

Bryson F. Popham, P.A.

Bryson F. Popham, Esq.

191 Main Street
Suite 310
Annapolis, MD 21401
www.papalaw.com

410-268-6871 (Telephone)
443-458-0444 (Facsimile)

March 7, 2025

The Honorable Joseline A. Pena-Melnyk
Chair, House Health and Government Operations Committee
240 Taylor House Office Building
Annapolis, Maryland 21401

RE: House Bill 1439 - Better Small Business Employee Benefit Act Of 2025 - FWA

Dear Chair Pena-Melnyk and Members of the Committee,

On behalf of the National Association of Benefits Insurance Professionals of Maryland (NABIP MD), I wish to express our support for House Bill 1439, with amendments.

NABIP MD (formerly Maryland Association of Health Underwriters - MAHU) is a trade association comprised of several hundred licensed health insurance producers in Maryland who represent both businesses and individuals in analyzing their need for health insurance and advising clients on health insurance coverage and benefits. NABIP MD members have traditionally served as the representatives for small and medium-sized businesses in the negotiation of health benefit plans for the employees of those businesses.

As we have testified in the past, an important part of the services provided by NABIP MD members is assisting employer clients in evaluating the cost of benefits and coverages. In fact, NABIP MD members are often viewed as the external "human relations department" for their small business clients. They provide not only health insurance coverage for employees, but a range of related products and services as well.

Professional Employer Organizations (PEOs) have been a feature of services available to the business community for many years in the large group market. They, too, provide a range of services efficiently and effectively for their clients. At the same time, we have seen a number of health plans regulated under the federal ERISA become available in the Maryland small group market.

In Maryland, since the adoption of the small group health insurance law in 1993, various efforts have been made to change the requirement that a small employer having from 2-50 employees be served by a state-regulated health insurance plan subject to the 1993 law. A principal benefit of the 1993 law was the creation of a large pool of insured persons, constituting an actuarially reliable group through which to offer small group health insurance. Maryland has enjoyed the stability of its small group market pool since 1994.

Following those years, and often together with the Maryland Insurance Administration, NABIP MD has resisted efforts to "pierce" the small group barriers and permit other groups, such as association health plans (AHPs) and PEOs to offer insurance in this market. We did so out of a joint concern to protect the integrity of Maryland small group for those businesses and their employees who are enrolled in it. Currently, there are approximately 220,000 enrollees in the Maryland small group market.

While our concern remains, NABIP MD also recognizes that PEOs may offer valuable services. At the same time, it is incumbent upon the Maryland Insurance Administration (MIA) and this legislature to protect the small group market we have. The MIA recently conducted, at legislative direction, a study to examine the activities of PEOs. As one of its "Key Findings," the study noted that "there was a lack of reliable primary source information with regards to the activities of PEOs in the State." The inescapable conclusion from this observation is that we have little reliable information, and that

we should continue monitoring the entrance of PEOs into the Maryland small group market. Proposed amendments are attached. They require continued MIA scrutiny of PEO performance in the Maryland small group market, together with a sunset provision effective at the end of 2029 that will allow the General Assembly to review MIA comments on this change and consider any further legislation that may be necessary.

We should also point out to the Committee that the MIA has identified a technical error in the draft which, if uncorrected, might apply the new PEO powers under the bill to existing entities such as associations. We understand that the MIA will be offering a technical amendment on this provision.

We hope the Committee considers these to be reasonable and prudent measures to ensure that the small group health insurance market we created nearly 30 years ago can continue to serve small businesses in our State.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bryson Popham". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bryson Popham

cc: The Honorable Lily Qi
The Honorable C. T. Wilson, Chairman, House Economic Matters Committee
Melissa Coles, President, NABIP MD
Kevin O'Toole, Co-Chair, NABIP MD Legislative Committee
Glenn Arrington, Co-Chair, NABIP MD Legislative Committee

By:

AMENDMENTS TO SENATE BILL 760/HOUSE BILL 1439
(First Reading File Copy)

Amendment No. 1:

On page 5, after line 8, add:

- (a) "The Maryland Insurance Administration shall conduct a study to assess the effect of the entry of health plans sponsored by professional employer organizations on the small employer health insurance market in the State.
- (b) The study shall include information collected annually by the Administration in reviewing rate filing requirements for small employer groups.
- (c) The study shall analyze special factors that may affect the size and health of the pool of all current participants in the Plan, including but not limited to:
 - 1) The total number of employer participants;
 - 2) The total number of covered lives;
 - 3) Rate increases during the study period;
 - 4) A survey of employers leaving the small group market each year; and
 - 5) Such other information as the Administration may deem relevant to assessing the health of the small employer health insurance market."

Rationale:

The purpose of this study is to compile and assess information available to the Administration to determine whether the composition and size of the small employer health benefit plan market has been affected by the entry of professional employer organization-sponsored plans in that Market.

Amendment No. 2:

On page 5, in line 13, add:

"This Act shall take effect January 1st, 2026. It shall remain effective for a period of three years and at the end of December 31st, 2029, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect."

Rationale:

The sunset period will permit the Administration to conduct a thorough examination of any changes attributable to the entry of professional employer organization-sponsored health plans in the small employer health insurance market in the State.