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**SUMMARY OF 2005 INSURANCE LEGISLATION
SIGNED INTO LAW BY GOVERNOR ROBERT L. EHRLICH, JR.**

This summary is meant to place insurers authorized to write insurance in Maryland on notice of the insurance laws (Insurance Article, § 1-101, *et seq.*, Annotated Code of Maryland) passed by the 2005 Maryland General Assembly. *The attached synopsis is intended to serve only as a guide.* All insurers should refer to the 2005 Chapter Laws of Maryland for the complete text of any of these recently enacted laws. Insurers are advised that other bills passed by the General Assembly and not listed on the synopsis may also affect their business operations in Maryland.

You can obtain a copy of a specific law passed by the General Assembly during the 2005 legislative session by accessing <http://mlis.state.md.us> on the internet 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 "mlis" web site. You can also obtain a copy of *The 90 Day Report -- A Review of the Legislative Session (2005)* from Library and Information Services, Office of Policy Analysis, Department of Legislative Services, 90 State Circle, Annapolis, MD 21401-1991 (410-946-5400).

For additional information concerning the Maryland Insurance Administration's Summary of 2005 Insurance Legislation, please contact Brett Lininger, Director of Government Relations, at 410-468-2014.

2005 INSURANCE LEGISLATION

LIFE AND HEALTH

HOUSE BILL 85 (Chapter 193) - Maryland Medical Assistance Program – Medical Loss Ratio and Quality of Care

- Provides managed care organizations and certified health maintenance organizations with appeal rights if the Secretary of the Department of Health and Mental Hygiene adjusts capitation payments under § 15-605 of the Insurance Article.
- Requires the Secretary of the Department of Health and Mental Hygiene, in consultation with the Insurance Commissioner, to adopt regulations to implement § 15-605(c)(5) of the Insurance Article.
- Permits the Secretary of the Department of Health and Mental Hygiene to alter, modify, or enhance the Value Based Purchasing Initiative.

Effective date: June 1, 2005

HOUSE BILL 303 (Chapter 365) - Health Insurance - Mandated Benefits - Smoking Cessation Treatment

- Requires an insurer, nonprofit health service plan, or health maintenance organization to provide coverage for any prescription drug that:
 - (1) is approved by the United States Food and Drug Administration as an aid for the cessation of the use of tobacco products; and
 - (2) is obtained under a prescription written by an authorized prescriber.
- Requires an insurer, nonprofit health service plan, or health maintenance organization to provide coverage for two 90-day courses of nicotine replacement therapy during each policy year.
- Prohibits an insurer, nonprofit health service plan, or health maintenance organization from imposing a different copayment or coinsurance requirement for a drug or nicotine replacement therapy provided under this benefit than is imposed for any other comparable prescription.

- Applies to all policies and contracts issued, delivered, or renewed in Maryland on or after October 1, 2005.

Effective date: October 1, 2005

HOUSE BILL 324 (Chapter 282) / SENATE BILL 282 (Chapter 281) - Maryland Pharmacy Programs - Modifications and Subsidies for Medicare Drug Benefits

- Renames the Senior Prescription Drug Program the Senior Prescription Drug Assistance Program.
- Requires a certain nonprofit health service plan to subsidize the Senior Prescription Drug Assistance Program and sets limits on the amount of the subsidy.
- Creates eligibility requirements for enrollment in the Senior Prescription Drug Assistance Program.
- Specifies that the Senior Prescription Drug Assistance Program will pay a portion of certain enrollees' Medicare Part D prescription drug plan premium and deductible or Medicare Advantage plan premium and deductible related to a prescription drug benefit.
- Specifies the amount of the subsidy to be provided by the Senior Prescription Drug Assistance Program.
- Specifies that the Maryland Pharmacy Assistance Program is for individuals who are not Medicare eligible.
- Creates the Medicare Option Prescription Drug Program.
- Specifies that as of June 30, 2007, the Senior Prescription Drug Program (renamed the Senior Prescription Drug Assistance Program as of January 1, 2006) shall be abrogated and of no further force and effect.
- Permits the Board of Directors of the Maryland Health Insurance Plan to automatically transfer eligible enrollees from the Senior Prescription Drug Program to the Senior Prescription Drug Assistance Program.
- Permits the Board of Directors of the Maryland Health Insurance Plan to automatically assign eligible enrollees in the Senior Prescription Drug Assistance Program to a Medicare Part D plan if they have not made a plan selection.

