation – Failure to Report Accident Personal Injury – Penalty

- Increases the existing maximum fine that may be imposed on an employer who "knowingly" fails to report an accidental personal injury from $50 to $500.

Effective Date ***October 1, 2017***

HOUSE BILL 1484/SENATE BILL 194 (Chapter 567/Chapter 568) – Workers' Compensation – Medical Benefits – Payment of Medical Services and Treatment

- Establishes a 12 month time limit for a medical service provider that provides certain medical treatment for a covered workers' compensation claimant to bill an employer or its insurer.

- Requires a bill to be submitted within 12 months from the later of the date: (1) the medical service or treatment was provided to the covered employee; (2) the claim for compensation was accepted by the employer or the employer's insurer; or (3) the claim for compensation was determined by the Workers' Compensation Commission ("WCC") to be compensable.
- Establishes that an employer or insurer may not be required to pay for certain medical treatments if the bill is submitted after the 12 month period, unless the provider files an application for payment with the WCC within 3 years from the later of three dates ((1) when medical service or treatment was provided to the covered employee; (2) when the claim for compensation was accepted by the employer or the employer's insurer; or (3) when the claim was determined by the WCC to be compensable), and the WCC excuses the untimely submission for good cause.

Effective Date ***October 1, 2017***

SENATE BILL 31 (Chapter 38) – Title Insurance – Rate Making – Use of Rating Organizations for Fillings

- Authorizes the Insurance Commissioner to issue a rating organization license for title insurance.
- Authorizes, but does not require, a title insurer to fulfill its rate filing obligation by: (1) being a member of or subscriber to a title insurance rating organization that makes filings; and (2) authorizing the Commissioner to accept filings on its behalf from the rating organization. A title insurance rating organization may also request a hearing on behalf of its members or subscribers on notice of disapproval of a filing.
- Exempts title insurance rate filings made by a rating organization on behalf of a title insurer from the requirement that the Commissioner make a determination on the filing within a limited time period or the filing is considered approved.
- Establishes that a title insurance rating organization is subject to the same regulatory oversight provisions as other rating organizations, including being examined at least once every five years.

Effective Date ***October 1, 2017; January 1, 2023***

SENATE BILL 32 (Chapter 39) – Insurance – Cancellation of Policy or Binder – Notice Requirements

- Clarifies that the requirements of § 27-613 of the Insurance Article do not apply to the cancellation of a private passenger motor vehicle liability insurance policy or binder during the 45-day underwriting period immediately after the policy or binder takes effect.
- Exempts an insurer that provides such a policy or binder from notice requirements contained in § 27-613 if that insurer properly complies with the separate notice requirements for cancellations during the 45-day underwriting period.
- Clarifies that the notice requirements of § 19-406 of the Insurance Article do not apply to the cancellation of a workers' compensation insurance policy during the same 45-day underwriting period.

- Requires each workers' compensation insurer to file a copy of the notice of cancellation it uses when cancelling a policy during the 45-day underwriting period with the Workers' Compensation Commission.

Effective Date ***October 1, 2017***

SENATE BILL 40 (Chapter 41) – Title Insurance Producers – Licensing of Business Entities and On-Site Review

- Repeals the requirement that each partner or officer of a title agency hold a title insurance producer license and instead requires each controlling person and each trust money controller to hold such a license.
- Requires an applicant for a license as a business entity to include in the application an entity authorization that identifies each controlling person; designates each person that will be a trust money controller for the title agency; identifies each owner; and identifies each officer, director, manager, general partner or other person designated by the business entity to act as the business entity's principal contact with the administration.
- Requires the Insurance Commissioner to investigate the character of each individual identified as a controlling person or trust money controller by the entity authorization.
- Authorizes a title insurer to limit the review of a title producer or agency that holds appointments with more than one title insurer to files, separately held accounts, and written documentation relating to its title insurance policies.

Effective Date ***October 1, 2017***

SENATE BILL 289 (Chapter 514) – Maryland Insurance Administration – Rate Making for Automobile and Homeowner's Insurance

- Repeals two reporting requirements that the Insurance Commissioner is subject to: (1) an annual report to the Governor and General Assembly about the effect of competitive rating on the insurance markets in the State; and (2) an annual report to the General Assembly about the use of territory as a factor in establishing private passenger automobile insurance rates by insurers and MAIF.
- Requires the MIA to continue to collect (or review) and analyze data relating to: (1) the competitiveness of the private passenger automobile insurance and homeowner's insurance markets in the State; and (2) the use of territory as a factor in establishing private passenger automobile insurance rates. The Commissioner must report to the Governor and General Assembly if any notable changes are found.
- Requires that upon request, the information collected must be made available through the Public Information Act and other applicable insurance laws.

