

NEW YORK STATE ASSEMBLY

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Committee On Insurance

Carl E. Heastie • Speaker
Kevin A. Cahill • Chair



ANNUAL REPORT



THE ASSEMBLY STATE OF NEW YORK ALBANY

COMMITTEES

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Economic Development, Job Creation,
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Health

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KEVIN A. CAHILL
Assemblymember 103rd District

CHAIR
Assembly Insurance Committee

December 15, 2022

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

Dear Speaker Heastie:

I hereby submit to you the 2022 Annual Report for the Committee on Insurance. I am pleased to report that the Committee had a substantial and productive session thanks to the dedication of the members, diligence of our staff and the direction of your leadership. Legislation was reported and, in many cases, passed by the Assembly to bolster protections for consumers, improve and expand access to healthcare services and assist the insurance industry in adapting to changes as we learn more about the impacts of the COVID-19 pandemic.

Following the important work completed by the Legislature in the 2021 legislative session to examine and modernize the insurance industry in response to the effects of the COVID-19 pandemic, the Committee on Insurance continued to advance key consumer protections. Such measures included legalization of the sale of certain short-term insurance policies, authorizing insurers to provide certain documents through electronic means with consent of the insured, adjustments to the nonforfeiture rate of life insurance products, the elimination of antiquated terminology in statute related to unnecessary gender and other inaccurate references to the State Finance Law and the expansion of offerings through insurers option to make available multiple rating programs for commercial insurance within the same company. These legislative concepts will help to improve relationships between businesses, insurers and consumers as well as with regulators and government entities as engagement and work shifts between in-person and remote communication means.

In the realm of health coverage, the Committee on Insurance supported, and the Assembly passed, several bills to require, expand or clarify coverage for important screenings and procedures and to make affordable health insurance coverage more accessible for New Yorkers. Both houses advanced, and the Governor signed, an essential measure to require health insurers to provide coverage for colorectal cancer early detection in accordance with the American Cancer Society guidelines and federal requirements, as well as to require insurance carriers to notify enrollees of such coverage and screening guidelines. The Committee also advanced Chapter 143 of the Laws of 2022 to require health plans to provide policyholders with an explanation of their pharmacy benefits upon request. The Committee continued to support legislation to increase the availability of mental health services, including requiring insurers to reimburse mental health providers and licensed clinical social workers

in addition to psychiatrists and psychologists. This change will continue to serve the intent of Timothy's Law by making needed mental health services available to more patients.

The Insurance Committee and Legislature advanced robust legislation related to telehealth payments for health care providers, ensuring that physicians are appropriately compensated for remote services in the same manner as those delivered in-person, excluding administrative and facility fees. This language included an expiration sunset and mandated a study by the Department of Financial Services so that stakeholders may effectively examine and evaluate the costs and impacts of telemedicine on providers, insurers and consumers and determine the best payment parity options for this relatively new form of healthcare and ensure quality of care.

Reproductive healthcare services were also an area of focus for the Committee. The Committee advanced Chapter 221 of the Laws of 2022 to prohibit medical malpractice insurance companies from taking any adverse action against a reproductive health care provider who provides legal reproductive health care, including telemedicine.

In New York State, certain businesses which are engaged in writing immigration bonds participate in manipulative and fraudulent actions due to the lack of existing oversight. Both Houses passed, and the Governor signed, legislation to shed light on these companies by requiring greater transparency in contracts and curbing the abusive practice of charging immigration bond clients for their own electronic ankle monitors. The Committee also supported consumer protection measures such as prohibiting insurance companies from raising premiums on an insured due to a claim resulting from a hate crime (Chapter 676 of the Laws of 2022). Under present law, filing any kind of an insurance claim could result in premium adjustments, revictimizing those who suffered already. In some cases, victims of hate crimes are hesitant to report or file claims out of fear of premium increases. This measure will remove that barrier and provide protections for insureds from adverse action with regard to the premiums on their policies.

The 2022 session resulted in productive discussion and provided opportunities to engage with the consumers, advocates, regulators, and the insurance industry to assess the impacts of the COVID-19 pandemic on this state and identify necessary regulatory and legislative responses. I thank the members and staff of the Assembly Committee on Insurance for their great efforts during this past session and again thank you, Mr. Speaker, for your strong leadership, commitment to this legislative body and the people of New York State and for your faith in allowing me to serve in this important capacity.

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, Assistant Secretary for Program and Policy
Emily Vaculik, Associate Counsel
Cynthia Jacobson, Principal Analyst
Marc Thurston, Legislative Director
Julia Todaro, Program and Counsel Secretary

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▪ 2022 - 23 Budget ▪

The annual state fiscal negotiations offer critical opportunities for the Legislature and Executive to identify and examine legislative solutions to financial and statewide issues and concerns and to enhance consumer protections and access to essential services. The SFY 2022-23 Budget posed unique challenges and presented new opportunities that resulted in policies which prevent surprise hospital and medical bills, protect physicians and dentists operating in the state and preserve the transitional Entertainment Workers Healthcare Subsidy which provides affordable healthcare for workers in this important sector of the New York State economy, especially in the wake of the impacts from the lockdowns associated with the COVID-19 pandemic.

The Executive proposed to require commercial insurance coverage for pregnancy termination services without cost-sharing for the insured unless the insurance policy is from a high deductible health plan (which would then be subject to an annual deductible). This important measure will ensure that patients have affordable access to reproductive health services by mandating every policy which provides hospital, surgical or medical coverage and which offers maternity coverage to cover pregnancy termination procedures and services. Additionally, this measure ensures that group policies that provide hospital, surgical or medical expense coverage to a religious employer may only exclude coverage for pregnancy termination services if such insurer obtains an annual certification from the group policyholder that the policyholder is a religious employer and that the religious employer requests a contract without coverage for abortion and issues a rider to each certificate holder at no premium that provides coverage for abortions according to the same rules as applied to the same category of treatment. The rider shall clearly and conspicuously specify that the religious employer does not administer abortion benefits, but that the insurer is issuing a rider for coverage of abortion and shall provide the insurer's contact information for questions. The language was negotiated to align with A.7573 (Gonzalez-Rojas) and enacted in the final budget.

The Legislature proposed to modify the Executive's Budget Part associated with the Excess Medical Malpractice Program to reject the change to the payment structure from the monetary pool to insurers from one annual payment into two payments over two fiscal years. This program and fund have maintained access for physicians, surgeons, and dentists to excess coverage that is generally costly and all but required for doctors to operate in the State of New York since 1986. Modification of the program would have made coverage unaffordable for providers who are often serving the poor. The preservation of the Excess Medical Malpractice Program has long been championed by the Assembly and remained a priority during the SFY 2022-23 budget cycle. The Enacted Budget included the extension of the program in full force with funding as traditionally extended, without any changes to the payment methodology.

A proposal was presented by the Executive this year to require payment parity for telemedicine physicians. Telehealth has become increasingly popular with consumers, especially throughout the COVID-19 pandemic, as patients can receive medical opinions and care through electronic means without having to travel in-person to a physician's office. The Department of Financial Services (DFS) had provided guidance to health insurance plans related to telehealth reimbursement but confusion and pay disparities persisted without legislative and statutory requirements. The Assembly proposed to require telehealth services to be reimbursed in the same manner and at the same rate as services delivered in-person, while also requiring a legislative sunset on such provisions. Concerns persist that both providers and insurers will substitute in-person care with telehealth visits, even if a patient or diagnosis would direct otherwise. The proposal included a required study by the DFS and Department of Health to examine the results of this reimbursement methodology and data related to patient usage of telehealth, to be completed by the end of 2023. This language was negotiated and enacted in the final budget and will ensure that regulators and the Legislature have complete data and information on telemedicine utilization and reimbursement to ensure that appropriate payment is required for telehealth services.

▪HEALTH INSURANCE ▪

A. Care and Treatment of Medically Fragile Children

A.289-C Gottfried / S.2121-C Rivera

Chapter 816 of the Laws of 2022

This bill enhances certain clinical standards, procedure for internal and external reviews and utilization review requirements for medically fragile children, providing necessary assistance and protection for this very small and unique patient population which requires tailored care and treatment.

This bill was signed by the Governor.

B. Prior Authorization of Substance Use Disorder Medications

A.372 Rosenthal, L. / S.5690 Harckham

Chapter 734 of the Laws of 2022

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

This bill was signed by the Governor.

