

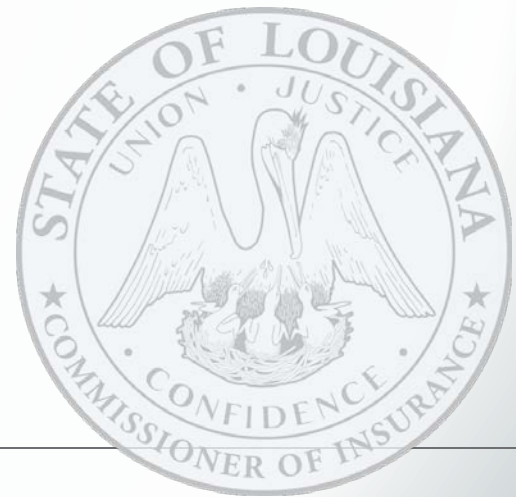
# 2014 Legislative Update

LIC Compliance Seminar

Arlene Knighten, Executive Counsel  
Louisiana Department of Insurance

Sunny Mayhall, Attorney  
Breazeale, Satche & Wilson, L.L.P.

July 10, 2014





# Health Care Sharing Ministries

---

## Act 20 – Sen. Morrish

- Defines “health care sharing ministry”
- Provides financial assistance, as determined by the ministry
- Exempt from Insurance Code
- Requires written disclaimer





# Liability for Damages Caused by an Excluded Driver

---

## Act 21 – Rep. Edwards

- Provides that named insured of a motor vehicle and an excluded driver are solidarily liable for damages
- Liability of named insured limited to minimum automobile insurance, unless named insured is:
  - the parent of excluded driver, or
  - vicariously liable for excluded driver





# Conversion Notice

---

## Act 47 – Rep. Thibaut

- Requires life insurers to notify insureds of option to convert term life insurance policy to permanent life insurance policy at least 31 days before their conversion option will expire
- Does not apply to policyholder covered under child rider
- Individual no longer eligible under group term life policy may convert to individual term life policy







# C.Cr.P. art. 893

---

## Act 70 – Rep. Lorusso

- Adds suspension and deferral of sentence pursuant to C.Cr.P. art. 893 to the reasons that the Commissioner may suspend or revoke, or refuse to issue or reinstate a producer license





# VMBI Corporate Structure Changes

---

## Act 80 – Rep. Hunter

- Requires vehicle mechanical breakdown insurers to notify Commissioner of any changes in their corporate structure
- Including changes in officers, directors, ownership, articles of incorporation, name, a merger, and cessation of business in state





# PRVI Corporate Structure Changes

---

## Act 82 – Rep. Pierre

- Requires property residual value insurers to notify Commissioner of any changes in their corporate structure
- Including changes in officers, directors, ownership, articles of incorporation, name, a merger, and cessation of business in state





# Continuing Education

---

## Act 83 – Rep. Huval

- The Commissioner shall grant 24 CE credits to a licensed producer who is a member of the legislature
- The Commissioner may grant CE credits to licensed producers who participate in qualified graduate-level national designation programs or are active participants in a state or national insurance association







# La. Health Care Commission

---

## Act 90 – Rep. Cromer

- Nominations for membership from
  - Health Agents for America
  - Independent Insurance Agents & Brokers of Louisiana





# Fire Insurance Policy

---

## Act 91 – Rep. Huval

- Defines “fire insurance policy” as any property insurance policy, except for builders risk insurance policies, that provides coverage for the peril of fire, regardless of any other coverage provided by the policy





# Citizens Policy Take-Out Program

---

## Act 114 – Sen. Morrish

- Take-out companies shall apply to the LDI for rates that are actuarially justified for only the second and third years of coverage





# Insurance Fraud Investigation Unit

---

## Act 115 – Sen. Morrish

- Sunset date for the Insurance Fraud Investigation Unit within DPS&C extended to July 1, 2016