- Permits the Board of Directors of the Maryland Health Insurance Plan at their option to extend the full benefits of the Senior Prescription Drug Program until February 1, 2006.

Effective date: July 1, 2005

HOUSE BILL 417 (Chapter 372) - Health Insurance - Pharmacies - Electronic Reimbursement

- Applies to an insurer, nonprofit health service plan, or health maintenance organization that provides coverage for prescription drugs under a policy or contract issued or delivered in Maryland.
- Requires that if an entity subject to this section requires a pharmacy to submit a request for payment electronically, then the pharmacy or designated agent may choose to be reimbursed electronically.
- Provides that an insurer, nonprofit health service plan or health maintenance organization that requires the electronic submission of claims for payment shall electronically reimburse the pharmacy or designated agent of the pharmacy and shall provide payment data electronically.
- Prohibits an insurer, nonprofit health service plan, or health maintenance organization from imposing a processing fee for the electronic reimbursement.

Effective date: October 1, 2006

HOUSE BILL 458 (Chapter 375) - Health Insurance - Coverage for Psychological and Neuropsychological Testing

- Applies to insurers, nonprofit health service plans, and health maintenance organizations.
- Clarifies that outpatient coverage includes services for psychological and neuropsychological testing for diagnostic purposes.
- Applies to policies or contracts issued, delivered, or renewed in Maryland after October 1, 2005.

Effective date: October 1, 2005

HOUSE BILL 617 (Chapter 563) - Life Insurance Freedom to Travel Act

- Prohibits an insurer from refusing to insure, refusing to continue to insure, limiting the amount or extent or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely for reasons associated with an applicant's or insured's past lawful travel experiences.

Effective date: October 1, 2005

HOUSE BILL 627 (Chapter 280) - Community Health Care Access and Safety Net Act of 2005

- Enhances the community resources available for health care coverage for individuals.
- Exempts nonprofit health maintenance organizations from the payment of premium tax.
- Requires that a nonprofit health maintenance organization transfer funds in an amount equal to the value of its premium tax exemption to the medical assistance program account created under Senate Bill 836 (Chapter 1) to be used to support the provision of health care to eligible individuals.
- Requires that on or before August 1, 2005, a nonprofit health maintenance organization must transfer to the medical assistance program account created under Senate Bill 836 (Chapter 1) an amount equal to the value of its premium tax exemption for the last six months of fiscal year 2005 and, within 30 days following the end of each subsequent calendar quarter, an amount equal to the value of the nonprofit health maintenance organization's premium tax exemption for that quarter.
- Requires that on or before March 1 of each year, a nonprofit health maintenance organization must file a report with the Insurance Commissioner establishing that the nonprofit health maintenance organization transferred funds equal to the value of its premium tax exemption during the preceding calendar year.
- Requires a nonprofit health service plan to subsidize the Maryland Pharmacy Discount Program under § 15-124 of the Health - General Article and to support the costs of the Community Health Resources Commission and sets limits on the subsidy and support required.
- Requires a nonprofit health service plan to transfer funds to the Community Health Resources Commission Fund to support the costs of the Community Health Resources Commission and to the Department of Health and Mental Hygiene to subsidize the Maryland Pharmacy Discount Program, beginning in fiscal year 2006.