C. Coverage for PrEP and PEP for the Prevention of HIV

A.807 O'Donnell / S.688 Hoylman

Chapter 721 of the Laws of 2022

This measure requires health insurers that provide coverage for prescription drugs to provide coverage for pre-exposure prophylaxis (PrEP), for the prevention of HIV, and post-exposure prophylaxis (PEP) to prevent HIV infection.

This bill was signed by the Governor.

D. Coverage for Outpatient Treatment by Mental Health Practitioners

A.1171-A Bronson / S.6574-A Kennedy

Chapter 818 of the Laws of 2022

This clarifies or adds mental health counselors, marriage and family therapists, social workers, creative arts therapists and psychoanalysts to the list of mental health professionals which must be covered for group accident and health insurance.

This bill was signed by the Governor.

E. Application of Price Reduction Instruments by Health Insurers
A.1741-A Gottfried / S.5299-A Rivera
Chapter 736 of the Laws of 2022

This measure requires insurance companies or pharmacy benefit managers to apply price reduction instruments for out-of-pocket expenses when calculating an insured individual's cost-sharing requirement. Many drug manufacturers offer copay cards or other assistance to help pay for their prescription drugs. This measure eliminates the practice of shifting the cost towards patients as the insurance plans are essentially "double dipping" by requiring the patient to pay their normal copayment and still receiving a discount or coupon from the drug manufacturer, while taking longer to satisfy their deductible.

This bill was signed by the Governor.

F. Direct Payment for Ambulance Services
A.1309 Magnarelli / No Same-As

This bill requires insurance companies to pay ambulance companies who are out-of-network directly rather than giving the check to the insured for remittance in the amount of the usual and customary charge, when the insured has executed an assignment of benefits.

This bill was reported to Rules.

G. Coverage for Colorectal Cancer Early Detection Screenings
A.2085-A Dinowitz / S.906B Sanders
Chapter 739 of the Laws of 2022

This measure clarifies that health insurance providers must cover the cost of colonoscopy screenings in men and women aged 45 and older, codifying federal law.

This bill was signed by the Governor.

H. Alternate Contact Information for Victims of Domestic Violence
A.2519-A Cymbrowitz / S.7263-A Liu
Chapter 579 of the Laws of 2022

This law allows a domestic violence victim covered by a health insurance policy, where another person is the policyholder, to designate alternative contact information for the purpose of receiving insurance claim or billing information.

This bill was signed by the Governor.

I. Prohibition on Step Therapy for Mental Health Conditions
A.3276 Gunther / S.5909 Kaminsky

This legislation prohibits the application of fail-first or step therapy protocols to coverage for the diagnosis and treatment of mental health conditions. "Fail-first" or "step therapy" protocols imposed by insurers obligate patients to try a less costly treatment than what might be prescribed by their provider, and "fail first" with such treatment before the insurer will cover the more costly treatment. Often this requires patients to take medications that they have tried previously without success, wait months for approval to switch to another option after failing with a given drug, or suffer adverse effects from a drug they did not want to take. This practice exacerbates existing issues related to behavioral health and healthcare services.

This bill was vetoed by the Governor.

J. Patient Rx Information and Choice Expansion Act
A.5411-D McDonald / S.4620-C Breslin
Chapter 826 of the Laws of 2022

This measure requires real-time, patient specific, prescription drug out-of-pocket cost details to be provided to the patient along with the prescription, which will enable all patients to better understand what their costs will be and will provide greater transparency overall. The real time benefit tool provides a proactive look at which medications need prior approval. It will allow an alternative prescription or will alert the provider of the need for and a process to expedite the steps to acquire prior approval.

This bill was signed by the Governor.

K. Additional Prescription Fills During State Disaster Emergencies
A.7469 Cruz / S.4856 Reichlin-Melnick
Chapter 793 of the Laws of 2022

This measure would require insurers to establish a process to allow insureds (or the insured's healthcare provider) to immediately obtain an additional 30-day supply fill of their current prescriptions upon a declaration of a state of emergency. Under this bill, the Commissioner of Health would be required to promulgate a list of prescription drugs that would not be subject to such additional fills, which would include all Schedule II and Schedule III controlled substances. The bill would provide essential access for consumers to prescription drugs as such a state of emergency and national crisis can result in prescription supply chain shortages and interruptions in

provisions of prescriptions. Under current law, such shortages and interruptions force consumers to ration or go without the medications on which they depend.

This bill was signed by the Governor.

L. *Behavioral Health Parity Compliance*
A.7704-A Fernandez / No Same-As

This measure would refine the requirements for coverage of mental health and substance use disorder services to promote insurer compliance with New York State parity and prompt payment laws specifically related to behavioral health and the authorization for certain drugs for the detoxification or maintenance of a substance use disorder.

This bill passed the Assembly.

M. *HEAL Act*
A.8169-A Cruz / S.7199-A Gounardes
Chapter 665 of the Laws of 2022

This legislation would prohibit insurers from entering into contracts with certain anti-competitive clauses, such as “most-favored-nation” provisions. The bill would also require insurers to disclose the price information regarding negotiated rates and other discounts with health care providers.

This bill was signed by the Governor.

N. *Coverage for Chest Wall Reconstruction Procedures*
A.8537 Pheffer Amato / S.7881 Stavisky
Chapter 571 of the Laws of 2022

This legislation requires commercial insurance coverage of chest wall reconstruction surgery, in addition to breast reconstruction surgery, after a mastectomy or partial mastectomy. This includes aesthetic flat closure, a type of chest wall reconstruction defined by the National Cancer Institute. Additionally, the bill requires chest wall reconstructive information to be provide to a patient in a written summary of services, as determined and approved by the Commissioner of Health before the patient chooses their surgery option.

This bill was signed by the Governor.

O. *Coverage for Lactation Consultation Services*
A.8653 Jackson / S.8239 Salazar

This measure would stipulate that lactation consultant services are a covered benefit and define "lactation consultant" as a professionally certified counselor who evaluates and manages lactation and infant feeding problems and who provides preventive clinical consulting. Under the Affordable Care Act (ACA), health plans must provide breastfeeding support, counseling, and equipment for the duration of breastfeeding.

This benefit is already required to be covered by plans but concerns were raised as insurers have interpreted the vague language under the ACA to deny or limit coverage for lactation consultations. Some plans only cover breastfeeding help in the hospital, for instance, or limit mothers to a single appointment. This bill would address concerns by codifying this required coverage in statute and ensuring patients in this state can receive lactation consultant services pre- and post-partum.

This bill passed the Assembly.

*P. Mid-Year Formulary Changes
A.8697 Peoples-Stokes / S.7767 Breslin
Chapter 99 of the Laws of 2022*

This chapter amendment clarified Chapter 780 of the Laws of 2021 to provide that insurer shall not remove a prescription drug from a formulary or move a prescription drug to a tier with a larger deductible, copayment or coinsurance if the formulary includes two or more tiers of benefits providing for different cost-sharing requirements applicable to the prescription drugs in each tier. In addition, this bill prevents insurers from adding utilization management restrictions to a drug on a formulary unless such changes occur at the time of enrollment, issuance or removal of coverage.

This measure allows insurers with a formulary that includes two or more tiers of benefits providing for different deductibles, copayments, or coinsurance applicable to prescription drugs in each tier to move a prescription drug to a tier with a larger deductible, copayment, or coinsurance only if a generic equivalent or interchangeable biological product for such prescription drug is added to the formulary at the same time. Further, insurers may remove a drug from a formulary if the Federal Food and Drug Administration (FDA) determines that such prescription drug should be removed from the market.

Finally, the chapter provides that an insurer with a formulary that includes two or more tiers of benefits providing for different copayments may move a drug to a tier with a larger copayment during the plan year, provided that the change is not applicable to an insured who is already receiving such prescription drug or has been diagnosed or presented with a condition on or prior to the start of the plan year that

is treated by such prescription drug or is a medication that would be part of the insured's treatment regimen for such condition. Insurers removing a drug from the formulary or adjusting cost-sharing for any drug would be required to provide notice to insureds 90 days prior to the start of the plan year.

This bill was signed by the Governor.

*Q. Explanation of Pharmacy Benefits
A.8713 McDonald / S.7692 Breslin
Chapter 143 of the Laws of 2022*

This chapter amendment clarified Chapter 678 of the Laws of 2021 to provide that an explanation of pharmaceutical benefits by an insurer shall be satisfied by either a quarterly written summary of the information or by making such information available electronically upon the consent of the insured. The underlying chapter requires health plans to provide insureds with an explanation of their pharmaceutical benefits, similar to the explanation of medical/hospital benefits they routinely receive. This chapter amendment clarified the requirements for this kind of explanation of benefits to align with those for medical/hospital benefits.