# Fraudulent Insurance Act

---

## Act 116 – Sen. Morrish

- Expands definition to include acts done with intent to defraud
  - Impersonating an insurance company or representative
  - Impersonating another person or entity with the authority to direct health care treatment
  - Receiving money or any other thing of value in connection with a criminal conspiracy





# Travel Insurance

---

## Act 117 – Sen. Morrish

- “Travel insurance” defined as coverage for personal risks incident to planned travel, including trip or event interruption or cancellation, loss of luggage or personal effects, damages to accommodations or rental vehicles, and sickness, injury, or death during travel
- Provides for regulation of travel insurance, and for written information provided to purchasers of travel insurance





# Producer License Reinstatement

---

## Act 118 – Sen. Johns

- Insurance producers with lapsed license may be reinstated within two years upon proof of all CE requirements and payment of all fees due
- All licensees shall notify the Commissioner within 30 days of any change in residential, mailing, or business address





# Fraud Plans

---

## Act 121 – Sen. Brown

- Exempts small companies from the requirement to file a fraud plan with the Commissioner
- “Small company” means a domestic life insurer which does business exclusively in Louisiana, with \$10 million or less in assets and \$2 million or less in gross annual premiums







# Sledge Jeansonne Louisiana Insurance Fraud Prevention Act

## Act 129 – Sen. Morrish

- Sunset date of August 1, 2016





# Online Privacy

---

## Act 165 – Rep. James

- Personal Online Account Privacy Protection Act
- Employers prohibited from requiring employees or applicants to provide access to personal online accounts
- Does not apply to employer owned devices, accounts, networks, or resources
- Employers may prohibit access to websites via employer owned devices, accounts, networks, and resources, and may conduct investigations





# Notice Requirements

---

## Act 174 – Rep. Greene

- Physician and Provider Notification of Patients in Health Insurance Exchange Grace Period Act
- When a health care provider requests eligibility or claim info from a qualified health care plan issuer, and the request is made in 2<sup>nd</sup> or 3<sup>rd</sup> month of a grace period, issuer will provide info and notify that enrollee is in the grace period
- If the plan does not mention the grace period, the issuer must pay the claims for covered services in accordance with the qualified health plan





# Risk-Based Capital

---

## Act 220 – Rep. Thierry

- Updates current risk-based capital law for HMOs to include all companies that file a Health Annual Statement with the LDI
- Incorporates language from NAIC Model Law and is required for the LDI to maintain its accreditation







# La. Property and Casualty Commission

---

## Act 223 – Rep. Lorusso

- Membership to include a representative of the National Association of Mutual Insurance Companies
- Representatives of the NAMIC to also serve on the automobile insurance and the homeowners ad hoc committees





# Homeowner's Insurance

## Act 353 – Rep. Thierry

- Clarifies 3-year look back period to non-renew a policy due to two or more non-Act of God claims must be three consecutive years in preceding 5-year period
- If insurer decides to exit the La. homeowners' insurance market and cancel/non-renew their 3-year protected policies, then they're prohibited from writing HO insurance for 5-year period from date last HO policy discontinued





# LLHIGA Structured Settlement Annuities

---

## Act 374 – Sen. Long

- “Structured settlement annuity” defined as annuity purchased to fund periodic payments for a plaintiff or claimant in payment for personal injury
- Limit for net cash surrender and net cash withdrawals of annuities raised to \$250,000
- LLHIGA may provide notes and loans to insolvent member insurer





# Maximum Allowable Cost Lists for Prescription Drugs

---

## Act 391 – Sen. Mills

- Provides for the transparency of Maximum Allowable Cost List for prescription drugs
- Requires pharmacy benefit managers to provide a reasonable administrative appeals process for pharmacies to challenge reimbursement amounts paid







# Substitution of Medications

---

## Act 396 – Sen. Mills

- Provides that any contract between a managed care organization and a health care provider shall include reimbursement of a health care provider when the managed care organization requests substitution of a medication for an enrollee





