

LEG REG REVIEW 2008, Twentieth Issue

LEG REG REVIEW is a periodic newsletter produced by PHILLIPS ASSOCIATES, a professional lobbying and consultant firm based near the State Capitol. It contains news on the legislative and regulatory scene in Pennsylvania that may be useful to insurance producers, companies, and business interests. It is a free Member Service if you belong to the Pennsylvania Association of Health Underwriters or Manufacturers Association of South Central PA. Subscription information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 FAX 717/728-1164 or e-mail xenobun@aol.com. Please email jtrout2792@aol.com supplying both your e-mail and fax numbers in order to convert this publication to e-mail. If you wish to no longer receive it, please tell us.

NOTE TO SUBSCRIBERS: This will be the first time in its six-year history that **LEG-REG REVIEW** has expanded beyond its traditional two-page format in a regular issue. This is the high season for legislative activity within the PA General Assembly particularly with regard to health insurance as reflected by the expanded length of this newsletter. Thanks, *Vince Phillips*

SMOKING BAN SIGNED INTO LAW

Governor Rendell signed a far-reaching ban on smoking in public places into law on June 13 after the Senate reconsidered its earlier refusal of the same by a 41-9 vote June 10. The Smoke Free PA Act, Senate Bill 246 (Greenleaf-R-Montgomery), now known as Act 27 of 2008, prohibits smoking in restaurants, bars, offices, and public places. Exempted are bars where food makes up 20% or less of business, up to 25% of hotel rooms, tobacco or cigar shop, private clubs not open to the public, residential adult care or long-term care facilities with separate smoking areas and 25% of casino space. The law goes into effect in 60 days. Act 27 is a significant part of Rendell's Rx for PA.

SENATE REPUBLICAN HEALTH PLAN UNVEILED

Senate Republicans released "HealthNetPA", their vision for health reform this last week. Instead of creating a new government program as does the Rendell Administration, the plan takes a very different tack, suggesting that the answer lies in reducing health care costs and particularly emergency room costs. The plan calls for a build-up of free clinics where low income Pennsylvanians receive free care and bypass the emergency room. The clinic proposal was presented by Senate Public Health & Welfare Committee chairman Edwin Erickson (R-Chester).

One part of the Senate Republican plan has already been signed into law by Governor Rendell. Act 14 of 2008 (Wonderling-R-Lehigh) creates a cancer drug bank where surplus pharmaceuticals can be stored and provided to low-income Pennsylvanians.

Insurance Bills

Although much of this package deals with health, there are a number of insurance proposals:

- Mini-COBRA for groups 2 to 20
- One bill that may strike some insurance sparks is Senator Gib Armstrong's (R-Lancaster) proposal to require health insurer premium discounts to employers that meet certain wellness objectives. The concept is loosely modeled on the Workers Compensation five percent premium discount if employers have an L&I certified worker safety committee.
- Senator Jake Corman (R-Centre) supports raising the health insurance dependent age to 30.
- The other major insurance component of the Republican plan is creation of a PA risk pool for those who are medically unable to secure private sector insurance. Although the proposal uses SB 1191 sponsored by Sen. Mike Folmer (R-Lebanon), the actual structure may be amended after the Senate Banking and Insurance Committee holds a hearing on risk pools later this summer.

HOUSE INSURANCE TO CONSIDER CONSUMER ADVOCATE LEGISLATION

The House Insurance Committee convenes this week to consider several pieces of health insurance legislation, the most far-reaching being HB 1121 (Yudichak-D-Luzerne) creating an Office of Insurance Advocate for Insurance (OCA) within the Attorney General's office. It is expected to be amended to have OCA focus solely on health insurance. It would be funded by the industry and would have authority to bring legal action either on an individual or class basis against insurers or health insurance producers. Critics have argued that it is an unnecessary duplication of what the Insurance Department is supposed to be doing now. The bill is expected to pass on a mostly party line vote with Democrats being for.

Other Insurance Committee legislation includes:

- HB 305 (Mundy-D-Luzerne) to **re-establish certificates of need** that proponents say would reduce health care costs by restricting the amount of technology purchases by health providers. Critics say that this concept ultimately leads to rationing (shortages) of medical technology and deprives doctors of valuable tools needed to properly diagnose patient conditions.
- HB 2642 (DeLuca) allowing the Insurance Department to refuse an insurer rate increase if the insurer has incurred costs due to "**preventable serious adverse events**", avoidable health care associated infections and costs from ineffective chronic care management.
- Others are: HB 1485, confidentiality of insurer financial records on file with the Insurance department, HB 1824 providing **grants to community-based health care providers**, HB 1625 supporting **community-based care**, HB 2580 reimbursing for **occupational therapy**, and HB 2490 **prohibiting property insurers from refusing to renew homeowner's insurance because surrounding properties are vacant.**

