

## Committee on Banking and Insurance

### **CS/SB 420 — Motor Vehicle Insurance Coverage Exclusions**

by Judiciary Committee and Senator Hooper

The bill creates s. 627.747, F.S., to authorize a private passenger motor vehicle policy to exclude specified coverages for claims resulting from the operation of a motor vehicle by an identified individual other than the named insured. The bill provides for exclusion of the following coverages under the policy:

- Personal injury protection (PIP) coverages applicable to the identified individual's injuries, lost wages, and death benefits;
- Property damage liability coverage;
- Bodily injury liability coverage, when required by law;
- Uninsured motor coverage for any damages sustained by the excluded individual; and
- Any coverage the named insured is not required by law to purchase.

The bill requires that a valid exclusion include the written consent of the named insured and that the identified individual is named on the declarations page of, of endorsement to, the policy. The bill prohibits a private passenger motor vehicle policy from excluding coverage when:

- The identified individual is injured while not operating a motor vehicle;
- The identified individual is solely excluded on the basis of race, color, religion, sex, national origin, age, handicap, pregnancy, or marital status; or
- The exclusion is inconsistent with the underwriting rules filed by the insurer.

The bill requires that an identified individual excluded from the named insured's policy must separately establish, maintain, and show proof of financial responsibility under ch. 324, F.S., for the purpose of responding to damages out of ownership, maintenance, or use of a motor vehicle, and maintain the required security under s. 627.733, F.S., for the purpose of payment of required benefits.

If approved by the Governor, these provisions take effect July 1, 2021.

*Vote: Senate 40-0; House 116-0*

## Committee on Banking and Insurance

### **CS/HB 701 — Behavior Health Care Services Coverage and Access**

by Insurance and Banking Subcommittee and Rep. Stevenson and others (CS/CS/SB 1024 by Appropriations Committee; Banking and Insurance Committee; and Senators Brodeur and Rouson)

The bill requires the Department of Financial Services (DFS) to submit a report, by January 31, 2022, to the Legislature and the Governor regarding complaints received from insureds and subscribers about the adequacy of coverage and access to mental health services through their individual or group health insurance policies or health maintenance organization (HMO) contracts.

Further, the bill requires insurers and HMOs to provide insureds and subscribers a direct notice regarding the federal and state coverage requirements for mental health services, as well as contact information for the Division of Consumer Services within the DFS. Insurers and HMOs are also required to make this information available on their website.

If approved by the Governor, these provisions take effect October 1, 2021.

*Vote: Senate 40-0; House 117-1*

## Committee on Banking and Insurance

### **CS/CS/SB 1786 — Florida Birth-Related Neurological Injury Compensation Plan**

by Appropriations Committee; Health Policy Committee; and Senators Burgess and Book

In 1988, the Legislature created the Florida Birth-Related Neurological Injury Compensation Plan (plan) to provide limited recovery, irrespective of fault, for infants who have sustained a birth-related neurological injury. If an infant suffers such an injury, and the physician participates in the Florida Birth-Related Neurological Injury Compensation Association (NICA), and delivers obstetrical services in connection with the birth, then an administrative award for a compensable injury is the infant's sole and exclusive remedy for the injury, with exceptions. Compensation under the plan includes actual expenses for medically necessary and reasonable care, including long-term medical care, transportation, special equipment, and other services for the lifetime of the child. The plan is administered by NICA. The Senate Bill provides the following changes to the plan and NICA:

#### **Benefits**

- Increases the maximum award to parents or legal guardians of an infant who has sustained a birth-related neurological injury from \$100,000 to \$250,000 for pending petitions or claims filed on or after January 1, 2021. This provision applies retroactively to claims filed before January 1, 2021, to provide a payment to current plan members sufficient to bring the payment up to \$250,000 by July 1, 2021. Thereafter, the \$250,000 limit on the maximum award increases by three percent annually.
- Increases the death benefit from \$10,000 to \$50,000. Parents or legal guardians of a child that died since the inception of the plan must receive a retroactive payment in an amount to bring the total award paid to the parents or legal guardian to \$50,000 by July 1, 2021.
- Provides up to \$10,000 in annual psychotherapeutic services for immediate family members who reside with the plan participant.
- Specifies benefits for transportation, including providing parents or legal guardians with a reliable method of transportation for the care of the child or reimbursing the cost of upgrading an existing vehicle to accommodate the child's needs when it becomes medically necessary for wheelchair transportation. The plan must replace any vans purchased by the plan every 7 years or 150,000 miles, whichever comes first.
- Authorizes housing assistance of up to \$100,000 for the life of the child, including home construction and modifications.
- Provides that the parents or legal guardians of a plan participant may file a petition with the Division of Administrative Hearings to dispute the amount of actual expenses reimbursed or a denial of reimbursement.
- Directs NICA to furnish by mail or electronically a list of expenses compensable under the plan to each parent or legal guardian of a plan participant.

