



COMMITTEE ON
Insurance

2019 ANNUAL REPORT

NEW YORK STATE ASSEMBLY



CARL E. HEASTIE, *Speaker*

KEVIN A. CAHILL, *Chair*



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Assemblymember 103rd District

CHAIR
Assembly Insurance Committee

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

COMMITTEES
Ways and Means
Economic Development, Job Creation,
Commerce & Industry
Health
Higher Education

December 15, 2019

The Honorable Carl Heastie
Speaker of the Assembly
Room 932, Legislative Office Building
Albany, New York 12248

Dear Speaker Heastie:

I hereby submit to you the 2019 Annual Report for the Committee on Insurance. I am pleased to report that the Committee has had one of its most productive and progressive sessions under your leadership and thanks to the diligence and dedication of the members.

The Committee reported the Comprehensive Contraceptive Coverage Act, Chapter 25 of the Laws of 2019, ensuring that an essential health benefit under the Affordable Care Act is available to all health insurance policyholders. This measure passed both houses and was signed by the Governor. The act requires health insurance to include coverage for contraceptive drugs, devices and products in addition to voluntary sterilization procedures, contraceptive education, counseling and related follow-up services with no additional out-of-pocket costs to consumers. During negotiations on this bill, the Assembly fought to guarantee patient and the medical provider choice in determining the best contraceptive method. The law also provides that an enrollee's spouse or domestic partner will be covered under the policy.

Substance use disorder is one category of behavioral health care that the Insurance Committee addressed this Session. Throughout budget discussions, the Assembly successfully advocated to expand the duration for both in- and out-patient treatments and to require that participants receive a written discharge plan upon leaving an in-patient facility. While this bill was vetoed by the Governor, it would have helped patients to receive adequate treatment while in addiction facilities and give them access to continuing care when discharged. The Committee also reported, and the Assembly passed, an important measure that would prohibit an insurer from charging more than one co-

payment per treatment cycle of substance use disorder care. Out-patient treatment occurs multiple times per week and the co-payments can be cost-prohibitive. This bill represents a significant advance in the struggle against opioid addiction.

The Committee also worked with the Senate and Governor to pass comprehensive behavioral health parity legislation during the Budget cycle. Now these illnesses as specified in the Diagnostic and Statistical Manual of Mental Disorders are covered by health insurance at no greater cost to the individual than a visit to a primary care physician. The Committee also advanced legislation to require reimbursement for services rendered by licensed mental health providers, a change which will promote access to behavioral health care in rural and other underserved areas of the state. While it passed both Houses, like several other “patient-first” initiatives, it was vetoed by the Governor. Additionally, a bill to explicitly require coverage of all categories of eating disorders was reported by the Committee and passed the Assembly.

The Committee reported, and the Assembly passed, several measures designed to protect consumers of prescription medications. Legislation that would prohibit insurers and their pharmacy benefit managers (PBMs) from forcing consumers to use mail-order pharmacies in lieu of their neighborhood drugstore saw the Committee’s continued support, as did a measure that would allow patients and their providers to synchronize the filling of medication for chronic conditions. The Insurance Committee worked with the Health Committee to craft legislation to shine a light on the practices of pharmacy benefit managers. These companies, sometimes captives of insurers or pharmacies in vertically integrated corporate behemoths, negotiate the drug formularies for health plans and in the process, determine the cost of prescription drugs to consumers, both through cost-sharing and through increasing health insurance premium costs. The Assembly legislation offers the best consumer protections from PBMs in the country and would require these PBMs to act in the interests of pharmacies and individuals covered under a health plan and to register with the Department of Financial Services. Unfortunately, citing disproven theories of federal preemption and extolling administrative ease over patient rights, the Governor vetoed the legislation.

In the realm of auto insurance, two innovative proposals were approved to expand what could be covered under “service contract” products that consumers can purchase to protect against risks beyond a vehicle’s warranty. Chapter 247 of 2019, would allow for the coverage of electronic keys and key fobs while another would cover wear-and-tear damages to leased vehicles. Both bills were signed into law by the Governor. Other legislation that would protect consumers against policy cancellation based on a disputed claim and to require auto insurers to notify policyholders both electronically and in writing that their policy will terminate due to non-payment was also reported by the Committee. This bill was advanced to a third reading in the Assembly.

The Assembly Insurance Committee continued as a leader of legislation to protect

consumers against natural disasters, which are likely to occur with ever-increasing frequency due to climate change. Once more, the Insurance Committee advanced, and the Legislature passed, authorization for a task force to determine the best measures to mitigate the damage from and increase the rate of response to natural disasters such as Superstorm Sandy and Hurricane Irene. This measure was vetoed by the Governor.

Life insurance continues to be an area closely monitored by the Committee. Life insurance companies provide an important safety net for consumers in the form of annuities. They can be a vehicle for long-term savings and insurance to protect families from an unexpected loss of earnings. Recognizing the manual nature of many searches in the realm of lost policies, the Committee advanced legislation which was vetoed by the Governor that would allow for an adequate period for domestic life insurance companies to complete a search for lost policies when a request is made by a potential beneficiary. The Committee also reported a common-sense bill to help to keep term-life premiums low by requiring beneficiaries to cooperate with companies investigating fraud during the two-year contestability period following a policyholder's death. This bill was vetoed by the Governor.

