NAIFA
MARYLAND

House Bill 1439
Better Small Business Employee Benefit Act of 2025
Position: Favorable with Amendments

Dear Chairs Pena-Melnyk and Wilson and Members of the House Health & Government Opersations and Economic Matters Committees,

NAIFA-MD ("The National Association of Insurance and Financial Advisors – Maryland Chapter") appreciates the opportunity to submit testimony on HB 1439. NAIFA-MD is made up of insurance agents and advisors, financial advisors and financial planners, investment advisors, broker/dealers, multiline agents, health insurance and employee benefits specialists, and more. We are the closest to the consumer and provide products, services, and guidance that increase financial literacy in our society, protect their clients against life's inherent risks, help hard-working Americans prepare for retirement, and create financial security and prosperity so their clients can leave a legacy for future generations.

This legislation stems from a study the Maryland Insurance Administration ("MIA") performed pursuant to requirements set forth in HB827/SB821 from 2024. Our comments on this legislation track largely with those NAIFA-MD provided to the MIA over the summer with some additional specificity in our proposed amendment language. While we do not oppose allowing a Professional Employer Organization ("PEO") to offer health insurance products to small employers, NAIFA-MD urges the committee to insert strong guardrails to avoid unintended consequences from an outright removal of the prohibition in current law.

Price Transparency

PEOs act as co-employers with businesses offering a wide range of products and services from payroll to workers compensation insurance as well as 401K plans and health insurance. It has been our members' experience that PEOs do not itemize the cost for each of the services as they are bundled into one bottom line number. During the public comment period, we were told that many PEOs do itemize the expenses. Like in any other business line, not all PEOs are created equally nor are they operated in the same way. NAIFA-MD members have seen PEOs that do not itemize the costs when proposing their services. We feel that by requiring a PEO to itemize the cost of each service required at proposal, two very important consumer protection outcomes will occur.

First, it will raise the bar to entry into the Maryland health insurance market. Those who cannot or will not itemize the costs of each service offering are not worthy of participating in Maryland.

Secondly, the small business consumer can more accurately weigh the value proposition the PEO of making as compared to a health insurance producer. They would be able to look at the specific cost of the health insurance component as well as the level of service being provided. Health insurance is an incredibly complex area and small businesses rely on the expertise of their health insurance producer.

Contract Transparency

When a PEO signs up a new business client, the services are bundled. With bundling, the business is presented with one contract to sign for all the services included in the offering. As stated above, adding health insurance into the bundled package brings on a whole new level of complexity for the small business and ultimately the end consumer/employee. NAIFA-MD's health producer members help businesses navigate the complexities and provide tailored solutions for the health insurance needs to the employees of the business.

When a business signs a contract for a bundled package by a PEO the itemized costs need to be delineated in the contract. Seeing one bottom line overall price seems great on the surface, but the problems arise later when the small business realizes they are not receiving the same level of service they received from their health insurance producer. At that time, the small business realizes that it cannot easily unbundle the health insurance component and they are stuck.

NAIFA-MD believes the legislation include stringent disclosures required to be given by the PEO to the small business and the costs for each service be itemized in the contract. This is already required with many other lines of insurance offerings in the name of strong consumer protection. Each of us has dealt with the challenges of unbundling services for cable, phone, internet, as well as in other situations and robust disclosure requirements would be needed.

Benefit Transparency

In many cases, PEOs offer health coverages that are self-funded plans. The concern here is that they can skirt around some of the ACA and MD Small Group protections for groups under 50 employees. We think the benefits provided in a health plan offering need to be clearly disclosed so small businesses know exactly what they are buying.

Reporting Requirements and Sunset

Maryland's small group health insurance market is unique to that of other states which already allow health insurance offerings through a PEO. First and foremost, Maryland has been a leader in healthcare reform in the small group market. Many of the provisions implemented by the Affordable Care Act were in place in Maryland years before its enactment.

More specifically, the MD health care reform bill enacted in 1993 and implemented in July 1994 allowed small employers to have guaranteed rates for employers with 2-50 employees. The legislation created a guaranteed issue environment and allowed carriers to submit rates in age band rate structures for companies which had a certain calculation of their overall employees and the carriers provided guaranteed premiums within these age bands.

The small group market at the height of the enrollment had over 500,000 insured lives in the small group market. It was a healthy risk pool and rate increases were moderate during those years with over 25 carriers in the market which created competitive, robust choices of carriers and plans.

Over the years, consolidation occurred and only four carriers are still in the fully insured guaranteed market (Aetna, CareFirst, United Healthcare and Kaiser). Now it is down to approximately 250,000 lives, in large part due to competition with individual plans on the exchange. Increases have ranged from about 5%-12% annually in the most recent years. The concern within NAIFA membership is that these carriers will not be able to sustain competitive rate increases with such a small pool of insured lives. We are concerned that PEO's pulling the healthy companies' employees out of the market will cause extreme pressure on this pool of MD small group fully insured lives.

Maryland is different than most states in that because we had and maintained a strong private small group market through the height of its group insurance reform process, the State has an opportunity to maintain it. Maryland, even though the private small group marketplace has been reduced, is still a viable competitive environment. Where most other states do not have the opportunity to give employers the choice of a private market, Maryland does. We need to move cautiously when introducing changes that could further reduce competition.

As such, NAIFA-MD urges the committee to put a 3-year sunset on this legislation and require the MIA to provide a report on any impact this measure has had on the small group market and Maryland businesses generally. This would allow the legislature to decide if this legislation is having the intended effect on Maryland business and whether there has been a detrimental impact to the small group market.

BY:

(To be offered in the House Health & Government Operations Committee)

AMENDMENT TO HOUSE BILL 1439

(Second Reading)

AMENDMENT NO. 1

On page 5, after line 8 , add reference to 15-1206 and insert **"(I) WHEN A SMALL EMPLOYER ENTERS INTO A CONTRACTUAL AGREEMENT WITH AN ENTITY AS DEFINED IN 15-1201(R)(1) AND (2) THAT INCLUDES A HEALTH BENEFIT PLAN, THAT ENTITY SHALL DISCLOSE IN WRITING TO THE SMALL EMPLOYER:**
(1)DETAILED INFORMATION ABOUT THE HEALTH BENEFIT PLAN BENEFITS BEING OFFERED BY THE ENTITY TO EMPLOYEES OF THE SMALL EMPLOYER WHO ARE CO-EMPLOYED BY THE ENTITY; AND
(2) THE ADDITIONAL COST TO THE SMALL EMPLOYER OF PROVIDING SUCH BENEFITS, BROKEN OUT BY TIERS ASSOCIATED WITH EACH EMPLOYEE AND THEIR DEPENDENTS ON THE POLICY AND;
(3) THE EMPLOYER MAY TERMINATE THE HEALTH BENEFIT PLAN COMPONENT OF THE CONTRACTUAL AGREEMENT WITH AN ENTITY AS DEFINED IN 15-1201(R)(1) UPON 60 DAYS WRITTEN NOTICE."

RATIONALE

Adding these disclosures will ensure small business owners know exactly what they are purchasing as it pertains to a health benefit plan and at what premium so they can compare proposals of a professional employer organization and a licensed health insurance producer. The third disclosure requirement gives the small employer the same flexibilities to change their health insurance as they enjoy in the small group market. If the small employer realizes they don't like the health benefits policy they can decouple that service offering from the remaining services provided by the PEO.