- Requires that, to the extent required under federal law, an insurer, nonprofit health service plan, or health maintenance organization shall reimburse a community health resource for covered services provided to the insured or any other person covered by the policy or contract.
- Creates the Joint Legislative Task Force on Universal Access to Quality and Affordable Health Care to:
 - (1) study and make recommendations on how to make quality, affordable health care, including primary care, specialty care, hospitalization, and prescription drug coverage, accessible to all citizens of the State; and
 - (2) analyze the feasibility and desirability of implementing aspects of the "Dirigo Health" plan, the California employer mandate, or other innovative state health care coverage programs in Maryland.
- Permits the Board of Directors of the Maryland Health Insurance Plan to authorize the transfer of not more than \$15,000,000 from the Maryland Health Insurance Plan Fund to the Major Information Technology Development Project Fund for the design and development of a computerized eligibility system for the Medicaid Program by the Department of Health and Mental Hygiene.
- Provides that the Department of Health and Mental Hygiene must receive approval from the Centers for Medicare and Medicaid Services of the method of funding for the eligibility system or the provisions related to the eligibility system will be null and void.
- Requires that on or before August 1, 2005, the Insurance Commissioner must refund a premium tax paid before the effective date of House Bill 627/Senate Bill 716 by a nonprofit health maintenance organization exempt from premium tax.

Effective date: July 1, 2005 - June 30, 2010

HOUSE BILL 1017 (Chapter 409) - Joint Legislative Task Force on Small Group Market Health Insurance

- Establishes a task force to study and make recommendations regarding small group market health insurance.
- Requires the Task Force on or before January 1, 2006, to report its findings and recommendations, in accordance with § 2-1246 of the State Government Article, to the presiding officers of the General Assembly, the Senate Finance Committee, and the House Health and Government Operations Committee.

- Requires the Maryland Insurance Administration and the Maryland Health Care Commission to provide technical assistance to the Task Force, including retaining independent consultants to provide actuarial services, benefit consulting services, and other services as needed.

Effective date: July 1, 2005

HOUSE BILL 1091 (Chapter 417) - Health Insurance - Prohibition Against Reunderwriting

- Prohibits an insurer, nonprofit health service plan, or health maintenance organization from reunderwriting an individual for health coverage under an individual contract after the individual contract has been issued.

Effective date: May 10, 2005

HOUSE BILL 1494 (Chapter 437) - Task Force to Study the Impact of Autoimmune Disease in Maryland

- Creates the Task Force to Study the Impact of Autoimmune Disease in Maryland.
- Provides for a representative of the Insurance Administration to be on the Task Force.
- Requires the Task Force to report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly, on or before December 1 of each year.

Effective date: July 1, 2005 - December 31, 2006

HOUSE BILL 1597 (Chapter 276) - Health Insurance - Payment of Claims for Reimbursement - Erroneous Denial of Provider's Claim

- Requires that an insurer, nonprofit health service plan, or health maintenance organization shall reprocess a provider's claim automatically, without the necessity for the provider to resubmit the claim, and without regard to timely submission deadlines if the insurer, nonprofit health service plan, or health maintenance organization erroneously denies a provider's claim for reimbursement because of a claims processing error, and the provider notifies the insurer, nonprofit health service plan, or health maintenance organization of the potential error within one year of the claim denial.
- Applies prospectively to claims for reimbursement submitted on or after October 1, 2005.

Effective date: October 1, 2005

SENATE BILL 191 (Chapter 289) - Medicare Supplement Plan A Policies - Individuals with a Disability - Rates

- Requires that Medicare supplement policy plan A, C, or I be sold to individuals who are under age 65 but eligible for Medicare due to a disability on a guaranteed issue basis if the application for the Medicare supplement policy or certificate is submitted during the six-month period following enrollment in Medicare Part B or during the six-month period following termination from the Maryland Health Insurance Plan as a result of enrollment in Medicare Part B.
- Requires that for a Medicare supplement policy plan A, C, or I, issued on a guaranteed issue basis, a carrier may not charge individuals who are under the age of 65 years, but are eligible for Medicare due to a disability, a rate higher than the average of the premiums paid by all policyholders age 65 and older in the State who are covered under that Medicare supplement policy plan A form.
- Requires the Maryland Insurance Administration to study the impact of § 15-909(b)(3)(iii) of the Insurance Article on the availability and affordability of all Medicare supplement policies in the State and to report its findings, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on or before January 1, 2008.
- Prohibits a carrier from denying or conditioning the issuance or effectiveness of a Medicare supplement policy plan A because of health status, claims experience, or medical condition of an individual who is under the age of 65 years but is eligible for Medicare due to a disability and is currently enrolled with that same carrier in a Medicare supplement policy plan C offered in the State, provided that the individual applies for a Medicare supplement policy plan A with that same carrier no later than 63 days after the policy plan C renewal date.
- Applies to all Medicare supplement policies or certificates issued, delivered, or renewed in the State on or after January 1, 2006.