## Governance of NICA

- Directs NICA to administer the plan in a manner that promotes and protects the health and best interests of children with birth-related neurological injuries.
- Creates code of ethics for specified staff and the board of directors of NICA.
- Increases members on the board of directors from five to seven members by adding a parent or a legal guardian representative of a plan participant and a representative of an advocacy organization for children with disabilities, and authorizes the Chief Financial Officer (CFO) or Governor to remove a director for cause.
- Prohibits the appointment of a participating physician to the board who is named in a pending petition for a claim and prohibits an appointed director who is a participating physician from voting on any board matter related to a claim accepted for an award for compensation if the physician is named in the petition for the claim.
- Limits the term a member of the board may serve to no more than six consecutive years and prohibits the citizen representative on the board from having an affiliation with any one of the groups providing lists of names to the CFO for consideration as a board member.
- Clarifies that board meetings are subject to public meeting requirements of s. 286.011, F.S., and requires advance notice of board meetings, with exceptions, and the posting of information relating to such meetings on NICA's website.

## Studies and Reports

- Requires the Auditor General to conduct an operational audit of NICA once every three years. The Auditor General must complete the first audit report by August 15, 2021.
- Requires NICA to report by November 1, 2021, and by November 1 thereafter, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the CFO regarding claims, reimbursement, and other information.
- Directs NICA to publish an annual report on its website January 1, 2022, and every January 1, thereafter that includes information about the board members and employees, staff compensation, a summary of reimbursement disputes and resolutions, a list of expenses for attorney and lobbying fees, and other expenses to oppose each plan claim.
- Directs the Agency for Health Care Administration (agency) to review its third-party liability functions and rights under Medicaid, relative to the plan, and include in its review the extent and value of liabilities owed by the plan as a third-party benefit provider. Based on its findings, the agency must provide recommendations regarding the development of policies and procedures to ensure implementation of agency functions and rights to the primacy of the plan's third-party benefits payable and recoveries due to the agency under Medicaid. The agency is required to submit a report to the President of the Senate, the Speaker of the House of Representatives, and the CFO of its findings regarding the extent and value of the liabilities owed by the plan by November 1, 2021.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 40-0; House 117-0*

## Committee on Banking and Insurance

### **SB 7014 — OSGR/Office of Insurance Regulation**

by Banking and Insurance Committee

The bill amends s. 624.4212, F.S., to save from repeal the public records exemption relating to insurer reporting of certain proprietary business and other information that is held by the Office of Insurance Regulation (OIR). This includes proprietary business information and supporting documents contained in an actuarial opinion summary, principle-based valuation report, enterprise risk report, insurance holding company registration, own risk and solvency assessment summary report, and corporate governance annual disclosure. The bill authorizes OIR to disclose such proprietary business information and other information to the Office of Insurance Consumer Advocate within the Department of Financial Services. Currently, the OIR may disclose this confidential and exempt proprietary business information to other states, federal, and international agencies, and other specified entities. This information will continue to be confidential and exempt from public disclosure beyond October 2, 2021.

By saving s. 624.4212, F.S., from repeal, the bill also prevents the repeal of amendments made to s. 628.8015, F.S., and s. 628.803, F.S., implementing the following National Association of Insurance Commissioners Model Acts and Regulations:

- Risk Management and Own-risk and Solvency Assessment Model Act.
- Corporate Governance and Disclosure Model Act; and the corresponding Corporate Governance Annual Disclosure Model Regulation.

If approved by the Governor, these provisions take effect October 1, 2021.

*Vote: Senate 39-1; House 114-1*