

Louisiana Health Care Commission Meeting Minutes
Poydras Building Hearing Room
Baton Rouge, Louisiana
February 21, 2020

Members present: Jeff Albright, Michael Andry, Lauren Bailey, Rick Born, Katie Brittain, Derrell Cohoon, Diane Davidson, Jack Duvernay, Susan Ellender, William Ferguson, Dr. John Fraiche, Arnold Goldberg, Dr. Faye Grimsley, Linda Hawkins, Rep. John Illg, Darrell Langlois, Ronnell Nolan, Debra Rushing, and Dr. Frances Wiggins

Members absent: Lisa Colletti, Dr. Rachel Durel, Lisa Gardner, Randal Johnson, Jennifer Katzman, Jesse Lambert, Dr. Eva Lamendola, Jennifer McMahon, Barbara Morvant, Andrew Muhl, Frank Opelka, John Overton, Ed Parker, Debra Rushing, Dr. Butch Sonnier, Elizabeth Sumrall, Judy Wagner, Senator Rick Ward, Scott Webre and LaCosta Wix

Staff present: Crystal M. Stutes and Julie Freeman

Chairperson Fraiche called the meeting to order at 9:00 a.m.

Roll call was conducted and a quorum was noted for the record. A motion was offered for the approval of the September 16, 2019 Meeting Minutes.

Next, a discussion and presentation on Blue Cross Blue Shield of Louisiana's (BCBSLA) Opioid Related Efforts was given by Kandyce Cowart and Brice Mohundro of Blue Cross Blue Shield of Louisiana.

Kandyce Cowart stated that BCBS developed an opioid policy in 2017 with its drug policy and therapeutics committee, comprised of statewide physicians and pharmacists who approve of all formulary changes. BCBS also partnered with the Louisiana Attorney General's Office. Providers and members were educated about the new program. In 2017 BCBSLA became involved with the Baton Rouge health district and their opioid task force partners with the local hospitals in contributing their own efforts. In 2018, a strategy to address the opioid epidemic was rolled out.

According to Cowart, anyone who was on an opioid for 100 days was grandfathered in and were not required to go through the prior authorization requirement, because BCBS didn't want people who used them on a chronic basis to go into withdrawal and have no access to the hospital. Also, Blue Cross' opioid policy removed prior authorization for Medicated Assisted Therapy Treatment so that patients would have better access if they had opioid use disorder.

In October, BCBSLA went out into the community and educated providers, starting with those who were involved in the Quality Blue program. An Opioid Prescribing Toolkit was also posted on the company's website to provide physicians with the tools they needed to manage the opioid epidemic. BCBSLA's website posted a policy including the CDC guidelines for prescribing opioids.

In addition to communication with providers, BCBS also put together member education section on safe opioid use on its website. This included tips for members who prescribed opioids, as well as community and statewide initiatives.

Ms. Cowart stated that Blue Cross has a very large population health nurse team, greater than 200 nurses, who talk to members on a regular basis. Commission member, Linda Hawkins, questioned Ms. Cowart about what outreach programs were offered for those addicted to heroin on the streets.

Ms. Cowart stated BCBS has a partnership with New Directions Behavioral Health. In-house care nurse managers talk to members on a regular basis. Nurses will refer them to this program if they have a substance abuse issue. Providers also can refer patients to New Directions.

Next, David Pearce, Legislative Liaison for the Department of Insurance, presented members with a 2020 Legislative Preview.

Property & Casualty:

Mr. Pearce stated the main role of the P&C division is to ensure sure rates and policy forms that are tracked between the consumer and the insurer are compliant with state law.