Effective date: January 1, 2006 - June 30, 2008

SENATE BILL 300 (Chapter 295) - Reimbursement of Health Care Providers - Sunset Repeal

- Removes the sunset provision from Chapter 423 of the Acts of 2001, as amended by Chapter 250 of the Acts of 2002, which would have abolished certain provisions of § 19-710.1 of the Health - General Article.

Effective date: June 1, 2005

SENATE BILL 333 (Chapter 301) - Health Insurance - Treatment of Morbid Obesity

- Revises the duties of the Task Force to Study Utilization Review of the Surgical Treatment of Morbid Obesity to require the Task Force to:
 - (1) review the literature on the surgical treatment of morbid obesity; and
 - (2) recommend a set of guidelines or criteria that are appropriate for the utilization review of the surgical treatment of morbid obesity, and reasonable procedures for documenting patient compliance with the guidelines or criteria.
- Requires the Task Force to report its findings and recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on or before December 1, 2007.
- Requires the Maryland Health Care Commission and the Maryland Insurance Administration to provide the staffing for the Task Force.
- Requires the Maryland Insurance Administration to report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee, for the 12-month period following the date the preceding report is provided:
 - (1) the number of complaints filed with the Administration relating to the denial of coverage for the surgical treatment of morbid obesity;
 - (2) the health insurance carrier that denied coverage and the reason given for the denial; and
 - (3) whether the Administration upheld or reversed the denial of coverage and the basis of the decision.
- Removes the sunset provision from Chapter 486, Acts of 2004 that would have abrogated § 15-839 of the Insurance Article.
- Requires that the Maryland Insurance Administration shall adopt regulations:
 - (1) clarifying the applicability of the National Institutes of Health's guidelines to the utilization review process for primary bariatric surgery for insurance carriers and private review agents; and
 - (2) establishing reasonable documentation requirements for the utilization review of primary bariatric surgery following the recommendations of the

Task Force to Study Utilization Review of the Surgical Treatment of Morbid Obesity as set forth in the report of the Task Force issued November 2004.

Effective date: June 1, 2005

SENATE BILL 521 (Chapter 316) - Health Insurance - High-Deductible Health Plans - Prohibition on Deductible - Exception

- Permits a carrier to apply the deductible of a high-deductible health plan to the benefit required under § 15-812(e)(1) and (2) of the Insurance Article for an enrollee covered under a high-deductible health plan.

Effective date: May 10, 2005

SENATE BILL 662 (Chapter 498) - Insurance - Individual Deferred Annuities - Minimum Nonforfeiture Amounts

- Specifies certain action that insurers must take if they wish to make a deferment under the contract.
- Amends the minimum nonforfeiture amount in accordance with the National Association of Insurance Commissioners (NAIC) model act.
- Permits insurers to apply the provisions of the bill before June 1, 2007 and requires that insurers apply the provisions of the bill on or after June 1, 2007.

Effective date: June 1, 2005

SENATE BILL 760 (Chapter 508) - Insurance - Interstate Insurance Product Regulation Compact

- Makes Maryland a party to the Interstate Insurance Product Regulation Compact effective October 1, 2006.
- Appoints the Insurance Commissioner as Maryland's representative on the Interstate Insurance Product Regulation Commission.
- Creates the Task Force on the Interstate Insurance Product Regulation Compact.
- Requires the Task Force to study the Interstate Insurance Product Regulation Compact and determine whether the State of Maryland should enter the Interstate Insurance Product Regulation Compact.