OTHER LEGISLATIVE ACTIVITY

- **Independent contractor legislation**, House Bill 2400 (Lentz-D-Delaware) was approved by the full House 122-76 June 9. This legislation's purpose is to tighten up rules regarding business use of independent contractors. Advocates claim that significant abuse exists by employers leading to lost unemployment compensation taxes and increasing Workers' Compensation fraud. Business community opponents say that HB 2400 presumes employer guilt and will discourage legitimate independent contractor use. It is now in the Senate Labor & Industry Committee.
- On June 11 the House passed HB 2428 (Frankel-D-Allegheny) **prohibiting lenders from requiring insurance** at a level greater than the replacement cost of the structure. In the Senate, similar SB 250 (Browne-R-Lehigh) was approved by the Senate Banking & Insurance Committee June 4.
- Passing the Senate was SB 2 (Earll-R-Erie) to fund numbers of flood control and environmental infrastructure programs through state borrowing. It **DOES NOT include the Rendell Administration** (HB 1989 Wansacz-D-Lackawanna) proposal to impose a **tax of 20 cents per \$100 of personal and commercial property insurance premiums.**
- The House Finance Committee approved and sent to the House floor HB 2250 which included an amendment by Rep. David Levdansky-D-Allegheny) with personal and business tax cuts mirroring to a lesser extent Republican tax cut legislation proposed in the Senate.
- The False Claims Act (HB 2509 Gerber-D-Montgomery) was re-referred to the House Rules Committee, readying it for a possible floor vote this week. This legislation goes after any business that files a "false claim" for payment from the state or any other unit of government. It would include insurance contracts.

COMMITTEE WORK

- The Senate Public Health & Welfare Committee holds the second of two hearings this week on **re-authorization of the PA Health Care Cost Containment Council (PHC4)**, an independent body which will go out of business by the end of this month unless legislation is passed. Among those testifying is PAHU which will strongly advocate PHC4's missions of price transparency and mandated benefit review.
- The Senate Banking & Insurance Committee holds its second hearing on **SB 1137**. Last week's hearing concentrated on the Governor's desire to use MCARE abatement fund surplus money to fund his Access to Basic Care proposal.
- The House Aging and Older Adult Services plans to take a look at the PA Department of **Aging State Plan** on Aging that blueprints the agency's work for the next four years. Insurance producers have claimed that the Department has not been receptive to utilizing agents' expertise in assisting seniors in understanding insurance matters.
- The House Commerce Committee meets to consider HB 2294 (D. Evans-D-Phila.). This bill would **regulate debt management services and require that they have a surety bond**.
- The House Health & Human Services Committee will review HB 2434 (Quinn-R-Bucks) requiring that **medical test reports be sent directly to patients**.
- SB 260 (Rhoades-R-Schuylkill) was re-referred to the Senate Appropriations Committee. It would **restrict health insurers' use of mail order for prescriptions**.

SENATE CONVENES BLUES HEARING

Last week the Senate Banking & Insurance Committee convened a hearing centering on the use of consultants by the Insurance Department to evaluate the proposed consolidation between Independence Blue Cross and Highmark Blue Shield. Although meant to discuss methods, the hearing changed focus to concentrate on who was paying for the Department's consultants. Some Senators expressed concerns that the two health insurers were paying for the Insurance Department's experts, raising the prospect of a conflict. The Insurance Department said that the consultants were impartial assets to the Department's work.

BUDGET WORK TO BEGIN IN EARNEST

The House Appropriations Committee is gearing up for the end of month gauntlet in preparing to consider amendments to House Bill 2380, the State Budget Bill during the week of June 23. This legislation includes monies earmarked for the funding of Governor Rendell's health proposals although expenditure of these funds still needs separate legislative approval (SB 1137, HB 2005 etc.). Another insurance item is found in the Department of Agriculture budget with Crop Insurance premium subsidy program restored to \$3 million by the Rendell Administration. **NOTE: For a bill this complex, always go by the latest Printer's Number, in this case PN 3931. For access to text of all bills, go to www.legis.state.pa.us.**

REGULATORY NOTES

- The PHC4 is scheduled to meet June 26 in Harrisburg with additional meetings on September 4 and November 6, 2008. Details; Cherie Elias 717/232-6787
- The Philanthropic Mutual Fire Insurance Company has sought Insurance Department approval to convert from a mutual company to a stock company.
- Armour Reinsurance Group Ltd. Has filed an application to acquire control of PMA Capital Insurance Company, a PA-domiciled stock casualty insurance company.
- The Insurance Department published the export list of those coverages that do not require 'due diligence' or the required three declinations from the admitted market before going into the Surplus Lines market.