He discussed the following bills:

1. Workers Compensation Terminology Revision: Trading one term for another to align it with some other statutes that have been changed to create more consistency in Insurance Title 22.
2. Flat fee for all form filings- \$50: Flat fee for all form filings that will be helpful for all insurers as well as the Department. When an insurer is submitting a rate and form filing to the Department for approval, in order to be in compliance with all state laws, they typically submit a unique fee based on the types and amounts of forms. This has been simplified to make the fee \$50 per submission via electronic form filing platform.
3. Liability Limits and Defense Costs: If someone with a policy that has a liability limit of \$50,000 goes to trial, part of that liability limits the exposure of the amount that can be taken out on the liability limit. The bill aligns the statute with the attorney general's opinion currently applied and in use.
4. Commercial Auto Reporting Repeal: A bill was passed last year for additional commercial trucking reporting. This seeks to repeal it with the author's agreement.

5. Notice of Policy Statement to Relevant Parties. This merely spreads an existing requirement to all lines of property and casualty business, not limited to just property. If a policy has been cancelled, all parties are notified of the cancellation, whether it be a mortgagee or whomever; if they have a material interest in the existence of that policy. If they are notified of the cancellation, they also need to be notified of the reinstatement.
6. Louisiana Automobile Insurance Plan – This is private passenger insurer of last resort. If someone is unable to find auto insurance on the open market due to accidents or a less stellar driving record, this is their insurer of last resort. Currently there are only 25 policies as of 2019.

Financial Solvency:

1. Insurer “Controlling Party” discretion upon appeal: This bill would not show how a party is determined, but in the event of an appeal due to a company’s unique management system, or in the event of an appeal or a complex situation, this bill would give the Commissioner discretion in who the controlling party is.
2. Investment Safety & Risk Updates: This bill is the result of a collaborative review of meetings happening for the past year. With insurance companies who have large adjustment bases they use to earn money so that they will be able to pay these claims and keep rates as low as possible. This will update and modernize those requirements to ensure they are not too risky. Mainly, if something happens in the stock market, their insurance is not suddenly crippled and they are unable to pay the claims they agreed to pay.
3. LIGA –government secondary payer exemption: If an insurance company is financially insolvent, the LDI looks at the numbers very carefully and on occasion there may be some incidences of fraud that do cause an insurance company to go insolvent. This is a guaranty fund to pay legitimate, qualified claims for policyholders who can no longer get their payment with the insurance company with whom they contracted. This way, they can get their claims paid with LIGA. What this is going to do is exempt LIGA in paying claims to secondary payer claims; not the original policyholder, but another entity that requests claims due to their interest in the issue. This will exempt Medicare and all government entities. It will exempt LIGA from having to pay those entities.
4. Credit for Reinsurance – When Financial Solvency is looking at an insurer’s asset base to ensure they have enough money to pay claims, one of the ways insurance companies make sure that their assets are protected in a big catastrophe and they have the ability to pay claims is with a reinsurance policy. This bill seeks to update the statutes to NAIC model language so that credit may be given for a reinsurance policy that is held with an insurer. It is essentially allows them to represent assets in case of a catastrophe.

5. Actuarial Updates: There are three parts -all having to do with the mathematic practice of assessing risk in insurance companies.
6. Repeal Deposit Requirements: The repeal is encouraged by newer solvency protections.
7. Repeal Life Policy Search – This bill would repeal the requirement that LDI transmit life policy search requests to life insurers.
8. Repeal of Dental Referral Plan Provisions – Currently, dental plans are licensed such as discount medical plans, so this bill seeks to repeal a section of the Code and reclassify them under the section that already regulates them.

Office of Consumer Services:

This office monitors consumer complaints and performs general market conduct surveillance to make sure bad actors are caught as quickly as possible.

1. Repeal Life Policy Search: Currently a statute that requires LDI to submit a written request for a life policy searches such as someone calling in and saying a loved one has passed away and they are unaware if they had any life insurance policies. Weekly, these are submitted to auto/life in the state, however, NAIC has a robust national database that encompasses all of companies including policies purchased out of state, so this bill seeks to repeal the duty on us to send that request on to Louisiana Life insurers and refer individuals to the NAIC database search.
2. Data Security Bill: NAIC's model law produced in 2017. Frequently, there are large data breaches in the news and the LDI wants to be on the cutting edge with consumer data being protected. Currently, the model law has been passed in eight states with three others pending.