- Requires the Task Force on the Interstate Insurance Product Regulation Compact to report its findings to the Governor and General Assembly on or before December 1, 2005.

Effective date: October 1, 2005 (Section I is effective October 1, 2006)

SENATE BILL 772 (Chapter 172) - Health Insurance - Substance Abuse Treatment - Copayments

- Prohibits an insurer, nonprofit health service plan, or health maintenance organization from charging a copayment that is greater than 50 percent of the daily cost for methadone maintenance treatment.
- Applies to health insurance policies, contracts, and certificates that are delivered, issued for delivery, or renewed in the State on or after April 26, 2005.

Effective date: April 26, 2005

SENATE BILL 779 (Chapter 333) - Health Insurance - Human Papillomavirus Screening Test - Coverage

- Requires insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for a human papillomavirus screening at the testing intervals outlined in the recommendations for cervical cytology screening developed by the American College of Obstetricians and Gynecologists.
- Applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2005.
- Specifies that any policy or health benefit plan in effect before October 1, 2005 shall comply with the provisions of this Act no later than October 1, 2006.

Effective date: October 1, 2005

SENATE BILL 885 (Chapter 342) - Maintenance Drug Prescriptions – Mail Order Purchase - Study

- Requires the Maryland Insurance Administration and the Maryland Health Care Commission, in consultation with the Maryland Board of Pharmacy, to study:
 - (1) the utilization of mail order service for purchasing a 90-day supply of maintenance drugs;

- (2) the cost savings to consumers who elect to use mail order service for purchasing a 90-day supply of maintenance drugs;
 - (3) the financial impact of any increased utilization of mail order service for purchases of a 90-day supply of maintenance drugs on retail pharmacies in the State; and
 - (4) whether consumers find it convenient to use mail order service for the purchase of maintenance prescription drugs.
- Requires the Maryland Insurance Administration and the Maryland Health Care Commission to report to the Governor and to the General Assembly on the findings of the study on or before December 31, 2005.

Effective date: July 1, 2005

SENATE BILL 895 (Chapter 343) - Department of Health and Mental Hygiene - Maryland Health Insurance Plan - Computerized Eligibility System

- Permits the Board of Directors of the Maryland Health Insurance Plan to authorize the transfer of not more than \$15,000,000 from the Maryland Health Insurance Plan Fund to the Major Information Technology Development Project Fund for the design and development of a computerized eligibility system for the Medicaid Program by the Department of Health and Mental Hygiene.
- Provides that the Department of Health and Mental Hygiene must receive approval from the Centers for Medicare and Medicaid Services of the method of funding for the eligibility system or the provisions of Senate Bill 895 will be null and void.

Effective date: July 1, 2005

SENATE BILL 1014 (Chapter 347) - Health Insurance - Small Group Market - Self-Employed Individuals

- Removes sole proprietors and self-employed individuals from eligibility in the small group market.
- Removes the requirement that carriers in the small group market hold an annual open enrollment for the self-employed.
- Provides that each sole proprietor or self-employed individual with coverage in the small group market as of September 30, 2005, at the option of the enrollee, may continue their small group coverage provided they work and reside in Maryland, remain self-employed, and continue to pay their premium.

- Requires the Maryland Insurance Administration and the Maryland Health Insurance Plan to submit a report to the Senate Finance Committee and the House Health and Government Operations Committee on or before September 1, 2008, on:
 - (1) the effect of excluding self-employed individuals and sole proprietors from the small group market on the availability and affordability of health insurance in the small group market; and
 - (2) the number of self-employed individuals and sole proprietors enrolled in the Maryland Health Insurance Plan.