This was a very active year for the Assembly Insurance Committee as it advanced long-supported policies in the hopes that these proposals would finally be signed. Though thwarted in several areas by executive vetoes, the cooperation between the two houses of the Legislature in the area of insurance law holds great promise for the future. This next session presents opportunities and challenges as the Committee continues to investigate ways to keep auto, life and health insurance premiums within means of working families. We must also continue to find ways to provide necessary coverage for substance use disorder and protect consumers during disasters.

I thank the members and staff of the Committee for their hard work during this past session. Furthermore, I again thank you, Mr. Speaker, for your leadership and continued support of legislation that protects New York's consumers. I look forward to continuing to advance our progressive agenda during the second year of the legislative Session.

Sincerely,



Kevin A. Cahill, Chair
New York State Assembly
Standing Committee on Insurance

NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON INSURANCE

Kevin A. Cahill, Chair

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Dallas Trombley, Principal Analyst
Felicia Harris, Committee Assistant
Andrew Falk, Legislative Director and Counsel
Ian Donaldson, Committee Clerk
Jeannie Shepler, Program and Counsel Secretary

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▪ 2019 - 20 Budget ▪

After much deliberation, the SFY 2019-20 Enacted Budget included provisions that modernized coverage for in-vitro fertilization in the large group market and required coverage of iatrogenic fertility preservation to all persons in the individual, small group and large group markets. This proposal is similar to a bill that the Committee has reported and the Assembly passed during previous legislative cycles.

The Committee influenced the negotiations on an expansive measure to secure parity between primary care and mental health coverage, a measure that included significant improvements to Timothy's Law and assistance to those struggling with opioid addiction. This language guarantees patients will not pay more for visits to mental health or substance abuse professionals than they would pay for a primary care visit. It also provides that patients may receive at least 28 days of inpatient or outpatient care before an insurer can institute utilization review measures.

At the Assembly's insistence, the budget also included a requirement for substance use disorder patients to receive a written treatment plan prior to discharge that contains contacts with available out-patient care providers. The measure also expanded the types of professionals eligible for reimbursement for mental health care, taking meaningful steps to advance network adequacy under every health plan. This provision also limits substance use disorder copayments to one per day. The Committee will continue to advocate for legislative solutions to prevent excessive cost-sharing that hold people back from getting necessary treatment. Since these regimens often require visits to outpatient treatment facilities multiple times per week, though an improvement, even one copayment per treatment cycle can be cost-prohibitive. The Committee reported, and the Assembly passed, a separate stand-alone bill that would limit the copay to once per treatment cycle.

The Committee worked with the Executive and Senate to extend a program that provides excess Medical Malpractice liability coverage and to transfer the administration of the Medical Malpractice Indemnity Fund to the Department of Health (DOH). This should allow those with expertise in the profession of health services to interact with treatment requests under the Fund, while also maintaining Department of Financial Services oversight of the Fund's investment structure.

The Committee continued its work with the Senate and Executive to provide that New York State codified certain aspects of the Affordable Care Act into state law. This was an important measure to provide consistency in the market as the current Federal administration works to undercut national health insurance by all available means. The Committee also insisted on the extension of the Entertainment Workers Health Care subsidy, which provides assistance to workers in the entertainment industry who must frequently change employers.

The Committee rejected a proposal by the Executive to regulate Pharmacy Benefit Managers within the budget, because this measure had no apparent fiscal impact. Later in the Session, the Assembly passed a stronger measure which, if it had been signed by the Governor, would have been the most robust regulatory structure for PBMs in the nation.

▪ HEALTH INSURANCE ▪

A. Independent Dispute Resolution

A.264B Cahill / S.3171A Krueger

Chapter 375 of the Laws of 2019

Establishes independent dispute resolution for out-of-network emergency room visits and the inpatient services that often follow such visits to protect against excessive emergency charges.

This bill was signed by the Governor.

B. Comprehensive Contraception Coverage Act

A.585A Cahill / S.659A Salazar

Chapter 25 of the Laws of 2019

Requires health insurance policies to include coverage of contraceptive drugs, devices and products, as well as voluntary sterilization procedures, contraceptive education, counseling and related follow-up services. It prohibits any cost-sharing requirements or other restrictions or delays with respect to this coverage and allows for the dispensing and coverage of up to a 12-month supply of contraceptives. Under this law, coverage for emergency contraception is also permitted when dispensed by a pharmacist over the counter. All of these benefits are extended to a plan enrollee's spouse or domestic partner.

This bill was signed by the Governor.

C. Coverage for Mental Health Practitioners

A.670A Bronson / S.6212A Kennedy

This measure adds mental health counselors, marriage and family therapists, creative arts therapists, psychoanalysts and social workers to the list of mental health professionals eligible for reimbursement for their provision of care under a health insurance policy.

This bill was vetoed by the Governor.

D. *Prior Authorization of Substance Use Disorder Medications*

A.972A Rosenthal L / S.4643A Harckham

This legislation limits the amount of cost sharing for opioid treatment programs to one copay over the course of treatment.

This bill passed the Assembly.

E. *Coverage for Eating Disorders*

A.1619 Rozic / S.3101 Biaggi

This bill expands the list of medical conditions which must be covered under a group health insurance policy to include specific ailments as well as any eating disorder contained in the current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

This bill was vetoed by the Governor.