This bill was signed by the Governor.

*R. Protections for Reproductive Healthcare Service Providers
A.9718-B Rosenthal, L. / S.9080-B Hinchey
Chapter 221 of the Laws of 2022*

This legislation prohibits medical malpractice insurance companies from taking any adverse action against an abortion or reproductive health care provider who performs an abortion or provides reproductive health care service which is legal in New York to out-of-state patients.

This bill was signed by the Governor.

*S. Exemptions from Certain Medical Malpractice Requirements
A.10227 Cahill / S.8902 Breslin
Chapter 637 of the Laws of 2022*

This legislation would extend provisions of the Insurance Law into 2025 to exempt medical malpractice insurers from certain risk-based capital requirements. The bill also would extend until December 31, 2025 the prohibition on making an application for an order of rehabilitation or liquidation of a domestic insurer on the grounds that the insurer is insolvent or has failed or refused to comply with an order of the Superintendent of Financial Services to make good an impairment of its capital or

minimum surplus to policyholders, when the insurer's primary liability arises from the business of medical malpractice insurance.

This bill was signed by the Governor.

T. *Insulin Price Study*

A.10475 Niou / No Same-As

This measure would require the Superintendent of Financial Services to refer insulin medication to the department's Drug Accountability Board (DAB) to examine price increases and consumer impacts, including the effects of the NYS cap on cost-sharing at \$100 per 30-day supply. The DAB would be required to report its findings and the Superintendent would prepare a report, due to the Governor and Legislature within 12 months of the effective date.

This bill passed the Assembly.

▪ **PROPERTY / CASUALTY INSURANCE** ▪

A. Study on Business Interruption Insurance Coverage

A.41 Cahill / No Same-As

This bill directs the Department of Financial Services to study and report upon the adequacy and affordability of business interruption insurance coverage for pandemics, viruses, and other public health emergencies.

The report would examine the present state of the marketplace for pandemic-related insurance for business interruption policies. It would also examine the prevailing reasons for the denial of insurance coverage for business interruption policies for pandemics, viruses, infectious diseases and other common exclusions; the general appropriateness, significance and credibility of rating variables used to determine premiums and the cost of risks covered by business interruption insurance policies. The study would also provide an analysis of the necessity and role of federal intervention to ensure business interruption insurance for pandemic-related events, including proposed legislation; the overall immediate and long-term costs to insurers and insureds for business interruption insurance coverage for pandemic-related events, including the potential need for any public subsidies; and the extent to which exclusions and uninsurable events are appropriately and unambiguously disclosed to policyholders. DFS would be required to make recommendations to promote coverage for business interruption insurance policies that cover pandemic-related events within 180 days of the enactment of the bill.

This bill was reported to Ways and Means.

B. Anti-Arson

A.603 Rosenthal, D. / S.2627 Sanders

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

This bill passed the Assembly.

C. Hurricane Windstorm Deductibles

A.950-C Pheffer Amato / S.6407-B Sanders

This measure would require 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 passed the Assembly.

D. Prompt Investigation and Settlement of Claims

A.2236 Stern / S.6595 Skoufis

This bill would require 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 timeframes and standards promulgated by the Superintendent of the DFS. It would require that within fifteen business days of receiving all evidentiary 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 a claim by an insurer would be permissible. Any claim would have to be paid no later than three business days from settlement.

This bill passed the Assembly.

E. Flood Insurance Annual Notice

A. 6367 Barclay / S.1872 Ritchie

This measure would require the Department of Financial Services to post a statement related to flood insurance and contact information in newspapers that serve communities bordering Lake Ontario.

This bill passed the Assembly.

F. Lead Paint Exclusion

A.7488-A Rivera, J.D. / S.3079-A Ryan

This legislation would prohibit 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 bill's 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.

G. Electronic Delivery of Property/Casualty Notices

A.8725 Rosenthal, D. / S.7797 Sanders

Chapter 161 of the Laws of 2022

This chapter amendment clarified Chapter 761 of the Laws of 2021 related to the electronic delivery of property and casualty notices and documents. This law defines

what constitutes “property/casualty insurance” and provides that where this chapter requires notice be mailed or delivered to an address shown in the policy, the notice may be delivered by electronic means to an electronic address not specified in the policy under specific circumstances. Before a notice may be delivered by electronic means, an insurer must obtain a party's consent to deliver that kind of notice or document electronically. The consent by a party to receive one type of notice would not be construed as a blanket consent for every kind of notice and document to be delivered by electronic means. Under this bill, a party's consent only applies to the specific types of notices identified in the clear and conspicuous information statement provided to the party prior to giving consent.

This bill was signed by the Governor.

H. *Affordable Housing Insurance Study*
A.8760 Cymbrowitz / S.7782 Kavanaugh
Chapter 158 of the Laws of 2022

This chapter amendment clarified Chapter 790 of the Laws of 2021 by specifying the types of insurance to be studied by the Department of Financial Services and the Division of Housing and Community Renewal in their evaluation of insurance availability for affordable housing. This includes liability, fire, and casualty insurance. Further, the bill adjusted the timeframe for submission of the report from eight months succeeding enactment to eleven months succeeding enactment.

This bill was signed by the Governor.

I. *Dog Breed Discrimination in Homeowner's Insurance*
A.9284-A Glick / S.8315-A Gianaris
Chapter 679 of the Laws of 2022

This legislation prohibits insurers from excluding, limiting or otherwise restricting coverage on homeowners' insurance policies based solely on the insured harboring or owning a specific breed of dog. Chapter 545 of the Laws of 2021 prohibited insurers from refusing to issue or renew, cancel or charge or impose an increased premium for homeowners' insurance policies based solely on the breed of dog. The language of this new legislation was negotiated to prevent insurance from taking any other adverse action purely as a result of the dog breed.

This bill was signed by the Governor.

▪ **AUTO INSURANCE** ▪

A. Repeal of No-Fault Insurance Law

A.101 Cahill / No Same As

This bill would repeal all provisions related to no-fault insurance five years after the effective date. It would require the Superintendent of DFS to review and recommend to the Governor, the Temporary President of the Senate and the Speaker of the Assembly any other provisions of law which require amendments or repeal.

This bill was reported to Codes.

B. Renewal Auto Insurance

A.189 Perry / S.5664 Comrie

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's enacting clause was stricken on Third Reading.

C. Public Auto Insurance Claims Oversight

A.537 Cahill / No Same-As

This bill would amend the no-fault insurance statute to increase consumer protections and provide more authority to the Department of Financial Services in investigating and enforcing violations. The bill would: allow claimants the option of designating a second name and address for delivery on requests for information and examinations; allow claimants to group disputes arising from the same occurrence into a single arbitration; expand the definition of an 'expedited eligibility hearing' to include disputes related to a provider's ineligibility for reimbursement and remove the collateral estoppel bar from the law. It would also adjust the definition of "provider" to include both the claimant's doctors and doctors hired by insurers to perform medical examinations or document review; expand the circumstances where the Superintendent can decertify a fraudulently-acting doctor. The measure would include providers of health services demanding payment for services rendered under no-fault to the lists of persons to whom the Superintendent may address an inquiry in relation to insurance transactions or conditions and establish the Office of the Public Auto Insurance Consumer Advocate to educate consumers on motor vehicle insurance, aid in filing complaints and intervene in proceedings on behalf of consumers. The advocate would be appointed by the Governor and would serve for two-year periods.

This bill was reported to Ways and Means.

D. Supplemental Spousal Liability Coverage

A.1029 Cahill / S.9367 Breslin

Chapter 735 of the Laws of 2022

This legislation would require all auto insurance policies to include supplemental spousal liability insurance coverage equal to the insured's bodily injury liability insurance coverage unless the insured declines such spousal insurance with a written waiver.

This bill was signed by the Governor.

E. Driving History Verification

A.1809 Cahill / No Same As

This legislation would require insurance companies to check the driving history of a person before binding insurance to prevent the issuance of “bait and switch” low-priced policies. Requiring all carriers to run motor vehicle reports prior to binding coverage would guarantee that the consumer receives a fair and accurate quote prior to committing to the expense.

This bill was advanced to the Third Reading Calendar.

F. Study on Minimum Coverage for Non-Commercial Auto Insurance

A.2618 Hyndman / S.499 Breslin

This legislation would require the Department of Financial Services to issue a report to the Legislature stating whether and to what extent minimum coverages for auto liability, uninsured motorist and no-fault should be increased and the potential impact on premiums. The bill does not require such coverages to be increased or adjusted by the DFS.