Effective Date ***July 1, 2017***

Senate Bill 290 (Chapter 725) – Motor Vehicle Liability Insurance Policies – Placement and Reinstatement

- Authorizes a motor vehicle insurer, including MAIF, to reinstate a private passenger motor vehicle liability insurance policy that was canceled for nonpayment of a premium,

without a lapse in coverage, if the policyholder certifies that there have not been any losses during the lapsed period and pays the premiums owed to the insurer and any reasonable reinstatement fee approved by the Insurance Commissioner.

- Requires the Commissioner to review the administrative expenses of an insurer that are associated with reinstatements and may approve a fee that does not exceed: (1) $10 if charged by an insurer; and (2) $15 if charged by an insurance producer.
- Increases the amount a MAIF producer may charge an applicant for automobile insurance with MAIF to $25 plus $1 more than the actual charge by the Motor Vehicle Administration (MVA) for a driving record.

Effective Date ***October 1, 2017***

OTHER

HOUSE BILL 800/SENATE BILL 94 (Chapter 44/Chapter 43) – Insurance Premiums – Payment by Credit Card – Reimbursement for Expenses

- Permits an insurance producer to charge and collect the actual expenses incurred when an insured makes a premium payment using a credit card;
- Clarifies that any point-of-service credit card expenses incurred by the producer or surplus lines broker may not be considered a premium for any purpose under § 27-216(b)(4) and (b)(7) of the Insurance Article, respectively.
- Requires a producer to fully disclose to the insured: (1) every possible payment method accepted; and (2) any charge for actual expenses incurred by the producer for payment of a premium using a credit card.
- Authorizes a surplus lines broker to charge and collect the actual expenses incurred when an insured uses a credit card to pay a premium, policy fee, and any other fees and taxes related to a policy.
- Requires that a surplus lines broker disclose the charges related to credit card use on a form approved by the Insurance Commissioner.

Effective Date ***October 1, 2017***

HOUSE BILL 116/SENATE BILL 189 (Chapter 66/Chapter 65) – Maryland Insurance Administration – Sunset Review – Required Reports and Repeal of Preliminary Evaluation Requirement

- Repeals the requirement that the MIA be evaluated under the Maryland Program Evaluation Act.
- Requires MIA to submit two reports to the Senate Finance Committee, House Economic Matters Committee, and Department of Legislative Services on the following subjects: (1) the status and effectiveness of its online premium tax collection system 18 months after the system becomes operational; and (2) the timeliness of property and casualty form filing review during fiscal 2017 due by October 1, 2017.

Effective Date: ***July 1, 2017***

2017 INSURANCE LEGISLATION

HOUSE BILL 136 (Chapter 106) – Insurance – Public Adjusters – Licensing

- Adopts the National Association of Insurance Commissioners' ("NAIC") Public Adjuster Licensing Model Act (#228).
- Alters the definition of a public adjuster and provides an exemption from licensing for certain persons that provide marketing on behalf of a public adjuster.
- Requires a public adjuster to provide an insured with a written contract disclosing the terms of the contract, the right to rescind, the compensation the public adjuster is to receive for services, and the disclosure of any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim.
- Requires a public adjuster to provide an insured with a disclosure signed by both parties at time of contract describing the public adjusting process.
- Requires public adjusters to keep financial and business records in a specified manner and establishes requirements for a separate escrow account for any insured's proceeds.
- Details a set of professional obligations and ethical requirements to which a public adjuster must adhere.
- Requires a public adjuster to report to the Insurance Commissioner within 30 days in a specified manner if administrative action is taken against the adjuster in another jurisdiction or by another governmental unit in Maryland or if the adjuster is criminally prosecuted in any jurisdiction.

Effective Date ***January 1, 2018***

HOUSE BILL 154 (Chapter 113) – Insurance – Pharmacy Benefits Managers – Registration Expiration Date

- Alters the date on which a pharmacy benefits manager registration expires from a registration that expires on the two year anniversary of the date the registration was issued to the second September 30 after the effective date of the registration.