F. *Coverage for In-Vitro Fertilization*

A.2817 Simotas / S.719 Savino

This measure requires health insurers to provide coverage for the diagnostic treatment of infertility, including procedures for in-vitro fertilization and other fertility preservation treatments.

This bill was reported to Ways and Means.

G. *Prior-Authorization for Health Care Services*

A.2880B Hunter / S.5328A Breslin

Chapter 640 of the Laws of 2019

This legislation prohibits the denial of coverage for treatments related previously authorized care by an insurer and delivered concurrently. The physician would have sole discretion to determine if concurrent treatment is necessary and whether it would be inadvisable to interrupt the provision of care to seek prior authorization.

This bill was signed by the Governor.

*H. Substance Use Disorder Medication
A.2904 Quart / S.4808 Harckham
Chapter 748 of the Laws of 2019*

This bill requires health insurers to provide without prior authorization coverage for certain medications for the detoxification or maintenance treatment of a substance use disorder.

This bill was signed by the Governor.

*I. Mid-Year Drug Formulary Changes
A.2969A Peoples-Stokes / S.2849A Breslin*

This measure prohibits an insurer from removing a drug from their formulary, moving a drug to a higher cost tier, or adding utilization management restrictions on a drug during the policy year. The insurer would be allowed to make such changes at the end of the year, provided that they give written notice to insureds and publish the change on their formulary and on their drug listing 30 days prior to open enrollment. The insurer could also move the drug to a new tier if they add an AB generic or interchangeable biological equivalent to their formulary at the same time or remove a drug due to requirements from the FDA.

This bill was vetoed by the Governor.

*J. Synchronization of Multiple Prescriptions
A.3009 Quart / S.4078 Breslin
Chapter 691 of the Laws of 2019*

This legislation facilitates the synchronization of prescription medications for chronic conditions by requiring an insurer to cover a partial-fill if it is determined to be in the best interest of the covered individual as determined by the patient, their pharmacist and their medical provider. Such medication must be covered by the plan and cannot be a Schedule I or II controlled substance, all prior authorization criteria must have been met and the drug must be of a kind that can be effectively split. The legislation also includes protections for pharmacies to ensure they continue to receive the full dispensing fee for any prescription that is partially filled.

This bill was signed by the Governor.

K. Mail Order Pharmacy

A.3043 Joyner

This bill prohibits a health insurer from requiring an insured to use a mail order pharmacy if a local retail pharmacy agrees to the same reimbursement amount as the insurer's in-network mail-order pharmacies.

This bill passed the Assembly.

L. Utilization Review Determinations for Nursing Home Care

A.3059 Gottfried / S.1810 Rivera

This measure would require utilization review agents to issue a determination involving continued or extended post-acute nursing home care within twenty-four hours of receipt of the request for services. This bill also prohibits denial of coverage for nursing home care based on medical necessity or lack of prior authorization while the determination is pending.

This bill was vetoed by the Governor.

M. Stop Loss, Catastrophic, and Reinsurance Policies

A.4947 Cook / S.2043 Seward

Chapter 202 of the Laws of 2019

This law extends a provision of statute that allows certain small-group market employers to continue to purchase stop-loss or catastrophic reinsurance and which exempts certain members of municipal health insurance consortia from the community-rating requirements of the small-group market until 2021.

This bill was signed by the Governor.

N. Annual Mammograms

A.5502A Jean-Pierre / S.3852A Martinez

Chapter 143 of the Laws of 2019

This law requires all health insurers to provide for an annual mammogram for covered persons aged thirty-five through thirty-nine upon the recommendation of a physician.

This bill was signed by the Governor.

O. Lyme Disease Study

A.6146 Barrett / S.4571 Gaughran

This bill requires the Department of Financial Services, in consultation with the Commissioner of the Department of Health, to study and report to the Legislature upon the adequacy of insurance coverage for the treatment of Lyme disease and other tick-borne related diseases.

This bill was vetoed by the Governor.

P. Substance Use Disorder Parity

A. 6186A Gunther / S.4356 Ortt

Chapter 207 of the Laws of 2019

This legislation amends Chapter 455 of the Laws of 2018, which required insurers to annually submit certain data to the Department of Financial Services (DFS) as a way to measure compliance with federal and state mental health and substance use disorder parity laws. This amendment stipulates that insurers must submit the data to DFS on a biannual basis and that DFS can publish the data on the Department's website instead of in its annual Consumer Guide. Additionally, the amendment also requires insurers to include a comparison of cost-sharing requirements that captures at least 75 percent of a company's enrollees in the individual, small and large group markets in the data submitted to DFS.

This bill was signed by the Governor.

Q. Ambulance Services

A.6211B Magnarelli

This measure requires out-of-network ambulance service companies to receive direct payment for all ambulance service transports upon submission of an invoice to a health insurance company. The payment would be at the usual and customary rate. These provisions would not apply in a city with a population of one million or more people.

This bill was reported to Rules.

R. Fertility Preservation

A.7478A Simotas / S.6403 Savino

This legislation updates existing law to reflect advances in modern medical technology by removing an exclusion from coverage of in-vitro fertilization.

This bill was referred to Ways and Means.