This bill was reported to Ways and Means.

G. Commuter Van and Paratransit Vehicle Classification Review

A.4535-A Cook / S.4155-A Comrie

This legislation would require the Superintendent of Financial Services to conduct a review of the classification used by authorized insurers issuing auto insurance coverage to commuter vans, ambulettes and paratransit vehicles.

This review would include an evaluation of whether the assumed risks used in the calculation of premiums for commuter vans by insurers are appropriate; whether the current classification and risk assessment of commuter vans by insurers is the most cost-effective classification based on the assumed risks and if another classification could be more cost effective. It would also include a detailed analysis of the reasons for such differences in costs and the average amount of difference in costs and the cost differential between the premium for being classified as "other buses" by insurers and the premium for being classified as a commuter van where such premium is based solely on the risks specific to commuter vans in such plan. The bill would require the Superintendent of DFS to decide whether a new classification for commuter vans should be created and if so, it would require insurers to use that new classification. The bill further would require the Superintendent to complete the review within 90 days of the effective date and submit a report of the Superintendent's findings and determinations to the Governor, the Legislature and the Chairs of the Senate and Assembly Insurance Committees within 60 days of completing such review.

This bill was vetoed by the Governor.

H. Automobile Physical Damage Inspections

A.6877 Zebrowski / S.6028 Breslin

This legislation would authorize insurers that offer coverage for motor vehicles to dispense with or defer the physical photo inspections required prior to issuing physical damage coverage for private passenger automobiles.

This bill was vetoed by the Governor.

I. Peer-to-Peer Car Sharing

A.8828 Cahill / S.7838 Breslin

Chapter 129 of the Laws of 2022

This chapter amendment clarified Chapter 795 of the Laws of 2021, the Peer-to-Peer Car Sharing Program Act. The language included technical changes, as well as amendments to the Insurance Law to ensure continuity of coverage in the event of damages or loss during the peer-to-peer car share period. Additionally, changes were made to the tax law related to assessments on gross receipts as well as to the Metropolitan Commuter District Tax and the Regional Transportation Tax. The underlying chapter set these rates at two percent while this legislation raised them to three percent.

This bill was signed by the Governor.

*J. Commuter Van Captive Insurance
A.10072 Dickens / S.8255 Parker*

This legislation would authorize the Superintendent of Financial Services to establish and implement a captive insurance program for commuter vans. Under this bill, such program would require DFS to identify and license a captive insurance company or companies to provide necessary insurance coverage for these vehicles. The program would include standards for enrollment of eligible commuter vans, including mechanisms for determining eligibility as well as standards for monitoring the performance of such captive in providing affordable coverage to participating vans.

This bill was advanced to the Third Reading Calendar.

*K. Commuter Van Safety
A.10222 Cahill / No Same-As*

This measure would require commuter vans to maintain a bond or insurance policy with a combined single limit of at least \$1.5 million for bodily injury or death to one or more persons and because of injury to or destruction of property in any one accident. Under this legislation, commuter vans would also be required to make safety updates, including maintenance of a fully operational brake and seat belt system, installation and maintenance of alarm systems and cameras, and use of personal and vehicle tracking devices. These safety requirements are consistent with those of transportation network companies' vehicles in New York City. Given the high-risk nature of these vehicles, specifically their large seating capacity and the costs of business compared to the cost of insurance premiums, it is essential that passengers and drivers are appropriately protected in the event of loss or damage because of a commuter van accident. The current \$500,000 minimum does not provide adequate coverage and protections for these businesses, potentially jeopardizing the health and safety of passengers and drivers and discouraging use of this type of transportation.

This bill passed the Assembly.

▪ LIFE INSURANCE ▪

A. Life Insurance Nonforfeiture Requirements

*A.7699 Hunter / S.6666 Breslin
Chapter 443 of the Laws of 2022*

This bill modifies the interest rate requirement for paid up life insurance from a statutory four percent to not less than the lesser of four percent and the nonforfeiture interest rate per annum minus 0.1 percent. The nonforfeiture law requires companies to provide a minimum value to policyholders upon surrender of a permanent life insurance policy. This includes a lump-sum cash surrender value and extended term insurance. One of the options required in statute is to provide reduced paid-up life insurance, in which the coverage is kept for life at a reduced face amount, funded by the nonforfeiture value of the policy, without requiring any future premium payments from the policy holder.

Current statute requires no lower than a four percent interest rate be used even though insurers in this state can no longer guarantee the nonforfeiture value at such a rate, thereby resulting in insurers discontinuing the offering of a full array of life insurance products in New York. This measure, crafted in collaboration with the Department of Financial Services, preserves consumer choice and ensures that life insurers will continue to have a strong incentive to offer the best rate of return possible as a means to attract consumers in the highly competitive marketplace for life insurance and, as such, when interest rates rise, life insurers will respond and increase the rates of return they offer to ensure the product remain an attractive option in which consumers may choose to invest.

This bill was signed by the Governor.

B. Wellness Programs for Life Insurance Policies

A.8617 Meeks / S.4329 Breslin

This legislation would expressly permit life insurers, upon the consent of the insured, to establish wellness programs in conjunction with the issuance of life insurance policies. It would also establish requirements for insurers. The bill makes corresponding changes to the categories of permissible rewards and incentives associated with the wellness programs, including premium refunds, discounts, credit, discounts on products or services intended to identify behavioral changes that improve health or reduce the risk of death and full or partial reimbursement of the cost of a device and any associated subscription membership that can be used to track physical activity and biometric data. The programs under this bill must be voluntary on the part of the insured.

This bill was vetoed by the Governor.

C. Participating Deferred Income Annuities
A.9128-A Stern / S.7744-A Breslin
Chapter 832 of the Laws of 2022

This legislation would ensure that consumers have access to the full array of annuity products, specifically participating deferred income annuities ("Par DIAs"). Deferred income annuities allow individuals to create an income stream on which they can depend, beginning as early as 13 months from the date of issue or further into the future. The steady periodic payouts that deferred income annuities provide can help individuals maintain their lifestyle after they retire. An income annuity provides stable lifetime income which can never be outlived, or which may be guaranteed for a specified period. This is important to individuals who are concerned about outliving their savings. Income guarantees are backed by assets of the insurer and not subject to the fluctuations of financial markets.

Currently, Par DIAs are not authorized in New York because they cannot meet the betterment of rates standard of New York Insurance Law. The betterment of rates require that an annuitant receives the best guaranteed income rate that an insurer offers to that class of annuitants at the time annuity income starts. Because Par DIAs pay dividends, guaranteed income rates are set at a lower rate than guaranteed income for traditional income annuities, which do not pay dividends. As a result of these lower guarantees, Par DIAs cannot meet the current betterment of rates standard. Under this bill, whether the contract is participating or fully guaranteed, at the time a contribution is paid into the contract, including the purchase of paid-up additions with dividends, the current purchase rates for new sales of that contract would be used if higher than the guaranteed rates when the contract was issued. This ensures that the contract holder will receive the best guaranteed income rate the insurer offers for comparable contracts to that class of annuitants and a contract holder wanting to make additional contributions will not have to purchase multiple copies of the same contract in order to get the current purchase rates.

This bill was signed by the Governor.

▪ MISCELLANEOUS ▪

A. Potential Insured Policy Review

A.599 Cahill / S.503 Breslin

This bill would require insurers and producers to provide potential insureds with copies of homeowners and certain commercial insurance policies prior to the policy being purchased.

This bill was advanced to the Third Reading Calendar.

B. Office of Insurance Consumer Advocate

A.1208 Cahill / S.5208 Parker

This legislation would establish the Office of Insurance Consumer Advocate within the Department of Financial Services. The Consumer Advocate would review rate applications, participate and represent consumers in public hearings. The Advocate would also review and recommend legislation related to improving the insurance process for consumers. This new office would be funded through assessments on insurers.

This bill passed the Assembly.

C. Prohibition on Insurer Demands for Intrusive Information

A.2254 Dinowitz / No Same-As

This measure would establish that it shall be an unfair claim settlement practice for an insurer to demand personal, financial and tax information while investigating a theft claim. The legislation would allow insurers to request personal, financial, and tax information if special articulable circumstances exist which directly relates to the particular, individual facts of such theft and which warrant the making of such demand for the specific purpose of determining if such claim is fraudulent.

This bill was reported to Rules.

