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**TESTIMONY OF  
THE  
MARYLAND INSURANCE ADMINISTRATION  
BEFORE THE  
SENATE FINANCE COMMITTEE**

**FEBRUARY 19, 2020**

**SENATE BILL 556 – INSURANCE - PRODUCT AND SERVICE OFFERINGS**

**POSITION: SUPPORT WITH AMENDMENTS**

Thank you for the opportunity to provide written comments regarding Senate Bill 556. Senate Bill 556 amends §27-209 and 27-212 of the Insurance Article to allow insurers to offer or provide products and services at no charge or at a discounted price to policyholders as long as the product or service is associated with the risks insured against by the policy. As drafted, these products or services will not be considered rebates as long as they are directly tied to the risks insured against by the associated policy.

This past summer the National Association of Insurance Commissioners (NAIC) Innovation and Technology Task Force began discussions on updating NAIC Model Law 880 – “Unfair Trade Practices Act” to allow insurers to offer or provide products and services at no charge or at a discounted price to policyholders as long as the product or service is associated with the risks insured against by the policy. This discussion reflects the need to update statutes across the country to accommodate advancements in loss management and mitigation technologies in a manner that does not weaken existing consumer protections. The Maryland Insurance Administration (MIA) is an active member on this task force and has participated throughout the summer and fall NAIC meetings on how best to approach this issue. While the NAIC process is in its early days, regulators generally wish to allow insurers to provide appropriate loss mitigation products and services for free or at a discount in a non-discriminatory manner, while industry seeks the ability to implement programs of this sort without cumbersome filing requirements.

While the MIA is generally supportive of these concepts, as drafted we strongly believe Senate Bill 556 needs additional language to protect Maryland consumers from unfair

discrimination in the manner by which insurers offer such products and services. The amendments provided will ensure that insurers do not utilize programs of this nature as an improper inducement to purchase a policy and do not offer these programs in a discriminatory fashion. Senate Bill 556 with these amendments will provide the Insurance Commissioner with the enforcement tools needed to protect Maryland's insurance buying public while allowing insurers to efficiently bring to market products and services that will benefit consumers and help control loss costs.

The Maryland Insurance Administration supports Senate Bill 556 with the additional amendments and urges the Committee to give Senate Bill 556 with the amendments a favorable report.

BY: Maryland Insurance Administration

**AMENDMENTS TO SENATE BILL 556**  
(First Reading File Bill)

**AMENDMENT NO. 1**

On page 3, in lines 8, 15 replace “INSURER” with “**INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION**”

*Rationale: This change makes the language consistent with (C)(1) of the subtitle.*

**AMENDMENT NO. 2**

On page 2, strike lines 32 and 33 and insert “**THAT ARE SUBSTANTIALLY RELATED TO THE INSURANCE PROVIDED UNDER THE POLICY OR ENHANCES THE HEALTH OF THE INSURED OR THE BENEFICIARY.**”

On page 3, on Line 2, strike “HAS A NEXUS” and insert “**SUBSTANTIALLY RELATED**”

*Rationale: The Insurance Article does not use the term “nexus.” The term “substantially related” is more appropriate and is consistent with what is already in the Insurance Article.*

**AMENDMENT NO. 3**

On page 3, strike lines 11 through 14 and insert:

**(3) (I) IF THE OFFER OR PROVISION OF SPECIFIC PRODUCTS OR SERVICES IN THIS SUBSECTION IS INCLUDED IN ANY POLICY OF INSURANCE, HEALTH MAINTENANCE ORGANIZATION CONTRACT, A NONPROFIT HEALTH SERVICE PLAN OR ANNUITY CONTRACT, THE PRODUCTS OR SERVICES MAY NOT BE DISCONTINUED DURING THE TERM OF THE CONTRACT UNLESS:**

**1. DISCONTINUATION OF THE PRODUCT OR SERVICE IS REQUESTED BY THE POLICYHOLDER; OR**

**2. AS A RESULT OF A UNIFORM MODIFICATION, AS DEFINED IN SECTIONS 15-1212, 15-1309, AND 15-1409 OF THIS ARTICLE.**

**(II) NOTHING IN THIS SECTION PROHIBITS A CARRIER FROM TERMINATING A CONTRACT AS OTHERWISE PERMITTED UNDER THIS ARTICLE.**

*Rationale: This makes clear that an insurer is responsible for continuing to offer products or services except for in limited circumstances.*

#### **AMENDMENT NO. 4**

On page 3, after line 17, insert “**(D) THE COMMISSIONER MAY DETERMINE BY REGULATION THE PRODUCTS OR SERVICES THAT ARE SUBSTANTIALLY RELATED TO A POLICY OF HEALTH INSURANCE, A POLICY OF LIFE INSURANCE, A HEALTH MAINTENANCE ORGANIZATION CONTRACT, AND AN ANNUITY CONTRACT.**”

*Rationale: This gives the MIA the regulatory authority it needs to keep up with what products or services are appropriate and which ones are not as technology continues to change the market place.*

#### **AMENDMENT NO. 5**

On page 6, after line 29, insert “**(4) THE OFFER OR PROVISION OF PRODUCTS OR SERVICES IS AVAILABLE TO ALL POLICYHOLDERS THAT HAVE PURCHASED THE OFFER IN A NONDISCRIMINATORY MANNER.**”

*Rationale: This makes clear that any property and casualty insurer that offers a product or service must do so in a non-discriminatory manner.*