▪ **PROPERTY / CASUALTY INSURANCE** ▪

A. Anti-Arson

A.1167 Rosenthal D/ S.5126 Sanders

This bill repeals a requirement that consumers seeking new or renewal policies covering multi-family dwellings in New York City complete an anti-arson application for their coverage to be effective.

This bill passed the Assembly.

B. Local Loss-Cost Data

*A.1916 Perry / S.1196 Breslin
Chapter 197 of the Laws of 2019*

This law amends Chapter 458 of the Laws of 2018, which established that insurance companies must require adjusters to use local cost data when calculating a claim following a declared disaster, by removing language that operated on the adjusters themselves, who may be from out of state, when adjusting claims following catastrophes or conflagrations. This chapter amendment resolves the duplicative and unnecessary language relating to how out-of-state insurance adjusters, working under a temporary license, would calculate a claim in New York.

This bill was signed by the Governor.

C. Hurricane Windstorm Deductibles

A.2902 Pheffer-Amato / S.3324 LaValle

This measure requires the Superintendent of DFS to promulgate regulations providing standards for hurricane windstorm deductibles which create, to the greatest extent possible, uniformity in the operation of such deductibles with respect to the triggering event.

This bill advanced to the Third Reading Calendar.

D. Broad Form Coverage

*A.3676 Romeo / S.642 Breslin
Chapter 70 of the Laws of 2019*

This law extends authorization for the issuance of broad form coverage by the New York Property Insurance Underwriting Association until June 30, 2023. Broad form coverage includes perils that were previously unavailable. Some of the additional coverages include damage from ice, snow or sleet, glass breakage, accidental discharge or overflow of water or steam and falling objects.

This bill was signed by the Governor.

E. Boating Safety Courses

A.5415 Thiele / S.3688 LaValle

This legislation authorizes the Superintendent of DFS to provide rate reductions to liability insurance policies upon the completion of a boating safety course or an advanced boating safety course which has been approved by the Commissioner of Parks, Recreation, and Historic Preservation.

This bill passed the Assembly.

F. Excess Policy Limits

A.5629B Weinstein / S.3634B Breslin

This bill allows injured persons to bring an action against a liability insurer to recover the full amount of a judgment against the insured in excess of the policy limits where such insurer failed to engage in prompt and fair settlement of the claim.

This bill was reported to Rules.

G. Continuing Education Credits

A.5922 Hunter / S.4365 Breslin

This measure directs the Superintendent of DFS to grant an insurance producer three continuing education credit hours per biennial period upon certification that they are an active member in a statewide professional insurance producer association. In order to qualify as an active member, an insurance producer would have to certify to the Superintendent that they attended at least one course, program of instruction or seminar sponsored by the professional insurance producer association that meets the requirements each year during the previous biennial period.

This bill was vetoed by the Governor.

H. Lead Paint Exclusion

A.6062 Ryan / S. 5183 Ramos

This legislation prohibits insurers licensed to provide liability coverage to rental property owners from excluding coverage for losses caused by exposure to lead-based paint. This prohibition would take effect 26 months following the immediate effective date and would mandate that all previously approved exclusions for losses caused by exposure to lead-based paint shall be terminated after said period.

This bill passed the Assembly.

I. Prompt Investigation and Settlement of Claims

A.7097 Stern/ S.3553 Carlucci

This bill requires insurers that write homeowners and certain commercial property and casualty insurance policies to begin investigating a claim arising from a declared disaster or emergency in accordance with regulations promulgated by the Superintendent of DFS. It requires that within fifteen business days of receiving all items that the insurer requested from a claimant, the claim must be accepted or rejected and the decision be issued in writing. A one-time extension of an additional fifteen business days would be allowed for an insurer to continue its investigation. Claims would have to be paid no later than three business days from settlement.

This bill was advanced to the Third Reading Calendar.

J. Disasters Task Force

A.7830 Pheffer Amato / S.1634 Brooks

This measure creates a 23-member task force to examine: how insurers who write homeowners and commercial insurance policies respond to disasters; ways in which state and local agencies, such as DFS, can assist claimants in response to disasters; and whether policyholders and communities have adequate insurance. The members of the task force would include state and local government officials as well as representatives from the insurance industry and consumer advocacy groups. The task force would be required to submit a report to the Governor and the Legislature on its findings and recommendations one year after the effective date.

This bill was vetoed by the Governor.

▪ AUTO INSURANCE ▪

A. Renewal Auto Insurance

A.86 Perry

This legislation precludes insurers from canceling or refusing to renew policies solely because consumers have a pending complaint or claim in dispute against the insurer.

This bill was advanced to the Third Reading Calendar.

B. Service Contracts

A.268 Cahill / S.3631 Breslin

Chapter 736 of the Laws of 2019

This bill allows the sale of service contracts to lessees of personal automobiles to protect them from unanticipated "lease-end" charges related to excess use or wear-and-tear. The service contract would pay in the event that the lessee is charged for damage to tires, paint cracks, stains, rips, or missing interior parts, or to various interior and exterior parts not otherwise covered by a service agreement or warranty provided that such payment does not exceed the purchase price of the vehicle.

This bill was signed by the Governor.

C. Cancellation of Coverage

A.6466 Rosenthal D.

This measure requires health and auto insurance companies to notify policyholders of cancellation, discontinuance or major changes to their policy via both email and paper mail notification, if the company has an email address for the policyholder on file. Additionally, the insurance company would be required to notify the policyholder of their option to be contacted by email in addition to or in lieu of paper mail.