D. Federal Home Loan Banks

A.3573 Cymbrowitz / S.4282 Breslin

This bill would require that Federal Home Loan Bank (FHLB) receivers shall not void a transfer of money or other property, arising in connection with a federal home loan bank security agreement made before any formal proceedings and in compliance with the security agreement, unless such transfer was made with the intent to hinder, delay or defraud the insurer-member, a receiver appointed for the insurer-member or existing/future creditors. It would also require that receivers shall not void a

redemption or repurchase of any stock or equity securities which were made by the Federal Home Loan Bank within four months of a formal commencement of delinquency proceedings.

This bill passed the Assembly.

E. Regulation of Immigration Bail Bond Businesses

A.7770-C Epstein / S.7475-B Bailey

Chapter 673 of the Laws of 2022

This legislation would define “immigration bail business” and provides for increased oversight for the Department of Financial Services over immigrant bail bond services in New York State. The bill would prohibit immigration bond businesses from requiring electronic monitoring as a condition of an immigration bail and require immigration bond companies to disclose the sources of funding for lawyers to which they refer immigration bail clients and inform immigration bail clients that they have a right to choose their own legal counsel.

This bill was signed by the Governor.

F. Civil Cause of Action for Unfair Claims Settlement Practices

A.7285A Weinstein / S.6813A Ramos

This bill would provide for a civil cause of action for unfair claims settlement practices. The legislation differs from the action available to DFS under Article 26 currently insofar as DFS must show a pattern of behavior to establish that the action is in fact a business practice. Under this bill, a policyholder could sue an insurer if the insurer failed to provide accurate information; failed to effectuate prompt and fair settlement or reasonably accord at least equal or more favorable consideration to the insured's interests; failed to provide timely written denial; failed to make a final determination within six months; failed to act in good faith by compelling the policyholder to institute suit to recover amounts due by offering substantially less than the amount ultimately recovered. Additional grounds would exist if the insurer failed to advise the policyholder that a claim may exceed policy limits, that they may retain independent counsel or that the insurer has a conflict of interest; failed to pay a claim without conducting a reasonable investigation; excluded a known attorney of the policyholder out of settlement negotiations by directly settling with the insured; or violated any provisions of the Unfair Claims Settlement Act.

This bill was advanced to Third Reading Calendar.

G. New York Power Authority Captive Insurance

A.7987 Cusick / S.7087-A Parker

Chapter 193 of the Laws of 2022

This law authorizes the New York State Power Authority (NYPA) to create a pure captive insurance company to manage risk and provide related tax exemptions that currently apply to the Metropolitan Transportation Authority and New York City. This measure requires NYPA to give notice of any application to form a captive to the Governor and legislative leaders. The bill exempts a captive insurance company formed by NYPA from payment of certain fees, taxes or assessments to the Department of Financial Services to which other kinds of insurance companies are subject.

This bill was signed by the Governor.

H. Multiple Rating Program Authorization

A.8306 Cahill / S.3572 Breslin

Chapter 194 of the Laws of 2022

This legislation authorizes property/casualty insurers to make available multiple rating programs within the same company for commercial lines insurance in the voluntary market. Currently, if an insurance company desires to have more than one rating plan for commercial lines insurance, they would be required to establish a separate subsidiary or affiliate company for the primary purpose of offering a new rating plan. This legislation will assure that in-state insurers remain competitive so that they may develop new rating plans which introduce different elements allowing insurers to better segment and price business as well as streamline the administration of coverage and policies.

Under current law, insurers writing personal lines must receive prior approval from the Department of Financial Services in developing a new rating plan, which would only be provided to new business customers. This new legislation applies solely to commercial lines.

This bill was signed by the Governor.

I. Standardized Insurance Terms

A.8637 Cahill / S.3767 Breslin

This bill would require the Superintendent of Financial Services, within six months of the effective date of this bill, to promulgate regulations which provide standardized definitions for commonly used terms and phrases found in homeowners' policies and

commercial lines policies that provide coverage for loss or damage to real property, personal property or other liabilities.

This bill advanced to the Third Reading Calendar.

J. Short-term Insurance Policies
A.8698 Hunter / S.7768 Breslin
Chapter 23 of the Laws of 2022

This chapter amendment clarified Chapter 679 of the Laws of 2021 to allow for liability insurance policies of less than one year, provided that the insurer also offers the insured the option of purchasing a policy with a term of one year and adheres to other requirements to ensure that such policy is actuarially sound and that the insured is appropriately notified.

This bill was signed by the Governor.

K. Return of Municipal Reciprocal Insurer Subscriber Reserves
A.8712 McDonald / S.7704 Breslin
Chapter 148 of the Laws of 2022

This chapter amendment further clarified Chapter 649 of the Laws of 2021 to provide that the Superintendent of Financial Services may authorize the return of subscribing member operating reserve balances to members of a municipal insurance reciprocal upon such insurer's demonstration that it will retain sufficient surplus to support its obligations and writings.

This bill was signed by the Governor.

L. Protections for Insured Victims of Hate Crimes
A.8869-B Eichenstein / S.7658-B Kaplan
Chapter 676 of the Laws of 2022

This bill would prohibit the cancellation or increase in cost of an insurance policy if the individual was the victim of a hate crime. The bill defines "insured" as an individual, religious organization, educational organization, or any other nonprofit organization that is organized and operated for religious, charitable, or educational purposes. Under the bill, insurers are prohibited from cancelling a policy, refusing to issue or renew a policy or increasing premiums on a policy solely on the basis that one or more claims have been made against any policy during the preceding 60 months for a loss that is the result of a hate crime. The victimized insured would be required to provide evidence to the insurer that the act that caused loss or damage is defined as a hate crime.

This bill was signed by the Governor.

M. Simplification of Excess Line Affidavit Requirements

A.9088 Hunter / S.8127 Breslin

Chapter 833 of the Laws of 2022

This legislation would streamline affidavits for declinations that are filed by both retail and wholesale insurance brokers when placing excess line transactions. Currently, three declinations are necessary for placing coverage with a non-admitted carrier unless the Department of Financial Services finds some other number is appropriate and only applicable to specific coverages. This bill would remove the decline date, reason for decline, and the name and affiliation of the declining company representative from the affidavit. The bill would provide that the affidavit must include only the name and NAIC code of each insurer declining the risk and the information relied upon to constitute the "reason to believe" that such insurer may have considered underwriting the risk.

This bill was signed by the Governor.

N. Technical Updates to the Insurance Law

A.10229 Niou / S.9344 Cleare

Chapter 435 of the Laws of 2022

This law made technical changes and updates throughout the Insurance Law, specifically related to grammatical clean-up, updating references to the Financial Services Law and eliminating gender-based terminology related to the Superintendent of Financial Services.

This bill was signed by the Governor.

▪ OUTLOOK FOR 2023 ▪

Looking forward into the 2023 session, it is our hope that the Assembly Committee on Insurance will continue to advance legislation to remove barriers for consumers to access affordable healthcare, strengthen protections for insureds and providers and lower the cost of coverage in the state. This includes modernization of existing systems and the continued efforts to comprehensively change the way healthcare and health insurance is provided in New York State.

The COVID-19 pandemic continues to impact areas of concern for the Committee. The Committee remains focused on evaluating the industry's response to this ongoing crisis as well as using knowledge gathered throughout this public health crisis to better prepare for future emergencies.

In recent years, climate change has brought on an increase of extreme weather emergencies to the State. With increased frequency and impact of storms comes an increase in property damage and property damage claims. Massive storms and hurricanes have inflicted lasting damage on communities, businesses, and homeowners. The Committee will undoubtedly continue to review legislation to ensure the protection of New Yorkers from unforeseen catastrophic events and engage with consumers, insurers, and regulators to learn from past experiences and proactively prepare for future events.

Examining the use of certain socioeconomic information in measuring risks and assessing rates continues to be an important area of study. Specifically, the use of credit scores as a factor to deny coverage for an individual's automobile policy should be examined. This issue was repeatedly raised during the Committee's annual hearing and the Committee should continue to engage in discussions with the industry and consumers on the potential impacts of these factors on rates.

Commuter vans are a low-cost form of transportation, operating mostly in parts of New York City where public transportation is not fully available, often in low-income neighborhoods where private personal transportation is not an option. The many issues surrounding these services warrants significant additional study and attention. The availability, affordability and adequacy of required insurance coverage needs to be resolved if this reasonably priced alternative to public transportation is to remain available in so-called "transit deserts". Paramount is the protection of passengers through adequate coverage and vehicle and driver safety improvements. Given the high-risk nature of these vehicles, including their large seating capacity and the costs of business compared to the cost of insurance premiums, it is essential that passengers and drivers are appropriately protected in the event of loss or damage as a result of a commuter van accident.

