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March 5, 2020

To: The Honorable Dereck E. Davis
Chair, Economic Matters Committee

From: Karen S. Straughn, Consumer Protection Division
Patricia F. O'Connor, Health Education and Advocacy Unit

Re: House Bill 1341 (Insurance - Product and Service Offerings): Oppose

The Office of the Attorney General's Consumer Protection Division and Health Education and Advocacy Unit oppose House Bill 1341. This bill raises very complicated financial and privacy issues warranting summer study, at a minimum. The bill would alter sections in the Insurance Article that prohibit insurers from providing inducements for the purchase of many types of insurance, commonly known as the 'inducement prohibition.' We believe the inducement prohibition is an important consumer protection that should not be altered without full notice and opportunity for all affected consumers to be heard.

In the short amount of time that we have been aware of the bill, we have pieced together information that is concerning for privacy and financial reasons, among others. Health insurers have suggested, for example, that they be able to offer potential purchasers "free" wearable devices that could yield users a premium discount based on activity levels. The reality is that health insurers would obtain extensive data to use for medical underwriting if the ACA and guaranteed issue go away, and for many other purposes.

Property and casualty insurers have suggested, for example, that they be able to offer potential purchasers doorbell security camera systems to mitigate risks. The reality is that insurers would obtain extensive data that they could use to the financial detriment of individuals and communities. Such data would have similar value to auto insurers upon resale.

These products and any other inducements remain problematic for the age-old reasons underlying the inducement provision: consumers are lured into purchases that may not be in their best interests through the prospect of the “gift” that the seller is offering. Providing items conditioned upon a purchase is a practice that is generally prohibited in consumer transactions under the Consumer Protection Act for good cause: the practice makes it more difficult to make a reasoned decision about the transaction. We believe the principle applies with particular force to the purchase of health insurance, as well long term care insurance, annuities, property and casualty and other lines covered by the bill.

Finally, though the contention is made that the inducements would be free, the bill would risk increasing costs for consumers, at least as to health insurance for which annual rate filings are required (“AN INSURER MAY INCLUDE AN OFFER OR PROVISION OF PRODUCTS OR SERVICES UNDER THIS SUBSECTION IN AN APPLICABLE CONTRACT OR FORM OR RATE FILING,” p. 3, l. 8-10).

For these reasons, we ask the Economic Matters Committee for an unfavorable report.

cc: Sponsor and Members of the Economic Matters Committee