# Agency Rulemaking

## Act 401 – Rep. Jones

- Requires agencies to publish online information about proposed rules and fees, including
  - Full text of current rule or fee
  - Proposed rule or fee in redline form
  - Agency contact person
  - Information on public hearings
  - Anticipated effective date of proposed rule or fee
  - Notice of Intent and date published in the Louisiana Register
  - Reports to and from legislative oversight subcommittees





# Homeowner's Insurers Data

---

## Act 427 – Rep. Leopold

- Requires homeowner's insurers to provide data on direct incurred losses, number of policies in force, and direct earned premiums to the Commissioner
- Requires Commissioner to aggregate and publish the data on the LDI website





# Rental Dealer Insurance

---

## Act 430 – Rep. Billiot

- Rental motor vehicle dealers shall have contingent automobile liability policies with minimum limits of \$100,000 per occurrence, \$300,000 aggregate, and \$50,000 in property damage
- The policies may be surplus lines insurance







# Lymphedema Coverage

## Act 445 – Sen. Broome

- Any health care policy issued in state must include an option for treatment of lymphedema
- Existing policies must convert to include such option
- Does not apply to limited benefit health insurance policies





# Prescription Drug Specialty Tiers

---

## Act 453 – Sen. Murray

- Limits co-pays on prescription drug specialty tiers to \$150 per drug for a 30 day supply
- Requires health insurance issuers to implement process to allow enrollees to request an exception to the tier





# Third Party Contracts with Pharmacies

---

## Act 490 – Sen. Mills

- Organizations that negotiate with pharmacies and organizations that represent pharmacies shall provide to the pharmacies any new contract or agreement concerning the pharmacy's network participation with a third party payer
- Failure to comply shall be subject to penalty as an unfair or deceptive act





# Third Party Premium Payments

---

## Act 491 – Sen. Mills

- No health insurance issuer or HMO shall refuse to accept a premium payment made by a third party, provided the payment is made from one of the following
  - Ryan White HIV/AIDS Program
  - Indian tribes or tribal organization
  - State or federal government program
  - American Kidney Fund







# Pharmacy Record Audits

## Act 502 – Rep. Pugh

- Requires that a pharmacy receive at least a two-week notice before the initial onsite audit by managed care company, insurer, third-party payor, or their vendors or subcontractors
- No pharmacy shall be responsible for the recoupment of any portion of the dispensed prescription unless the pharmacy
  - Engaged in fraud
  - Dispensed in excess of the plan benefit
  - Did not fill prescriptions as ordered
  - Received an actual overpayment





# Funding for Special Law Enforcement Initiatives

---

## Act 524 – Rep. Ivey

- The Louisiana State Police Salary Fund may be used to fund special law enforcement initiatives
- The Louisiana State Police Salary Fund is funded in part by fire, marine, transportation, casualty, and surety insurers





# Holding Companies

---

## Act 528 – Rep. Thibaut

- Changes the annual registration statement filing date for holding companies from April 1 to April 30





# Medical Coverage

---

## Act 541 – Rep. Simon

- Prohibits health coverage plans from making coverage decisions based on insured's life expectancy or terminal condition
- “Terminal condition” means any malignancy or chronic end-stage cardiovascular or cerebral vascular disease that is likely to result in the insured's death







# Health Insurance Claims

---

## Act 555 – Rep. Abramson

- No healthcare provider that accepts a patient's healthcare coverage shall require an enrollee to consent to payment for healthcare services as a condition of verification of health insurance coverage for services
- Any agreement between healthcare providers and health insurance issuer that conflicts with this law is null and void





# Insurance Claims Data

---

## Act 558 – Rep. Talbot

- Requires release of claims data to agent of group policyholder, in addition to policyholder
- Agent must certify that he will limit use and disclosure of data per federal law
- Release is limited to current and the two prior policy periods





# Navigators

---

## Act 635 – Rep. Pearson

- Requires licensing and background checks for health insurance navigators
- Requires registration of non-navigator personnel with the Commissioner