Health, Life & Annuity

The main duties of the Office of Health, Life & Annuity is similar to Property & Casualty, monitoring the rates and forms and making sure that health insurance forms and rates are not unfairly discriminatory, and the form and contract language is clear, concise, and not in any way illegal. We also see the independent oversight if there is a claim that was rejected by a health insurer and the claims appeal process at issue do not go the way the patient hopes, they can request an independent review to get an unbiased third party to assess the medical necessity.

1. Medical Necessity Standards for Substance Abuse Disorders –Currently, Louisiana does not have medical necessity standards for substance use disorders. It would refer to the American Society of Addiction and whatever standards they have would automatically be updated to Louisiana standards.

2. Revisions of References to the Affordable Care Act- If repealed, any references to the ACA would be eliminated or referred to federal law in general because the ACA is in different court proceedings. This also ensures the Louisiana Insurance Code is statutorily updated in conformity to federal law.
3. Annuity section revisions- There was a merger at LDI, so language is being added so that certain parts of the Insurance Code that apply to annuities, also apply to life insurance policies.
4. Life Policy Lapse Written Notice Exceptions location revision
5. Funeral cost reservation and citation revisions R.S. 22:941 – \$2,500 limit
6. Health Reinsurance – This bill creates an individual market reinsurance program that applies to the online marketplaces created under the ACA. This would create a reinsurance program that used a 1332 waiver. There would be a fee of up to \$2.50 and the reinsurance would serve for high cost patients in a given plan. The insurance policy would serve all individual insurance market plans once they reach certain caps in a given plan year and the reinsurance would pick up a co-share and one hundred percent of those costs would go back to the cost of the insurer. What it decreases the cost exposure to a health insurance company so that for every policy they write they have less exposure because they know this reinsurance plan is going to help defray their costs in the event that a particular patient insured instead of costing a patient in a given year a whole lot of money. The 1332 waiver is a “Pass through” of money the federal government saves on ACA subsidies. The tax credits that the ACA gives is going to cause a decrease in the cost of premiums because of the decrease in exposure to insurance companies. It is anticipated that the federal government would save money because they would have a decrease in the amount of tax credits they give to the insureds. Thus, whatever they save, we would be able to pass that through and help fund the reinsurance plan itself.

Finally, Ronnell Nolan with HAFA gave a Washington Update. She stated she met with Louisiana, Nevada, Connecticut and CMS. Some of the things discussed were drug transparency and opening the borders for prescription drugs. She stated that Senator Vitter had a bill a couple of years ago to open the borders that both Democrat and Republican offices were interested. There is a list of opposed countries that could actually open the borders and create some competition and bring pharmaceuticals in for Americans, especially Canada.

Ms. Nolan also reported some states such as Nevada have a large parcel of land to set up genetic manufacturing for generic drugs to create more competition and bring down the cost of drugs.

Also, she discussed the issue of Robocalls, specifically those that target seniors who purchase over the phone. They do not know whether what they are buying is ACA compliant. Ms. Nolan asked the federal government to create some legislation that made it more transparent. The goal is to have them sign a document on a computer attesting that it is not ACA compliant. She stated the feds were interested but wanted more time to think about it.

There was also a discussion on Association Health Plans and how successful they are in Nevada and in Louisiana but due to the lawsuits, a hold has been placed on them going forward.

Finally, Ms. Nolan stated while Christian Ministry Plans are not insurance, she believes people have a right to decide if they want to elect these plans or not.

With no further business, Chairperson Fraiche asked for a motion to adjourn the meeting. Dr. Bill Ferguson moved to adjourn and Arnold Goldberg seconded the motion. Hearing no objections, the meeting was adjourned at 11:00 a.m.