The Committee will surely remain committed to providing affordable and accessible health insurance coverage to all New Yorkers. Telehealth, which became increasingly popular with patients, providers and insurers alike during the pandemic should remain a key area of focus for the Committee. Special attention should be paid to assure that patients are not inappropriately steered into telehealth when in-person visits are more medically appropriate or convenient for the insured.

These and many other areas of interest will surely provide the next chair and members of the Assembly Committee on Insurance with an ample workload.

**APPENDIX A
2022 SUMMARY SHEET**

SUMMARY OF ACTION ON ALL BILLS
REFERRED TO THE COMMITTEE ON

Insurance

TOTAL NUMBER OF COMMITTEE MEETINGS HELD 6

BILLS REPORTED FAVORABLE TO:

	<u>Assembly Bills</u>	<u>Senate Bills</u>	<u>Total Bills</u>
Codes	4	0	4
Judiciary	0	0	0
Ways and Means	5	0	5
Rules	7	0	7
Floor	18	0	18
TOTAL	34	0	34

COMMITTEE ACTION

Held for Consideration	9	0	9
Defeated	0	0	0
Enacting Clause Stricken	8	0	8
REMAINING IN COMMITTEE	256	20	276

BILLS REFERENCE CHANGED TO:

Ways and Means

TOTAL	5	0	5
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**APPENDIX B
CHAPTERS OF 2022**

Bill/ Sponsor	Description	Final Action
A.289-C/Gottfried S.2121-C/Rivera	Would enhance certain clinical standards, procedure for internal and external reviews and utilization review requirements for medically fragile children.	Chapter 816 of the Laws of 2022
A.372/ Rosenthal, L. S.5690/Harckham	Would limit the imposition of co-payments for treatment at an opioid treatment program.	Chapter 734 of the Laws of 2022
A.807/ O'Donnell S.688/Hoylman	Would require insurance coverage for pre-exposure prophylaxis (PrEP) and post-exposure prophylaxis (PEP) to prevent HIV infection.	Chapter 721 of the Laws of 2022
A.1029/Cahill S.9367/Breslin	Would provide that all auto insurance policies must include supplemental spousal liability insurance coverage equal to the insured's bodily injury liability insurance coverage unless the insured declines such spousal insurance with a written waiver.	Chapter 735 of the Laws of 2022
A.1171-A/Bronson S.6574-A/Kennedy	Would add mental health counselors, marriage and family therapists, social workers, creative arts therapists and psychoanalysts to the list of mental health professionals which must be covered for group accident and health insurance.	Chapter 818 of the Laws of 2022
A.1741-A/ Gottfried S.5299-A/Rivera	Would require insurance companies or pharmacy benefit managers to apply price reduction instruments for out-of-pocket expenses when calculating an insured individual's cost-sharing requirement.	Chapter 736 of the Laws of 2022
A.2085-A/Dinowitz S.906-B/Sanders	Would require health insurance providers to cover the costs of colorectal cancer screenings for men and women age 45 and older.	Chapter 739 of the Laws of 2022
A.2519-A/Cymbrowitz S.7263-A/Liu	Would allow a domestic violence victim covered by a health insurance policy, where another person is the policyholder, to designate alternative contact information for the purpose of receiving insurance claim or billing information.	Chapter 579 of the Laws of 2022
A.5411-D/McDonald S.4620-C/Breslin	Would require real-time, patient specific, prescription drug out-of-pocket cost details to be provided at the point of prescribing which will enable all patients a better understanding of what the out-of-pocket costs will be for their medications and greater transparency overall.	Chapter 826 of the Laws of 2022

A.7469-A/Cruz S.4856/Reichlin-Melnick	Would require insurers in the state that provide prescription drug coverage to establish a process to allow insureds (or the insured's healthcare provider) to immediately obtain an additional 30-day supply fill of their current prescriptions upon declaration of a state of emergency.	Chapter 793 of the Laws of 2022
A.7699/Hunter S.6666/Breslin	Would modify the interest rate requirement for paid up life insurance from a hard coded four percent to an index of not less than the lesser of four percent and the nonforfeiture interest rate per annum minus 0.1 percent. This change ensures that life insurance companies can guarantee the nonforfeiture rate if a policyholder decides to terminate their life policy.	Chapter 443 of the Laws of 2022
A.7770-C/Epstein S.7475-B/Bailey	Would define "immigration bail business" and provides for increased oversight for the Department of Financial Services over immigrant bail bond services in New York State. This measure would also prohibit immigration bond businesses from requiring electronic monitoring as a condition of an immigration bail and would require immigration bond companies to disclose the sources of funding for lawyers to which they refer immigration bail clients and inform immigration bail clients that they have a right to choose their own legal counsel.	Chapter 673 of the Laws of 2022
A.7987/Cusick S.7087-A/Parker	Would authorize the New York State Power Authority (NYPA) to create a pure captive insurance company.	Chapter 193 of the Laws of 2022
A.8169-A/Cruz S.7199-A/Gournades	Would prohibit insurers from entering into contracts with certain anti-competitive clauses, such as "most-favored-nation" provisions. The bill also requires insurers to disclose price and quality information regarding negotiated rates and other discounts with health care providers.	Chapter 665 of the Laws of 2022
A.8306/Cahill S.3572/Breslin	Would authorize property/casualty insurers to make available multiple rating programs within the same company for commercial lines insurance in the voluntary market.	Chapter 194 of the Laws of 2022
A.8537/Pheffer Amato S. 7881/Stavisky	Would require commercial insurance coverage of chest wall reconstruction surgery, in addition to breast reconstruction surgery, after a mastectomy or partial mastectomy. This includes aesthetic flat closure, a type of chest wall reconstruction, as defined by the National Cancer Institute. The bill	Chapter 571 of the Laws of 2022

	requires the inclusion of chest wall reconstructive information in a written summary of services, as determined and approved by the Commissioner of Health.	
A.8697/ Peoples-Stokes S.7767/ Breslin	Would provide that insurers shall not: remove a prescription drug from a formulary; move a prescription drug to a tier with a larger deductible, copayment or coinsurance if the formulary includes two or more tiers of benefits providing for different deductibles, copayments or coinsurance applicable to the prescription drugs in each tier or add utilization management restrictions to a drug on a formulary unless such changes occur at the time of enrollment, issuance or removal of coverage.	Chapter 99 of the Laws of 2022
A.8698/Hunter S.7768/ Breslin	Would allow for certain liability insurance policies of less than one year, provided that the insurer also offers the insured the option of purchasing a policy with a term of one year and adheres to other requirements to ensure that such policy is actuarially sound and that the insured is appropriately notified.	Chapter 23 of the Laws of 2022
A.8712/ McDonald S.7704/ Breslin	Would ensure that the Superintendent of Financial Services may authorize the return of subscribing member operating reserve balances to members of a municipal insurance reciprocal upon such insurer's demonstration that it will retain sufficient surplus to support its obligations and writings.	Chapter 148 of the Laws of 2022
A.8713/ McDonald S.7692/ Breslin	Would provide that an explanation of pharmaceutical benefits by an insurer shall be satisfied by either a quarterly written summary of the information or by making such information available electronically upon consent by the member/insured. The underlying chapter requires health plans to provide insureds/subscribers with an explanation of their pharmaceutical benefits, similar to the explanation of medical/hospital benefits they routinely receive.	Chapter 143 of the Laws of 2022
A.8725/ Rosenthal, D. S.7797/Sanders	Would define what constitutes "property/casualty insurance" and provides that where this chapter requires notice be mailed or delivered to an address shown in the policy, the notice may be delivered by electronic means to an electronic address not specified in the policy. Before a notice may be delivered by electronic means, an insurer must	Chapter 161 of the Laws of 2022