This bill advanced to the Third Reading Calendar.

D. Key Fobs

*A.7080A Jacobson / S.2848A Breslin
Chapter 247 of the Laws of 2019*

This law expands the products that are permitted to be covered under a service contract to include motor vehicle keys and key fobs in the event that they are lost, damaged or destroyed.

This bill was signed by the Governor.

E. Driving History Verification

A.7901 Cahill / S.3641 Breslin

This legislation requires insurance companies to check the driving history of a person before binding insurance in order to prevent the issuance of misleadingly low-priced policies. Requiring all carriers to run motor vehicle reports prior to binding coverage would guarantee the consumer will receive a fair and accurate quote prior to committing to the expense.

This bill was advanced to the Third Reading Calendar.

F. Minimum Coverage Study

A.8130 Hyndman / S.2993 Breslin

This bill instructs the Department of Financial Services (DFS) to administer a study to review the minimum coverage amounts for all types of automobile insurance coverage. The bill would require DFS to submit a report that would include its recommendations as to whether the minimum coverage amounts should be increased, by what amount and the impact that such mandatory increase would have on premiums.

This bill was reported to Ways and Means.

▪ LIFE INSURANCE ▪

A. Lost Policy Searches

*A.3075 Hunter/ S.3637 Breslin
Chapter 468 of the Laws of 2019*

This measure increases the time period in which a life insurer is required to complete a lost policy search when a person requests that the insurer search their files for unclaimed life insurance benefits, from 30 days, or 45 days if the insurer contracts with another entity, to maintain the insurer's records to up to 60 days.

This bill was signed by the Governor.

B. Contestability Cooperation

A.7664 Stirpe / S. 3639 Breslin

This legislation clarifies that a life insurance beneficiary, or anyone claiming a right under a life insurance policy, has a duty to cooperate with an insurer's reasonable investigation of a death occurring during the two-year "contestability period," which is the window between the binding of a life insurance policy and the covered individual's passing.

This bill was vetoed by the Governor.

▪ MISCELLANEOUS ▪

A. Title Insurance

A.2223A Cahill / S.2929A Breslin

This bill establishes that engaging in “usual and customary marketing activities” aimed at acquainting present and prospective customers with the advantages of using a particular title insurance corporation or title insurance agent does not constitute an "inducement" or "compensation" under the Insurance Law. However, the bill also provides that such activities cannot be intended for the purpose of a reward for the future placement of a particular piece of title insurance business.

This bill passed the Assembly.

B. Domestic Violence Victims

A.2832 Cymbrowitz / S.67 Robach

This measure allows a domestic violence victim covered by an insurance policy where another person is the policyholder to designate alternative contact information for the purpose of receiving insurance claim or billing information. The insurance company would be prohibited from disclosing to the policyholder the victim’s contact information and the contact information of any person providing health care services to the victim or from mailing any information to any address other than that which was provided by the victim. This prohibition would remain in effect until a written request is made by the victim to cancel the withholding of information.

This bill passed the Assembly.

C. Registration Fees for Continuing Education Credits & License Renewal

A.7124 Cahill / S.2039 Seward

Chapter 200 of the Laws of 2019

This legislation requires a proportionate fee for the extension of business entity licenses and continuing education requirements which would result from Chapter 402 of 2018. That legislation coordinated the expiration of business entity licenses on July 1st of odd-numbered years. Additionally, this bill would extend the effective date of that chapter from 2019 to 2021.

This bill was signed by the Governor.

▪ PUBLIC FORUMS ▪

“Hearing on Municipal Health Insurance Alternatives and Affordability”

There are several ways in which local governments and school districts provide health insurance for their employees. These include purchasing a health insurance policy from a New York State-licensed insurance company, self-insuring and joining with other local governments to form municipal health insurance cooperatives. Providing health benefits to public employees can be difficult and expensive. Concerns have been brought to the Committee’s attention regarding the rising costs of municipal health insurance and the complexities involved in forming municipal cooperatives under Article 47 of the insurance law.

The Insurance Committee, alongside the Local Governments Committee, conducted a hearing on October 23, 2019, to examine alternatives by which municipalities and school districts may provide affordable health insurance to their employees and the methods these entities can use to minimize risks while ensuring adequate coverage, reserves and consumer protections. A witness on behalf of the New York State Department of Financial Services testified that the creation of a municipal cooperative under Article 47 of the Insurance Law is an effective alternative for providing quality coverage at an affordable cost while maintaining adequate regulatory oversight to protect consumers.

Witnesses representing municipal groups that testified at the hearing raised concerns that the requirements under Article 47 are burdensome and act as barriers to the formation of cooperatives. These stakeholders provided recommended amendments to Article 47 including reducing the number of covered lives needed to create a cooperative, lowering the reserve requirements and creating a transition period during which reserves can be built.

The Committee also heard testimony from insurers and underwriters. The insurers advocated that the focus should be on addressing the factors driving health care costs including prescription drug prices and inpatient hospital charges. Underwriters recommended changes to Article 47 including reducing the reserve requirements and replacing the current reporting obligations with an annual report to monitor the solvency of Article 47 consortiums.