Effective date: October 1, 2005 - September 30, 2008

PROPERTY AND CASUALTY

HOUSE BILL 160 (Chapter 33) - Insurance Producers - Continuing Education Requirements

- Requires producers who sell homeowners insurance, but not flood insurance, to receive continuing education in flood insurance as a condition of renewing their license.
- The continuing education requirement is a one-time requirement and must be completed by September 30, 2007.

Effective date: October 1, 2005 – September 30, 2007

HOUSE BILL 217 (Chapter 38) - Insurance - Property and Casualty - Filing Fees

- Amends § 2-112 of the Insurance Article to apply form filing collection fees to property and casualty insurance, motor clubs, and motor vehicle liability insurance.
- Codifies the current practice of collecting filing fees for these types of filings.

Effective date: October 1, 2005

HOUSE BILL 338 (Chapter 45) - St. Mary's County Metropolitan Commission - Treasurer and Deputy Treasurers - Surety Bonds

- Repeals the current requirement that the surety bonds contain specified language.

- Requires the bonds to be in a form approved by the Maryland Insurance Administration and the County Attorney for St. Mary's County.

Effective date: October 1, 2005

HOUSE BILL 348 (Chapter 369) - Insurance - Fraud Reporting and Prevention - Expansion

- Requires a registered premium finance company to report suspected insurance fraud in writing to the Fraud Division of the Maryland Insurance Administration.
- Provides that certain information, documentation or other evidence submitted by a registered premium finance company and an independent insurance producer in connection with suspected insurance fraud is not subject to public inspection.
- Clarifies that the fraud section (§ 27-402) of the Insurance Article, in addition to applying to the State when a workers' compensation claim has been filed against the State, also includes the Uninsured Employers' Fund as well as self-insureds under § 17-103(A)(2) of the Transportation Article.
- Requires health maintenance organizations to comply with the fraud reporting subtitle of the Insurance Article (Title 27, Subtitle 8).

Effective date: October 1, 2005

HOUSE BILL 390 (Chapter 541) - Insurance - Surplus Lines Insurance - Authorized Procurement

- Allows a condominium association to procure surplus lines insurance from an unauthorized insurer, even if the condominium association currently has coverage available from an authorized insurer, if certain other conditions are met.

Effective date: October 1, 2005

HOUSE BILL 1248 (Chapter 424) - Private Passenger Motor Vehicle Insurance and Homeowner's Insurance - Underwriting Standards and Requirements - Active Duty Military Personnel Returning from Overseas

- Modifies the standards deemed reasonably related to an insurer's economic and business purposes, with respect to § 27-501(a)(2), that do not require statistical validation, for homeowner's insurance and private passenger motor vehicle insurance.

- Prohibits an insurer from denying, refusing to renew, or canceling coverage or from increasing rates on a private passenger motor vehicle policy for applicants or policyholders who are military personnel returning from active duty overseas solely because they fail to meet underwriting standards that require continuous coverage, unless the failure to maintain continuous coverage existed prior to the applicant's or policyholder's assignment to active duty overseas.
- Prohibits an insurer from denying, refusing to renew, or canceling coverage or from increasing rates on a homeowner's insurance policy for applicants or policyholders who are military personnel returning from active duty overseas solely because they fail to meet:
 - (1) underwriting standards that require continuous coverage, unless the failure to maintain continuous coverage existed prior to the applicant's or policyholder's assignment to active duty overseas; or
 - (2) occupancy requirements if the military personnel can demonstrate that reasonable steps were taken to maintain and protect the property during the applicant's or policyholder's assignment to active duty overseas.

Effective date: October 1, 2005

HOUSE BILL 1570 (Chapter 611) - Industry Automobile Insurance Association - Board of Directors - Composition

- Eliminates two nominations to the Board of Directors of the Industry Automobile Insurance Association previously made by the American Mutual Insurance Alliance (AMIA).
- Eliminates two Board nominations previously made by the National Association of Independent Insurers (NAII).
- Adds two Board nominations to be made by the Property Casualty Insurers Association of America (PCIAA).
- Eliminates the requirement that one Board member be associated with a domestic insurer not affiliated with the American Insurance Association (AIA), AMIA or NAII, and requires that one Board member not be affiliated with the AIA or PCIAA.
- Eliminates the requirement that two Board members not be affiliated with a member company of the AIA, AMIA or NAII, and requires that two Board members not be affiliated with a member company of the AIA or PCIAA.
- Adds the requirement that two Board members be nominated by other Board members in certain categories.