# Disclosure of Policy Forms and Premium Rates

---

## Act 695 – Sen. Morrish

- All policy forms and premium rates for major medical and accident and dental policies shall be exempt from disclosure under the Public Records Act until the start of the open enrollment period
- Health insurance issuers must mark filings as confidential
- Commissioner may publish a summary of rate filings in the course of an effective rate review program







# Health Insurance Rate Review

---

## Act 718 – Sen. Smith

- Requires new rates and rate increases to be reviewed by the LDI, publication of proposed rate increases of 10% or more, and allows for public comment on increases
- After 1/1/2014, rates may be varied based on age, tobacco use, geographic rating areas, and whether the plan or policy covers an individual or a family
- All health insurers shall maintain a separate statewide risk pools for small group, individual, and student health plans





# Technical Corrections

---

## Act 791 – Rep. Barras

- Changes “hanging” to “changing” in R.S. 22:691.4(F)(1)(a)

The offer or agreement was not made or entered into for the purpose of, and did not have the effect of ~~hanging~~ changing or influencing the control of a domestic insurer





# Provisional Licenses for Ex-Offenders Act

---

## Act 809 – Rep. Leger

- Entity issuing licenses for work shall issue a full or provisional licenses for otherwise qualified applicants who are ex-offenders
- Does not apply to LDI
- Does not apply to persons convicted of homicide, a crime of violence, or a sex offense





# Persons with Disabilities

---

## Act 811 – Rep. Leger

- Deletes and makes substitutions for obsolete, derogatory, or offensive terms throughout Louisiana law







# Unfair Trade Practices

---

## Act 844 – Rep. Lorusso

- Prohibits as an unfair trade practice any attempt to limit by contract
  - the information that a noncaptive producer may provide to consumers on competing limited benefit or supplemental benefit plans
  - the number of other insurance companies a producer may represent





# Home Service Contracts

## Act 855 – Sen. Long

- Requires all home service contract providers to submit to the Commissioner:
  - Annual statements proving solvency
  - A report by 3/1/16 for 2015 documenting the number of home service contracts issued or sold for residential property; gross consideration received; the number and amount of claims paid; and the number of claims denied for failure to receive prior approval for such repair or replacement





# Resolutions

---

## HCR 104 – Rep. Lorusso

- Requests the LDI to study feasibility of providing a discount on motor vehicle insurance to retired military

## HCR 199 – Rep. Stokes

- Requests the LDI to study prohibiting insurers from using claims that did not exceed the insured's deductible to cancel coverage





# Resolutions

---

## HCR 203 – Rep. Greene

- Requests the LDI to study the issue of coinsurance and deductibles assessed by health benefit plans

## HCR 210 – Rep. Talbot

- Requests the LDI to study an alternative long-term care benefit option for Medicaid applicants with life insurance policies who enter into certain viatical settlement contracts







# Unclaimed Life Insurance

---

## HB 411 – Rep. Cromer

- Requires every life insurer to compare its life insurance policies, annuities, and retained asset accounts against a Death Master File to identify possible matches
- Requires life insurers to pay benefits and interest within 90 days of learning of a possible match
- If beneficiaries are unable to be located, life insurers may remit benefits to the state Treasurer pursuant to the Unclaimed Property Act





# Contact Info

---

Arlene Knighten  
Executive Counsel  
Louisiana Department of Insurance  
Post Office Box 94214  
Baton Rouge, Louisiana 70804-9214  
(225) 342-4673  
[aknighten@ldi.la.gov](mailto:aknighten@ldi.la.gov)

Sunny Mayhall  
Attorney  
BREAZEALE, SACHSE & WILSON, L.L.P.  
Post Office Box 3197  
Baton Rouge, Louisiana 70821-3197  
(225) 381-8049  
[Sunny.Mayhall@bswllp.com](mailto:Sunny.Mayhall@bswllp.com)