Overall, the hearing provided an overview of and recommended changes to Article 47 and the current barriers municipalities and school districts face when discussing alternatives to providing affordable health insurance to their employees.

The Committee will continue to evaluate Article 47 and legislative proposals to establish that municipal entities can effectively collaborate to provide affordable health insurance to their employees.

▪ OUTLOOK FOR 2020 ▪

With new leadership in the State Senate and Department of Financial Services, 2019 was one of the most progressive and productive sessions for the Insurance Committee in many years. The Committee will continue to work so that consumers are protected while insurance products in New York State continue to remain adaptive to the needs of businesses in emerging economic sectors and that the insurance industry remains vibrant.

In 2020, the Committee will again advocate for a rational system of co-payments for outpatient Substance Use Disorder (“SUD”) treatments. While the Committee worked with the Senate and Governor’s office this year to provide that SUD patients will not be charged more than one copayment per day as was the previous practice in some facilities, the limitation does not go far enough. Patients receiving SUD treatment must go to outpatient facilities multiple times per week, resulting in weekly cost-sharing that can exceed several hundred dollars. The cost-sharing portion of SUD treatment cannot be cost-prohibitive or it will risk relapse or force patients into the illegal market. In either case, the concomitant costs will outweigh greater consideration eased by co-payment requirements. As New York continues to address the opioid epidemic, the state must ensure that patients struggling with addiction can afford their medically necessary care.

Meanwhile, the Committee will continue to take steps to protect the availability of universal, quality health care coverage as guaranteed by the Affordable Care Act. The current federal administration has consistently undercut the ACA by every means within its power. For example, federal guidance has allowed for the sale of “short-term duration” sham health insurance plans that look like comprehensive coverage, but are not and leave consumers unprotected in many ways. The Committee will continue to advocate for the rights conferred to policyholders under New York State’s progressive health care law.

This year, the Committee established that hospital emergency services were added to the Independent Dispute Resolution (“IDR”) process which requires arbitration between providers and insurance companies while forbidding either party from charging the patient for costs above their in-network copay or cost-sharing amount. The issue of emergency service bills from out-of-network ambulance companies, the subsequent denial of payment by an insurer and the subsequent charge or “balance bill” to policyholders remains unresolved. The Committee is committed to investigating whether this issue can be resolved by adding emergency medical transportation including ambulance companies and possibly air ambulance services, to the IDR program or if there are other commonsense solutions.

This Session, the Committee was deeply involved with discussions about establishing commercial “car-sharing” programs in New York, while ensuring that riders and owners of shared vehicles are adequately protected. Under a typical car-sharing model, a vehicle owner would be able to rent their car to a driver via an electronic application. While issues outside of the insurance sphere remain to be resolved before this program can be fully enacted, the Committee will act to establish that any bill which allows for car-sharing also include adequate insurance coverage for riders and vehicle owners, as well as clear periods delineating when a personal auto insurer would be liable for claims, versus when the program provider or application would be liable.

As global financial markets shrink, national borders evaporate and the pre-eminence of New York as the financial capital of the world is increasingly subject to challenge, the Committee will look to assure our state’s continued prominence in that realm. We will continue to explore the modernization of the licensure of insurers and insurance producers to ensure that New York’s insurance industry remains efficient, vibrant and competitive, while maintaining appropriate consumer protections and the ability of the Department of Financial Services to protect and foster the stability of the financial services market.

Medical malpractice insurance covers health care providers against lawsuits alleging negligence on their part. Both consumers and providers need to know that there is a means of fair, affordable recompense for medical errors. The committee will continue to work to bring long-term stability to medical malpractice insurance.

Over the past several years, New York has been impacted by multiple large storms that have caused tremendous damage across the State. In such situations, individuals and businesses often must rely upon their property, casualty and flood insurance to cover damages. The Insurance Committee will continue to evaluate the response of the insurance industry to disasters and other emergencies to provide policyholders adequate coverage and that the solvency of the industry not be threatened.

The life insurance industry in New York State plays a large role in providing New Yorkers with investment vehicles that afford income during retirement and insurance that protects against financial losses caused by the death of an insured. These products function as a safety net that often prevents vulnerable individuals from the necessity of seeking public assistance. In addition, New York life insurers are systemically fundamental institutions whose solvency is necessary for the stability of the entire economy. To that end, the Committee will advance legislation to help insurers to remain competitive and stable, while providing the best protection for consumers.

**APPENDIX A
2019 SUMMARY SHEET**

SUMMARY OF ACTION ON ALL BILLS REFERRED TO THE
COMMITTEE ON INSURANCE

TOTAL NUMBER OF COMMITTEE MEETINGS HELD: 8

BILLS REPORTED FAVORABLE TO:		SENATE	ASSEMBLY	TOTAL
	Codes	0	28	28
	Judiciary	0	0	0
	Ways and Means	0	4	4
	Rules	0	3	3
	Floor	0	4	4
	TOTAL	0	39	39

COMMITTEE ACTION:	Held For Consideration	0	0	0
	Defeated	0	0	0
	Enacting Clause Stricken	0	2	2
	REMAINING IN COMMITTEE	20	259	279
BILLS REFERENCE CHANGED TO:	CODES:	0	1	1
	CITIES:	0	1	1
	TOTAL	0	2	2

