

## LEG REG REVIEW

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*LEG REG REVIEW is a periodic newsletter produced by Vince Phillips who retired from active lobbying after 31 years of advocacy in Harrisburg. It contains news on the legislative and regulatory scene in Pennsylvania that may be of interest to the Insurance and Business Communities. Subscriptions are \$100 and information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 or e-mail to [xenobun@aol.com](mailto:xenobun@aol.com).*

The PA General Assembly will resume its work after the May 17 primary election. Both the House and Senate are returning to Harrisburg on May 23, 2022. In addition to the primary, a special election for the 5<sup>th</sup> Senate district (northeast Phila.) will be held between Democrat Jimmy Dillon, a grant compliance monitor for the School District of Phila., and Republican Sam Oropeza, a Realtor and former boxer. The winner will fill the remainder of former Senator John Sabatina's (D-Phila.) term.

#### **BOND REQUIREMENT BILL MOVES THROUGH HOUSE COMMITTEE**

On April 26, the House Environmental Resources & Energy Committee reported out **House Bill 2104** (Rapp-R-Warren). This establishes a system of financial security (bonds or letters of credit) for alternate energy facilities that would protect property owners from expenses of dismantling decommissioned solar facilities. The committee vote was 16-9 with Democrats except for Rep Pam Snyder (D-Greene/Fayette/Washington) voting no. On April 12, the PA Senate passed the counterpart to HB 2104. **Senate Bill 284** (Yaw-R-Lycoming) would also establish bonding requirements when solar energy installations are decommissioned.

#### **FIREWORKS LEGISLATION CONTAINS INSURANCE REQUIREMENT**

Another bill requiring a financial assurance was included in **House Bill 2157** (Farry-R-Bucks). This legislation specifies that a municipality "shall" require a fireworks permittee to carry not less than two million dollars of insurance to cover damages resulting from a fireworks display. This bill was reported out by the House Agriculture & Rural Affairs Committee on April 27 by a 25-0 vote. HB 2157 did not go through the House Insurance Committee even though it contains an insurance provision. The reason is that the PA Department of Agriculture regulates the use of fireworks.

#### **MANDATED BENEFIT LEGISLATION UPDATE**

As previously reported in the April 18 LEG REG Review, **Senate Bill 1188** (Brooks-R-Erie/Crawford/Mercer/Warren) requiring health insurers to cover Lyme disease diagnostic testing, and treatment including long-term medication, moved through the Senate Health & Human Services Committee on April 12. Its companion, **House Bill 1033** (Rapp-R-Warren), has been in the Senate Banking & Insurance Committee since June 7, 2021. Activity is stirring on other mandated benefit bills, some of which include:

- **House Bill 2533** (Hanbidge-D-Montgomery) mandates coverage for treatment of PFD (pelvic floor dysfunction) – from post proctectomy surgery, incontinence, etc. and subsequent mental health issues. Status: Referred to House Insurance Committee on April 22.
- **Senate Bill 1201** (Pittman-R-Indiana) mandates coverage for early refills for prescription eyedrops. Status: Referred to Senate Banking & Insurance Committee on April 21.
- **House Bill 2503** (Innamorato-D-Allegheny) mandates coverage for peripartum cardiomyopathy (PPCM). This a rare form of heart failure that occurs during the last month of pregnancy up until five months after giving birth. Status: Referred to House Insurance Committee on April 8.
- A major expansion of mandated coverage for contraceptives is the goal of **House Bill 2454** (Krueger-D-Delaware). The 15-page bill seeks to partially mitigate a 2020 U.S. Supreme Court ruling allowing employers to be exempt from ACA requirements to provide contraceptive coverage because of religious reasons. It is not clear from the bill's language how this PA statute would address the Court's ruling: <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2021&sessInd=0&billBody=H&billTyp=B&billNbr=2454&pn=2910>. Status: Referred to House Insurance Committee on March 31.

Earlier introductions include an obesity treatment mandate, **Senate Bill 1096** sponsored by Senator Amanda Cappelletti (D-Delaware), and **Senate Bill 1098**, mandates non-hospital inpatient care for eating disorders, like bulimia or anorexia. It is sponsored by Senator Tim Kearney (D-Chester). Both are in the Senate Banking & Insurance Committee.

## **INSURANCE DEPARTMENT ISSUES EXPORT LIST**

The PA Insurance Department issued the updated list of types of insurance which do not require the two declinations by standard carriers before the Excess & Surplus Lines market may be accessed. The Export List verifies that Export List coverage is available through surplus lines brokers. Examples are Amusement Park Rides, Day Care Centers including Sexual Abuse Coverage, Dog Bite liability, and private sector (not National Flood Insurance Program) Flood Insurance. A link follows to the full list:

<https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol52/52-15/541.html>.

## **PID ALLOWS FOR COLLECTION OF RACE DATA**

Notice 2020-05 permits insurers' collection of race and ethnicity data in order to determine the extent of equity, diversity, and inclusion in insurance policyholders. It states that **“an insurer may find it prudent to assure the (insurance) applicant of, and demonstrate to the Department the insurer’s non-discriminatory purposes for the data collection, that is, to promote diversity, equity, and inclusion.”** The Notice also says: *“Recognizing the importance of data collection to promote health equity, the Department is announcing its policy of non-enforcement of the prohibition under § 89.12(e). To foster diversity, equity and inclusion efforts, the Department will ... permit entities issuing insurance products regulated by the Department to collect race and ethnicity data on an application for diversity, equity and inclusion purposes only. Further, ... where this information is sought to be collected to **promote health equity, and not for eligibility, underwriting or rating purposes**, the information may be collected, either on an application or in conjunction with the application and enrollment process. Unfair discrimination remains prohibited.”*

## **COMMITTEE WORK**

- **House Bill 2419** (Pickett-R-Bradford) establishes standards of psychiatric telehealth treatment passed the House April 12. It was referred to the Senate Banking & Insurance Committee April 21.
- **House Bill 2564** (D. Williams-D-Chester) provides indemnification coverage to farmers if a grain broker goes out of business. It was referred to the House Agriculture & Rural Affairs Committee on May 2.
- **Senate Bill 1167** (DiSanto-R-Dauphin/Perry) was referred to the House Commerce Committee on April 18. The bill’s aim is to remove impediments to *“legitimate cannabis-related businesses”* receiving access to capital and insurance coverage. In the legislation, those businesses cannot be denied a loan or insurance coverage solely because it is cannabis-related. In addition, governmental agencies may not penalize or take adverse action based on servicing a *“legitimate cannabis-related business.”*

## **PROPERTY CASUALTY NOTES**

- On May 4, USDA’s Risk Management Agency (RMA) announced that it updated three Crop Insurance options for livestock producers (Dairy Revenue Protection, Livestock Gross Margin, and Livestock Risk Protection) starting July 1. P/C agents often work with Crop Insurance agents to meet farmers’ needs. Following is a link to the RMA Crop Insurance agent locator: <https://www.rma.usda.gov/Information-Tools/Agent-Locator-Page>. A USDA program contact is Eric Hansen, [eric.hansen@usda.gov](mailto:eric.hansen@usda.gov).
- On April 21, the Insurance Department issued a press release stating that spring flooding becomes a real threat across all of Pennsylvania. It references a statement from the National Flood Insurance Program that one in four flood claims come from outside high-risk areas. The Department release also says that information on the NFIP and private Flood Insurance is available at <https://www.insurance.pa.gov/Coverage/Pages/Flood.aspx>.