- Provides that if the AIA or PCIAA fail to timely submit the name of a nominee, the requirement that the AIA and PCIAA have two Board seats need not be met for that year.

Effective date: October 1, 2005

**SENATE BILL 97 (Chapter 117) - Motor Vehicle Liability Insurance
Hearings on Proposed Actions by Insurers - Attorney Fees**

- Requires the notice of proposed action that a motor vehicle liability insurer is required to send to an insured to set forth the criteria under which the Insurance Commissioner must order the insurer to pay reasonable attorney fees incurred by the insured for representation at a hearing protesting the proposed action of an insurer.
- Requires that the notice state that the Commissioner will order motor vehicle liability insurers to pay reasonable attorney fees incurred by the insured for representation at a hearing protesting the proposed action of an insurer, if the Commissioner finds that:
 - (1) the actual reason for the proposed action is:
 - (a) not stated in the notice of proposed action by the insurer; or
 - (b) the proposed action does not comply with:
 - (i) the discrimination in underwriting statute (§ 27-501) of the Insurance Article;
 - (ii) the insurer's filed rating plan;
 - (iii) its underwriting standards;
 - (iv) or the lawful terms and conditions of the policy relating to cancellation, nonrenewal, premium increase, or reduction in coverage; and
 - (2) the insurer's conduct in maintaining or defending the proceeding was in bad faith or the insurer acted willfully in the absence of a bona fide dispute.

Effective date: October 1, 2005

SENATE BILL 128 (Chapter 285) - Insurance - Workers' Compensation - Cancellation or Nonrenewal of Policies

- Clarifies that notice of nonrenewal of a workers' compensation policy must be given 30 days before the nonrenewal.
- Requires that notice of cancellation of a workers' compensation policy for non-payment of premium be given at least 10 days before the date of cancellation by certificate of mail.
- Requires a copy of a notice of cancellation or nonrenewal of a workers' compensation policy to be filed with the Workers' Compensation Commission's designee.
- Requires notices of cancellation, other than for nonpayment of premiums and nonrenewals, to state the insurer's actual reason for proposing the cancellation or nonrenewal of the policy.
- Prohibits the Insurance Commissioner from disallowing a proposed action of the insurer because the statement of actual reason contains:
 - (1) grammatical, typographical, or other errors, if the errors are not material to the proposed action and are not misleading;
 - (2) surplus information, if the surplus information is not misleading; or
 - (3) erroneous information, if in the absence of the erroneous information there is a sufficient basis to support the proposed action.

Effective date: October 1, 2005

SENATE BILL 836 (Chapter 1) - Maryland Patients' Access to Quality Health Care Act of 2004 - Implementation and Corrective Provisions

- Makes several technical corrections to the Maryland Patients' Access to Quality Health Care Act of 2004 passed during the 2004 special session. (Chapter 5, Acts of 2004 Special Session)
- Modifies the information required to be reported by insurers providing professional liability insurance to health care providers in Maryland.
- Requires the Commissioner to adopt regulations on the submission of information reported by insurers providing professional liability insurance to health care providers in Maryland.