**APPENDIX B
CHAPTERS OF 2019**

Bill/ Sponsor	Description	Final Action
A.264B/Cahill S.3171A/ Krueger	Would eliminate hospital charges for emergency services within the independent dispute resolution process and establish protections against excessive emergency charges.	Chapter 375 of the Laws of 2019
A.268/ Cahill S.3631/Breslin	Would expand the definition of service contracts in relation to vehicle leases.	Chapter 736 of the Laws of 2019
A.585A/ Cahill S.659A/ Salazar	Would require health insurance policies to ensure coverage for contraceptives and prohibit restrictions of such coverage.	Chapter 25 of the Laws of 2019
A.1916/ Perry S.1196/Breslin	Relates to lowering cost data used for adjusted claims.	Chapter 197 of the Laws of 2019
A.2880B/ Hunter S.5328A/ Breslin	Would prohibit the denial of coverage of a treatment if related to a treatment that received prior authorization by an insurer and delivered concurrently.	Chapter 640 of the Laws of 2019
A.3009/Quart S.4078/Breslin	Would provide coverage for a pharmaceutical claim for less than a 30-day supply for patients enrolling in medication synchronization programs.	Chapter 691 of the Laws of 2019
A.3075/Hunter S.3637/Breslin	Would increase the time period in which a life insurer is required to complete a lost policy search when a person requests that the insurer search their files for unclaimed life insurance benefits.	Chapter 468 of the Laws of 2019

**APPENDIX C
BILLS THAT WERE REPORTED IN 2019**

Bill / Sponsor	Description	Action
A.86/Perry	Would prevent insurers from canceling or refusing to renew policies solely because consumers have a pending complaint against the insurer or have a claim in dispute with the insurer.	Advanced to Third Reading Calendar
A.264B/Cahill S. 3171A/ Krueger	Would eliminate hospital charges for emergency services within the independent dispute resolution process and establish protections against excessive emergency charges.	Chapter 375 of the Laws of 2019
A.268/ Cahill S.3631/Breslin	Would expand the definition of service contracts in relation to vehicle leases.	Chapter 736 of the Laws of 2019
A.492/Lifton S.6197/Breslin	Would provide students within higher education institutions access to stand-alone or “excepted benefit” accident and health insurance plans.	Chapter 746 of the Laws of 2019
A.585A/ Cahill S.659A/ Salazar	Would require health insurance policies to establish coverage for contraceptives and prohibit restrictions of such coverage.	Chapter 25 of the Laws of 2019
A.670A/ Bronson S.6212A/ Kennedy	Would require health insurance policies to provide coverage for outpatient treatment programs by certain mental health practitioners.	Veto memo 171
A.972A/Rosenthal L. S.4643A/ Harckham	Would prohibit co-payments for treatment at an opioid treatment program.	Passed Assembly
A.1167/ Rosenthal D. S.5126/ Sanders	Would repeal provisions of law that requires applicants for those renewing multi-family dwellings in New York City to complete an anti-arson application in order for their coverage to be effective.	Passed Assembly
A.1619/Rozic S.3101/ Biaggi	Would clarify that health insurers are required to provide coverage for eating disorders including pica, rumination disorder, avoidant/restrictive food intake disorder, anorexia nervosa, bulimia nervosa, binge eating disorder, other specified feeding or eating disorders.	Veto memo 241
A.1916/ Perry S.1196/Breslin	Relates to lowering cost data used for adjusted claims.	Chapter 197 of the Laws of 2019

A.2223A/ Cahill S.2929A/ Breslin	Would establish that engaging in “usual and customary marketing activities” aimed at acquainting present and prospective customers with the advantages of using a particular title insurance corporation or title insurance agent does not constitute an "inducement" or "compensation" under the Insurance Law.	Passed Assembly
A.2817/Simotas S.719/Savino	Would require health insurance policies to provide coverage for diagnostic treatment of infertility, including procedures for in-vitro fertilization and other fertility preservation treatments.	Reported to Ways & Means
A.2832/Cymbrowitz S.67/Robach	Would require health insurers to provide victims of domestic violence with the option of providing alternative contact information.	Passed Assembly
A.2880B/ Hunter S.5328A/ Breslin	Would prohibit the denial of coverage of a treatment if related to a treatment that received prior authorization by an insurer and delivered concurrently.	Chapter 640 of the Laws of 2019
A.2902/ Pheffer Amato S.3324/ LaValle	Would require the Superintendent of the Department of Financial Services to promulgate regulations providing standards for hurricane windstorm deductibles which create, to the greatest extent possible, uniformity in the operation of such deductibles with respect to the triggering event.	Advanced to Third Reading Calendar
A.2904/ Quart S.4808/ Harckham	Would require health insurers to provide coverage for certain medications for treatment of a substance use disorder without prior authorization.	Chapter 748 of the Laws of 2019
A.2969A/Peoples-Stokes S.2849A/Breslin	Would prohibit an insurer from removing a drug from their formulary, moving a drug to a higher cost tier or adding utilization management restrictions on a drug during the policy year.	Veto memo 245
A.3009/Quart S.4078/Breslin	Would provide coverage for a pharmaceutical claim for less than a 30-day supply for patients enrolling in medication synchronization programs.	Chapter 691 of the Laws of 2019
A.3043/ Joyner	Would clarify that a health insurer cannot require an insured to use a mail-order pharmacy if the local retail pharmacy agrees to the same reimbursement amount as the mail-order pharmacies.	Passed Assembly
A.3075/Hunter S.3637/Breslin	Would increase the time period in which a life insurer is required to complete a lost policy search when a person requests that the insurer search their files for unclaimed life insurance benefits.	Chapter 468 of the Laws of 2019