Effective Date ***October 1, 2017***

HOUSE BILL 451/SENATE BILL 375 (Chapter 186/Chapter 185) – Insurance – Bail Bondsmen – Continuing Education Requirements

- Requires each insurance producer who is licensed to sell property and casualty insurance and also sells, solicits, or negotiates bail bonds to receive continuing education that directly relates to bail bond insurance.

Effective Date ***October 1, 2017***

HOUSE BILL 1277 (Chapter 505) – Insurance – Producer Licensing Examinations

- Decreases the number of days, from 14 days to 4 days that an individual must wait before he or she can retake a failed insurance producer license examination.

Effective Date ***October 1, 2017***

2017 INSURANCE LEGISLATION

SENATE BILL 459 (Chapter 807) – Bail Bond – Installment Contract – Form and Confessed Judgment Prohibition

- Requires an agreement to accept payment for the premium charged for a bail bond in installments to be in a form approved by the Maryland Insurance Commissioner.
- Prohibits a bail bondsman from including a confessed judgment clause that waives a consumer's right to assert a legal defense to an action in such an agreement.
- Defines the inclusion of a confessed judgement clause that waives a consumer's right to assert a legal defense to an action in a bail bond agreement as an unfair method of competition and an unfair and deceptive act or practice in the business of insurance.

Effective Date ***October 1, 2017***

HOUSE BILL 1553 (Chapter 722) – Nonprofit Health Entity – Acquisition – Waiver of Waiting Period

- Clarifies that a determination made by the appropriate regulating entity regarding the acquisition of a nonprofit health entity may take effect the earlier of 90 days after the determination or the date when ratified or rejected by the General Assembly
- Authorizes the appropriate regulating entity to waive the 90-day waiting period if it determines that it is in the best interest of the public.

Effective Date ***May 25, 2017***

SENATE BILL 8 (Chapter 36) – Insurance – Risk Management and Own Risk and Solvency Assessment Act

- Adopts the Risk Management and Own Risk and Solvency Assessment (ORSA) Model Act (#505) that was developed by the NAIC.
- Requires insurers, nonprofit health service plans, health maintenance organizations, and dental plan organizations ("carriers"), or the holding company of which the carrier is a member to: (1) maintain a risk management framework for identifying, assessing, monitoring, managing, and reporting its material and relevant risks; (2) complete an ORSA at least once each year and at any time there is a significant change to the carrier's or the holding company's risk profile; and (3) submit an ORSA summary report to the Insurance Commissioner at least once a year.
- Provides an exemption for the requirements of ORSA for certain carriers. Establishes the requirements for filing an ORSA summary report with the Commissioner.
- Provides that ORSA-related information provided to the Commissioner is confidential and privileged and not subject to the Public Information Act, subpoena or discovery.
- Provides that the Commissioner may not otherwise make ORSA-related materials public without prior written consent of the carrier.

Effective Date ***January 1, 2018***

2017 INSURANCE LEGISLATION

SENATE BILL 15 (Chapter 504) – Insurance – Charitable Gift Annuities – Special Permit Holders – Required Financial Statements

- Requires the holder of a special permit, which allows specified nonprofit entities to accept annuity payments from donors, to submit audited fiscal year-end financial statements to the Insurance Commissioner each year within 180 days after the end of the special permit holder's fiscal year.
- Requires that the financial statements must be audited by a certified public accountant and presented in conformity with generally accepted accounting principles (GAAP).
- Permits a special permit holder to apply for a waiver from these requirements to the Commissioner. The Commissioner may waive the requirement for audited fiscal year-end financial statements and instead may require other documents or information.

Effective Date ***October 1, 2017***

SENATE BILL 19 (Chapter 37) – Insurance – Surplus Lines Insurers, Surplus Lines Brokers, and Reinsurers

- Simplifies the renewal process for a surplus lines insurer by repealing specified financial and compliance certification filing requirements and instead allows the insurer to renew its authorization by: (1) filing a renewal application; (2) paying the applicable fee; and (3) submitting any additional information required by the Insurance Commissioner. A surplus lines insurer's renewal application must be signed by an officer of the insurer certifying that the insurer is in compliance with the applicable laws of its domiciliary jurisdiction
- Requires the filing of the financial and compliance certifications by a surplus lines insurer at time of application for initial approval.
- Alters an annual reporting requirement related to premium taxes owed so that only surplus lines brokers that have transacted business in the State during the reporting period must report, instead of requiring all surplus lines brokers to do so.

Effective Date ***October 1, 2017***