

**H.B. 1069: Life and Health Insurance Policies and Annuity Contracts – Discretionary
Clauses – Prohibition
Health and Government Operations Committee Hearing
January 28, 2025
Favorable**

Thank you for the opportunity to submit testimony in support of House Bill 1069, which would prohibit discretionary clauses in health insurance policies, life insurance policies, and annuity contracts. The Legal Action Center (LAC) is a non-profit law and policy organization that fights discrimination, builds health equity, and restores opportunities for people with substance use disorders, arrest and conviction records, and HIV/AIDS. LAC convenes the Maryland Parity Coalition and works with its partners to ensure non-discriminatory access to mental health and substance use disorder services through enforcement of the Mental Health Parity and Addiction Equity Act and other consumer protections against unfair insurance practices.

H.B. 1069 fills an important gap in Maryland law, in which health insurance carriers are currently able to include clauses that gives them the sole discretion to interpret the terms of their own contracts and policies. These types of clauses are often used to improperly deny claims and restrict the rights of consumers, such as the right to appeal denials at various stages of the process. This means that Marylanders have a high burden to overcome when they need to challenge or dispute ambiguous or vague policies in court. Maryland law already prohibits disability insurance policies that contain such clauses, recognizing that they are inequitable and misleading to consumers. Health insurance policies in Maryland should be subject to the same rules and standards of interpretation as any other contract in court.

H.B. 1069 is modeled on the National Association of Insurance Commissioners' Prohibition on the Use of Discretionary Clauses Model Act.¹ A number of other states have adopted this language, or taken similar action to prohibit discretionary clauses in health insurance and other types of policies.² Marylanders deserve no less.

Thank you for considering our testimony, and we urge a favorable report on H.B. 1069.

Sincerely,

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¹ "Prohibition on the Use of Discretionary Clauses Model Act," National Association of Insurance Commissioners (2006), <https://content.naic.org/sites/default/files/inline-files/MDL-042.pdf>.

² "Discretionary Clauses Outlawed in Many States," <https://www.erisadisabilitybenefits.com/longtermdisability/discretionaryclausesbannedinerisapolicies.html>.