A.3676/Romeo S.642/ Breslin	Extends authorization for the issuance of broad form coverage by the joint underwriting association.	Chapter 70 of the Laws of 2019
A.4947/Cook S.2043/ Seward	Extends provisions of the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups.	Chapter 202 of the Laws of 2019
A.5415/ Thiele S.3688/ Lavallo	Would allow for insurance rate reductions upon completion of a boating safety course or an advanced boating safety course.	Passed Assembly
A.5502A/ Jean-Pierre S.3852A/ Martinez	Requires all health insurers to provide coverage for an annual mammogram for covered persons aged thirty-five through thirty-nine upon the recommendation of a physician.	Chapter 143 of the Laws of 2019
A.5629B/Weinstein S.3634B/Breslin	Would allow an action by an insured against a liability insurer for compensatory damages in excess of the policy limits, where such insurer failed to engage in prompt and fair settlement of the claim.	Reported to Rules
A.5922/ Hunter S.4365/Breslin	Would allow insurance producers to earn three continuing education credits for active membership in a statewide professional insurance producer association.	Veto memo 162
A.6062/Ryan S.5183/Ramos	Would prohibit insurers from excluding coverage for losses caused by exposure to lead paint.	Passed Assembly
A.6146/Barrett S.4571/Gaughran	Would direct the Department of Financial Services to study and report on insurance coverage for the treatment of Lyme disease.	Veto memo 269
A.6186A/Gunther S.4356/Ortt	Relates to establishing the mental health and substance use disorder parity report act.	Chapter 207 of the Laws of 2019
A.6211B/ Magnarelli	Would require out-of-network ambulance service companies to receive direct payment for all ambulance service transports upon submission of an invoice to an insurance company.	Reported to Rules
A.6466/ Rosenthal D.	Would require health and motor vehicle insurance policies to notify policyholders of cancellation, or major changes to their policy via email.	Advanced to Third Reading Calendar
A.7080A/Jacobson S.2848A/Breslin	Creates coverage for motor vehicle key and key fob replacement service contracts.	Chapter 247 of the Laws of 2019
A.7097/ Stern S.3553/Carlucci	Would establish claims investigation and settlement standards for insurance companies to follow in the event of a disaster.	Advanced to Third Reading Calendar

A.7124/ Cahill S.2039/ Seward	Requires a proportionate fee for the extension of business entity licenses and continuing education requirements which would result from Chapter 402 of 2018.	Chapter 200 of the Laws of 2019
A.7478A/Simotas S.6403/Savino	Would remove a specific exclusion of coverage for in-vitro fertilization from insurance law.	Reported to Ways and Means
A.7664/Stirpe S.3639/Breslin	Would clarify that the beneficiary or anyone claiming a right under a life insurance policy has a duty to cooperate with an insurer's reasonable investigation of a death occurring during the two-year contestability period.	Veto memo 178
A.7830/Pheffer Amato S.1634/Brooks	Would create a 23-member task force to examine how insurers who write homeowners and commercial property and casualty insurance policies respond to disasters.	Veto memo 225
A.7901/Cahill S.3641/Breslin	Would require insurance companies to check the driving history of a person before binding insurance, in order to prevent misleadingly low-priced policies.	Advanced to Third Reading Calendar

**APPENDIX D
BILLS VETOED IN 2019**

A.670A/ Bronson S.6212A/ Kennedy	Would require health insurance policies to provide coverage for outpatient treatment programs by certain mental health practitioners.	Veto memo 171
A.1619/Rozic S.3101/ Biaggi	Would clarify that health insurers are required to provide coverage for eating disorders including pica, rumination disorder, avoidant/restrictive food intake disorder, anorexia nervosa, bulimia nervosa, binge eating disorder, other specified feeding or eating disorders.	Veto memo 241
A.2969A/Peoples-Stokes S.2849A/Breslin	Would prohibit an insurer from removing a drug from their formulary, moving a drug to a higher cost tier, or adding utilization management restrictions on a drug during the policy year.	Veto memo 245
A.3059/Gottfried S.1810/Rivera	Would require utilization review agents to issue a determination for nursing home care within twenty-four hours of receipt of the request for services when the request is made at least twenty-four hours prior to discharge from an inpatient admission.	Veto memo 256
A.5922/ Hunter S.4365/Breslin	Would allow insurance producers to earn three continuing education credits for active membership in a statewide professional insurance producer association.	Veto memo 162
A.6146/Barrett S.4571/Gaughran	Would direct the Department of Financial Services to study and report on insurance coverage for the treatment of Lyme disease.	Veto memo 269
A.7664/Stirpe S.3639/Breslin	Would clarify that the beneficiary or anyone claiming a right under a life insurance policy has a duty to cooperate with an insurer's reasonable investigation of a death occurring during the two-year contestability period.	Veto memo 178
A.7830/Pheffer Amato S.1634/Brooks	Would create a 23-member task force to examine how insurers who write homeowners and commercial property and casualty insurance policies respond to disasters.	Veto memo 225