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Testimony of American Property Casualty Insurance Association (APCIA)

Senate Finance Committee

Senate Bill 784- Workers Compensation-Hernia Claims

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Letter of Opposition

The American Property Casualty Insurance Association (APCIA) represents more than 1200 insurers and reinsurers that provide critically important insurance protection throughout the U.S. and world. In combination, our members write 60% of the U.S. property casualty insurance market. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe. APCIA appreciates the opportunity to provide written comments in opposition to Senate Bill 784.

Senate Bill 784 would expand the period to report an accident personal injury or strain that cause or exacerbates a preexisting hernia from 30 days to 45 days, and would also give claimants two years to report these injuries unless the employer/carrier has been prejudiced by the failure to meet the filing deadline.

In the interests of fundamental fairness, it is critical that these time frames be honored to the fullest extent possible, in view of the unique nature of hernias as compared with many other injuries. It's unquestionably more difficult to investigate any injury claim after a longer period of time, since recollections will be less precise, witnesses may be unavailable, or records might be lost or more difficult to access. While current law already permits the Commission to excuse a failure to file a claim within two years for many types of injuries upon finding that that the employer or its insurer has not been prejudiced by the failure to file the claim, or for another sufficient reason, hernias are appropriately excluded from this loophole due to their status as an "ordinary disease of life," which is an illness or condition that the general public is exposed to outside the scope of employment.

Maryland's workers' compensation law is already in the mainstream in permitting hernia claims where a claimant provides "definite proof" that the hernia was not a pre-existing condition, or that a workplace injury aggravated a pre-existing hernia to the point where immediate surgery was required – though claims in both instances must be promptly reported to the insurer. There is simply no justification for giving claimants two entire years after an alleged hernia or aggravation before having to report it, given the significant challenges inherent in distinguishing between work-related and non-work-related with respect to these injuries.

For these reasons, the APCIA urges the Committee to provide an unfavorable report on Senate Bill 784.