

Commissioner's Column

March 2016

Louisiana Department of Insurance Proposed Legislation

Following the conclusion of the 2016 First Extraordinary Legislative Session, we have now entered the Regular Session and once again the Louisiana Department of Insurance (LDI) is working with legislators on a number of measures we hope will better serve consumers and industry.

In the area of property and casualty, our legislative package includes a measure, [HB 559](#), that would prohibit the use of aftermarket, non-original parts when they affect the operation of air bags and anti-lock braking systems. Our legislation states that a non-Original Equipment Manufacturer safety part may only be used if an OEM part is not commercially available. If a non-OEM part is used to repair a vehicle, the vehicle owner must be advised in writing.

Another bill we are proposing, [HB 839](#), would implement the Louisiana Property Insurance Mediation Program as an optional dispute resolution procedure. Our legislation establishes a process for mediation and what types of property claims would be eligible for mediation. Residential and commercial residential properties (such as apartment buildings) would be eligible. The cost of mediation would be paid by the insurer.

Following Hurricanes Katrina and Rita, Louisiana implemented a very successful mediation program that was designed to serve as a non-adversarial alternative to litigation. Of the more than 12,000 cases in the program, 80 percent were settled prior to or during mediation. During the Hurricane Katrina Mediation Program, many policyholders were satisfied because there was no cost involved for them; they felt more involved; and it helped them reach a settlement quicker, expediting the process of rebuilding.

We are also proposing two measures regarding Louisiana Citizens Property Insurance Corporation. The first would limit sales of policies issued by Citizens to resident licensed producers. A second bill we are proposing would prohibit the recovery of penalties in class action lawsuits against Citizens.

In the area of health, [HB 836](#) provides for the Department's prior approval of major medical health rates. Louisiana is one of a handful of states without approval authority over health insurance rates. According to Pricewaterhouse Coopers, states with rate approval authority had final rates in 2015 that were 2.9 percent lower than what was initially proposed by issuers.

Under current law, I review and approve rates for most other types of insurance in Louisiana – from homeowners and auto insurance to long-term care. There should not be an exemption for health insurers and our proposal would help ensure consumers receive value for their premium dollars. This bill giving us authority to review and approve rates is a commonsense measure that would maintain local control instead of handing that authority to the federal government.

We are also proposing legislation that will attempt to protect consumers from “surprise bills” for any services that arise as the result of an emergency condition. [HB 412](#) would require a health care provider who is not under contract with a health insurance issuer to file a claim with the issuer – and that non-contracted provider would then be paid by the issuer according to certain guidelines. Our legislation would also prohibit non-contracted providers from surprise billing insureds in emergency situations, except for the amounts the insured is responsible for.

[SB 193](#) addresses network adequacy. The use of narrow networks by qualified health plans, or QHPs, sold on both state-based and federally facilitated exchanges has received a great deal of attention in recent years; but issues related to network adequacy are nothing new. Ever since insurers began using networks, there have been concerns regarding their ability to meet consumer needs and state regulators have been examining network arrangements to ensure that they provide sufficient access to care for consumers.

The National Association of Insurance Commissioners (NAIC) has worked on updating its Network Adequacy Model for some time. Our legislation significantly mirrors the NAIC’s model law that provides regulatory flexibility to allow innovative plan designs - but still protect the consumer’s access to necessary healthcare providers.

We also have a proposed bill, [HB 865](#) that makes some changes in the area of producer licensing. Our current law calls for someone seeking a producer license to first submit an application to the Department – and the next step would be to take and pass a licensing examination. Our proposed legislation would allow an applicant to first take the exam, and once they have passed they would apply for a license. Typically, the passage rate for first-time test takers is about 50 percent. The intent of this legislation is to streamline the application process so that we are not processing applications from applicants who do not pass the exam and later change their minds about becoming a producer.

We are also putting forth legislation, [HB 352](#) that will require insurance producers and licensed claims adjusters to maintain their records of transactions with clients for at least five years. Currently insurance companies are already required to maintain some of these records; requiring that producers and adjusters also retain them would be consistent with the requirement for companies.

We are addressing the growing threat of cyber breaches with a bill that would require anyone regulated by the Department of Insurance to notify us if they experience a data breach. [SB 103](#) requires also requires notification to the LDI if a third-party service provider they conduct business with experiences a security breach that involves the personal information or protected health information of Louisiana residents.

Notification to the Department would have to occur within ten days of discovery of a data breach. Additional information required by the Department would include the number of people affected both in Louisiana and outside of the state, as well as a copy of the notification to be sent to those

impacted. The legislation would also give me the authority to order specific corrective actions such as providing credit monitoring services for those affected by the breach.

Louisiana, like most states, has an existing state law that requires notifications be sent to residents whose personal information has been accessed – and that the Attorney General be notified. But that law addresses consumer notifications only and there is no current requirement that the information be reported to the Department of Insurance. A handful of other states including Montana, Washington, Vermont, Connecticut and Massachusetts have laws requiring notification to the state insurance regulator.

As always I encourage you to become involved in the legislative process by logging into the Legislature's website at www.legis.la.gov. You can also connect with the Louisiana Department of Insurance on social media by following us on Twitter @LAInsuranceDept for updates on the status of LDI bills. I look forward to a successful and productive session and, as always, welcome your input on measures that will help us foster an effective regulatory environment.