	obtain a party's consent to deliver that kind of notice or document electronically. The consent by a party to receive one type of notice would not be construed as a blanket consent for every kind of notice and document to be delivered by electronic means.	
A.8760/Cymbrowitz S.7782/Kavanagh	Would specify the types of insurance to be studied by the Department of Financial Services and the Division of Housing and Community Renewal in their evaluation of insurance availability for affordable housing. This includes liability, fire, and casualty insurance. Further, the bill would adjust the timeframe for submission of the report from eight months succeeding enactment to 11 months succeeding enactment.	Chapter 158 of the Laws of 2022
A.8828/Cahill S.7838/Breslin	Would clarify the Peer-to-Peer Car Sharing Program Act by making technical changes as well as amendments to the Insurance Law to ensure continuity of coverage in the event of damages or loss during the peer-to-peer car share period. Additionally, changes were made to the tax law related to assessments on gross receipts as well as to the metropolitan commuter district tax and the regional transportation tax.	Chapter 129 of the Laws of 2022
A.8869-B/Eichenstein S.7658-B/Kaplan	Would prohibit the cancellation or increase in cost of an insurance policy based upon the individual having been the victim of a hate crime.	Chapter 676 of the Laws of 2022
A.9088/Hunter S.8127/Breslin	Would streamline the excess line affidavit regarding declinations that are filed by both retail and wholesale insurance brokers when placing excess line transactions.	Chapter 833 of the Laws of 2022
A.9128-A/Stern S.7744-A/Breslin	Would authorize the sale of participating deferred income annuities to ensure that consumers in this state have access to the full array of annuity products.	Chapter 832 of the Laws of 2022
A.9284-A/Glick S.8315-A/Gianaris	Would prohibit insurers from excluding, limiting or otherwise restricting coverage on homeowner insurance policies based solely on the insured harboring or owning a specific breed of dog.	Chapter 679 of the Laws of 2022
A.9718-B/Rosenthal, L. S.9080-B/Hinchey	Would prohibit medical malpractice insurance companies from taking any adverse action against an abortion or reproductive health care provider who performs an abortion or provides reproductive	Chapter 221 of the Laws of 2022

	health care services that is legal in New York to out-of-state patients.	
A.10222/Cahill	Would require that commuter vans maintain a bond or insurance policy with a combined single limit of at least \$1.5 million for bodily injury or death to one or more persons, and because of injury to or to destruction of property in any one accident.	Passed Assembly
A.10227/Cahill S.8902/Breslin	Would extend provisions of the Insurance Law into 2025 to exempt medical malpractice insurers from certain risk-based capital requirements. The bill also extends until December 31, 2025, the prohibition on making an application for an order of rehabilitation or liquidation of a domestic insurer on the grounds that the insurer is insolvent or has failed or refused to comply with an order of the Superintendent of DFS to make good an impairment of its capital or minimum surplus to policyholders, when the insurer's primary liability arises from the business of medical malpractice insurance.	Chapter 637 of the Laws of 2022
A.10229/Niou S.9344/Cleare	Would make technical changes and updates throughout the Insurance Law, specifically related to grammatical clean-up, updating references to the Financial Services Law and eliminating gender-based terminology related to the Superintendent of DFS.	Chapter 435 of the Laws of 2022

**APPENDIX C
BILLS REPORTED IN 2022**

Bill/ Sponsor	Description	Last Action
A.41/Cahill	Would direct the Department of Financial Services to study and report upon the adequacy and affordability of business interruption insurance coverage for pandemics, viruses and other public health emergencies.	Reported to Ways and Means
A.101/Cahill	Would repeal all provisions related to no-fault insurance five years after the effective date and require the Superintendent of DFS to review and recommend to the Governor, the Temporary President of the Senate and the Speaker of the Assembly any other provisions of law which require amendments or repeal.	Reported to Codes
A.189/Perry S.5664/Comrie	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.	Enacting Clause Stricken
A.289-C/Gottfried S.2121-C/Rivera	Would enhance certain clinical standards, procedure for internal and external reviews and utilization review requirements for medically fragile children.	Signed Chapter 816 of the Laws of 2022
A.372/Rosenthal, L. S.5690/Harckham	Would limit the imposition of co-payments for treatment at an opioid treatment program.	Signed Chapter 734 of the Laws of 2022
A.537/Cahill	Would increase consumer protections and provide more authority to DFS in investigating and enforcing violations.	Reported to Ways and Means
A.599/Cahill S.503/Breslin	Would require insurers and producers to provide potential insureds with copies of homeowners and certain commercial insurance policies prior to the policy being purchased.	Advanced to Third Reading Calendar
A.603/Rosenthal, D. S.2627/ Sanders	Would repeal a requirement that consumers seeking new or renewal policies covering multi-family dwellings in New York City complete an obsolete anti-arson application for their coverage to be effective.	Passed Assembly
A.807/O'Donnell S.688/Hoylman	Would require insurance coverage for pre-exposure prophylaxis (PrEP) and post-exposure prophylaxis (PEP) to prevent HIV infection.	Signed Chapter 721 of the Laws of 2022

A.950-C/Pheffer Amato S.6407-B/Sanders	Would require 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.	Passed Assembly
A.1029/Cahill S.9367/Breslin	Would provide that all auto insurance policies must include supplemental spousal liability insurance coverage equal to the insured's bodily injury liability insurance coverage unless the insured declines such spousal insurance with a written waiver.	Signed Chapter 735 of the Laws of 2022
A.1171-A/Bronson S.6574-A/Kennedy	Would add mental health counselors, marriage and family therapists, social workers, creative arts therapists and psychoanalysts to the list of mental health professionals which must be covered for group accident and health insurance.	Signed Chapter 818 of the Laws of 2022
A.1208/Cahill S.5208/Parker	Would establish the Office of Insurance Consumer Advocate within the Department of Financial Services. The Consumer Advocate would review of rate applications, participate and represent consumers in public hearings and review and recommend legislation related to improving the insurance process for consumers.	Passed Assembly
A.1309/Magnarelli	Would require insurance companies to pay ambulance companies who are out-of-network directly rather than giving the check to the insured for remittance in the amount of the usual and customary charge, when the insured has executed an assignment of benefits.	Reported to Rules
A.1741/Gottfried S.5299/Rivera	Would require insurance companies or pharmacy benefit managers to apply price reduction instruments for out-of-pocket expenses when calculating an insured individual's cost-sharing requirement.	Signed Chapter 736 of the Laws of 2022
A.1809/Cahill	Would require insurance companies to check the driving history of a person before binding insurance.	Advanced to Third Reading Calendar
A.2085-A/Dinowitz S.906-B/Sanders	Would require health insurance providers to cover the costs of colorectal cancer screenings for men and women age 45 and older.	Signed Chapter 739 of the Laws of 2022

A.2254/Dinowitz	Would establish that it shall be an unfair claim settlement practice for an insurer to demand personal, financial and tax information while investigating a theft claim.	Reported to Rules
A.2236/Stern S.6595/Skoufis	Would establish claims investigation and settlement standards for insurance companies to follow in the event of a disaster.	Passed Assembly
A.2519-A/Cymbrowitz S.7263-A/ Liu	Would allow a domestic violence victim covered by a health insurance policy, where another person is the policyholder, to designate alternative contact information for the purpose of receiving insurance claim or billing information.	Signed Chapter 579 of the Laws of 2022
A.2618/Hyndman S.499/Breslin	Would require the Department of Financial Services to issue a report to the Legislature stating whether and to what extent minimum coverages for auto liability, uninsured motorist and no-fault ought to be increased and the potential impact on premiums.	Reported to Ways and Means
A.3276/Gunther S.5909/Kaminsky	Would prohibit the application of fail-first or step therapy protocols to coverage for the diagnosis and treatment of mental health conditions.	Vetoed by the Governor Veto memo 140
A.3573/Cymbrowitz S.4282/Breslin	Would require that Federal Home Loan Bank (FHLB) receivers shall not void a transfer of money or other property, arising in connection with a federal home loan bank security agreement made before any formal proceedings and in compliance with the security agreement, unless such transfer was made with the intent to hinder, delay or defraud the insurer-member, a receiver appointed for the insurer-member or existing/future creditors.	Passed Assembly
A.4535-A/Cook S.4155-A/Comrie	Would require the Superintendent of DFS to conduct a review of the classification used by authorized insurers issuing auto insurance coverage to commuter vans, ambulettes and paratransit vehicles.	Vetoed by the Governor Veto memo 50
A.5411-D/McDonald S.4620-C/Breslin	Would require real-time, patient specific, prescription drug out-of-pocket cost details to be provided at the point of prescribing which will enable all patients a better understanding of what the out-of-pocket costs will be for their medications and greater transparency overall.	Signed Chapter 826 of the Laws of 2022