- Permits the Commissioner to impose a penalty on an insurer providing professional liability insurance to health care providers in Maryland for failure to submit the required report.
- Repeals § 19-104.1 of the Insurance Article pertaining to the Maryland Professional Liability Rate Stabilization Fund.
- Creates the Maryland Health Care Provider Rate Stabilization Fund (“Fund”) under new Title 19, Subtitle 8 of the Insurance Article, entitled the “Maryland Health Care Provider Rate Stabilization Fund.”
- Specifies the purpose of the Fund, what monies the Fund will consist of, and that the Fund is comprised of the rate stabilization account and the medical assistance program account.
- Requires the Commissioner to administer the Fund.
- Creates a distribution schedule for the Commissioner to follow for the Fund.
- Creates an order of preference for distributions from the Fund.
- Makes participation in the Fund by a medical professional liability carrier voluntary.
- Specifies how a health care provider may elect not to receive a rate reduction or credit.
- Requires a medical professional liability insurer seeking reimbursement from the Fund to apply in a form and in a manner specified by the Commissioner.
- Requires the Commissioner to determine the subsidy factor to be used for the following calendar year, and, on or before December 1 of each year, to:
 - issue a bulletin advising medical professional liability insurers of the subsidy factor; and
 - report to the Legislative Policy Committee the subsidy factor, the money available to each medical professional liability carrier and the number of health care providers by classification and geographic territory eligible to receive a subsidy from the rate stabilization account.
- Requires the Commissioner to distribute funds from the medical assistance account to the Secretary of the Department of Health and Mental Hygiene.
- Requires that the Office of Legislative Audits shall audit the receipts and disbursements of the Fund.

- Requires the Commissioner to report to the Legislative Policy Committee by March 15 of each year.
- Permits the Commissioner to determine through a hearing if the Medical Mutual Society's surplus is excessive and order the rate filed to be reduced, if the Medical Mutual Society requests a rate increase of more than 7.5 percent and the surplus exceeds 500 percent of its authorized control risk-based capital.
- Limits the five percent cap on commission for policies that are to take effect on or after January 11, 2005 through December 31, 2009 to policies sold by the Medical Mutual Society.
- Applies the existing limitations on canceling or nonrenewing a medical professional liability insurance policy wholly or partly on the basis of race, color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary, capricious, or unfairly discriminatory reason to policies issued or delivered in the State to a health care provider who has been licensed for more than three years by the appropriate State Licensing Board.
- Prohibits the People's Insurance Counsel and employees of the People's Insurance Counsel Division from having any conflicting interest in an insurer, insurance agency, or insurance transaction, other than as a policyholder or claimant under a policy.
- Sets forth penalty provisions for failure to comply with the assessment requirements relating to funding the People's Insurance Counsel.
- Limits the People's Insurance Counsel Division's jurisdiction to matters before the Commissioner involving medical professional liability insurance and homeowners insurance.

Effective date: March 31, 2005

MISCELLANEOUS

HOUSE BILL 147 (Chapter 444) - Budget Reconciliation and Finance Act of 2005

- Requires that, before certain licenses issued by the MIA are renewed, the Insurance Commissioner shall verify through the Office of the Comptroller that certain taxes and unemployment insurance contributions have been paid or that payment has been provided for in a certain manner.

Effective date: July 1, 2005

HOUSE BILL 666 (Chapter 568) - Insurance - Delinquency Proceedings Against Insolvent Insurers - Financial Contracts

- Adopts an NAIC model law treating the netting of qualified financial contracts in insurance insolvencies in the same manner in which such contracts are treated in connection with insolvencies under the Federal Bankruptcy Code.
- Provides that Maryland domestic insurers who are parties to a derivatives agreement will not be stayed or otherwise prohibited from exercising a contractual right to terminate, liquidate, or close out any netting agreement or qualified financial contract with an insurer in the event of insolvency, financial condition, or default of the insurer at any time.

Effective date: October 1, 2005

HOUSE BILL 788 (Chapter 239) - Commercial Law - Antitrust - Business of Insurance

- Changes the scope of activity that is not considered illegal under § 11-203 of the Commercial Law Article from activity “subject to” regulation by the Commissioner to activity regulated by the Commissioner.
- Provides that, unless expressly authorized by the Insurance Article, the exemption from anti-trust laws contained in § 11-203(a)(4) of the Commercial Law Article does not apply to:
 - (1) Bid rigging
 - (2) Customer or territorial allocation
 - (3) Boycott
 - (4) Coercion
 - (5) Intimidation

Effective date: October 1, 2005