A.6367/Barclay S.1872/Ritchie	Would require DFS to post a statement related to flood insurance and contact information in newspapers that serve communities bordering Lake Ontario.	Passed Assembly
A.6877/Zebrowski S.6028/Breslin	Would authorize automobile insurers to dispense with or defer the physical inspections required prior to issuing physical damage coverage for private passenger automobiles.	Vetoed by the Governor Veto memo 34
A.7285-A/Weinstein S.6813-A/Ramos	Would allow insurance policyholders to recover damages when an insurance company's refusal to pay or unreasonable delay in paying a claim was not substantially justified.	Advanced to Third Reading Calendar
A.7469-A/Cruz S.4856-A/Reichlin-Melnick	Would require insurers in the state that provide prescription drug coverage to establish a process to allow insureds (or the insured's healthcare provider) to immediately obtain an additional 30-day supply fill of their current prescriptions upon declaration of a state of emergency.	Signed Chapter 793 of the Laws of 2022
A.7488-A/Rivera, J.D. S.3079-A/Ryan	Would prohibit insurers from excluding coverage for losses caused by exposure to lead paint.	Passed Assembly
A.7699/Hunter S.6666/Breslin	Would modify the interest rate requirement for paid up life insurance from a hard coded four percent to an index of not less than the lesser of four percent and the nonforfeiture interest rate per annum minus 0.1 percent. This change ensures that life insurance companies can guarantee the nonforfeiture rate if a policyholder decides to terminate their life policy.	Signed Chapter 443 of the Laws of 2022
A.7704/Fernandez	Would refine requirements for coverage of mental health and substance use disorder services to promote insurer compliance with New York State parity and prompt payment laws.	Passed Assembly
A.7770-C/Epstein S.7475-B/Bailey	Would define "immigration bail business" and provides for increased oversight for the Department of Financial Services over immigrant bail bond services in New York State. This measure would also prohibit immigration bond businesses from requiring electronic monitoring as a condition of an immigration bail and would require immigration bond companies to disclose the sources of funding for lawyers to which they refer immigration bail clients and inform immigration bail clients that they have a right to choose their own legal counsel.	Signed Chapter 673 of the Laws of 2022

A.7987/Cusick S.7087-A/Parker	Would authorize the New York State Power Authority (NYPA) to create a pure captive insurance company.	Signed Chapter 193 of the Laws of 2022
A.8169-A/Cruz S.7199-A/Gounardes	Would prohibit insurers from entering into contracts with certain anti-competitive clauses, such as “most-favored-nation” provisions. The bill also requires insurers to disclose price and quality information regarding negotiated rates and other discounts with health care providers.	Signed Chapter 665 of the Laws of 2022
A.8306/Cahill S.3572/Breslin	Would authorize property/casualty insurers to make available multiple rating programs within the same company for commercial lines insurance in the voluntary market.	Signed Chapter 194 of the Laws of 2022
A.8537/Pheffer Amato S.7881/Stavisky	Would require commercial insurance coverage of chest wall reconstruction surgery, in addition to breast reconstruction surgery, after a mastectomy or partial mastectomy. This includes aesthetic flat closure, a type of chest wall reconstruction, as defined by the National Cancer Institute. The bill requires the inclusion of chest wall reconstructive information in a written summary of services, as determined and approved by the Commissioner of Health.	Signed Chapter 571 of the Laws of 2022
A.8617/Meeks S.4329/Breslin	Would permit life insurers to establish wellness programs in conjunction with the issuance of life insurance policies and sets for requirements for insurers.	Vetoed by the Governor Veto memo 150
A.8637/Cahill S.3767/Breslin	Would require the Superintendent of Financial Services, within six months of the effective date of this bill, to promulgate regulations which provide standardized definitions for commonly used terms and phrases found in homeowners policies and commercial lines policies that provide coverage for loss or damage to real property, personal property or other liabilities for loss or damage to property.	Advanced to Third Reading Calendar
A.8653/Jackson S.8239/Salazar	Would require that lactation consultant services are a covered benefit and defines that "lactation consultant" shall mean a professionally certified counselor who evaluates and manages lactation and infant feeding problems and provides preventive clinical consulting to prevent or minimize the occurrence of potential problems.	Passed Assembly

A.8697/Peoples-Stokes S.7767/Breslin	Would provide that insurers shall not: remove a prescription drug from a formulary; move a prescription drug to a tier with a larger deductible, copayment or coinsurance if the formulary includes two or more tiers of benefits providing for different deductibles, copayments or coinsurance applicable to the prescription drugs in each tier or add utilization management restrictions to a drug on a formulary unless such changes occur at the time of enrollment, issuance or removal of coverage.	Signed Chapter 99 of the Laws of 2022
A.8698/Hunter S.7768/Breslin	Would allow for certain liability insurance policies of less than one year, provided that the insurer also offers the insured the option of purchasing a policy with a term of one year and adheres to other requirements to ensure that such policy is actuarially sound and that the insured is appropriately notified.	Signed Chapter 23 of the Laws of 2022
A.8712/McDonald S.7704/Breslin	Would ensure that the Superintendent of Financial Services may authorize the return of subscribing member operating reserve balances to members of a municipal insurance reciprocal upon such insurer's demonstration that it will retain sufficient surplus to support its obligations and writings.	Signed Chapter 148 of the Laws of 2022
A.8713/McDonald S.7692/Breslin	Would provide that an explanation of pharmaceutical benefits by an insurer shall be satisfied by either a quarterly written summary of the information or by making such information available electronically upon consent by the member/insured. The underlying chapter requires health plans to provide insureds/subscribers with an explanation of their pharmaceutical benefits, similar to the explanation of medical/hospital benefits they routinely receive.	Signed Chapter 143 of the Laws of 2022
A.8725/Rosenthal, D. S.7797/Sanders	Would define what constitutes "property/casualty insurance" and provides that where this chapter requires notice be mailed or delivered to an address shown in the policy, the notice may be delivered by electronic means to an electronic address not specified in the policy. Before a notice may be delivered by electronic means, an insurer must obtain a party's consent to deliver that kind of notice or document electronically. The consent by a party to receive one type of notice would not be construed	Signed Chapter 161 of the Laws of 2022

	as a blanket consent for every kind of notice and document to be delivered by electronic means.	
A.8760/Cymbrowitz S.7782/Kavanaugh	Would specify the types of insurance to be studied by the Department of Financial Services and the Division of Housing and Community Renewal in their evaluation of insurance availability for affordable housing. This includes liability, fire, and casualty insurance. Further, the bill would adjust the timeframe for submission of the report from eight months succeeding enactment to 11 months succeeding enactment.	Signed Chapter 158 of the Laws of 2022
A.8828/Cahill S.7838/Breslin	Would clarify the Peer-to-Peer Car Sharing Program Act by making technical changes as well as amendments to the Insurance Law to ensure continuity of coverage in the event of damages or loss during the peer-to-peer car share period. Additionally, changes were made to the tax law related to assessments on gross receipts as well as to the metropolitan commuter district tax and the regional transportation tax.	Signed Chapter 129 of the Laws of 2022
A.8869-B/Eichenstein S.7658-B/Kaplan	Would prohibit the cancellation or increase in cost of an insurance policy based upon the individual having been the victim of a hate crime.	Signed Chapter 676 of the Laws of 2022
A.9088/Hunter S.8127/Breslin	Would streamline the excess line affidavit regarding declinations that are filed by both retail and wholesale insurance brokers when placing excess line transactions.	Signed Chapter 833 of the Laws of 2022
A.9128-A/Stern S.7744-A/Breslin	Would authorize the sale of participating deferred income annuities to ensure that consumers in this state have access to the full array of annuity products.	Signed Chapter 832 of the Laws of 2022
A.9284-A/Glick S.8315-A/Gianaris	Would prohibit insurers from excluding, limiting or otherwise restricting coverage on homeowner insurance policies based solely on the insured harboring or owning a specific breed of dog.	Signed Chapter 679 of the Laws of 2022
A.9718-B/Rosenthal, L. S.9080-B/Hinchev	Would prohibit medical malpractice insurance companies from taking any adverse action against an abortion or reproductive health care provider who performs an abortion or provides reproductive health care services that is legal in New York to out-of-state patients.	Signed Chapter 221 of the Laws of 2022

A.10072/Dickens S.8255/Parker	Would authorize the Superintendent of Department of Financial Services to establish and implement a captive insurance program for commuter vans.	Advanced to Third Reading Calendar
A.10222/Cahill	Would require that commuter vans maintain a bond or insurance policy with a combined single limit of at least \$1.5 million for bodily injury or death to one or more persons, and because of injury to or to destruction of property in any one accident.	Passed Assembly
A.10227/Cahill S.8902/Breslin	Would extend provisions of the Insurance Law into 2025 to exempt medical malpractice insurers from certain risk-based capital requirements. The bill also extends until December 31, 2025, the prohibition on making an application for an order of rehabilitation or liquidation of a domestic insurer on the grounds that the insurer is insolvent or has failed or refused to comply with an order of the Superintendent of DFS to make good an impairment of its capital or minimum surplus to policyholders, when the insurer's primary liability arises from the business of medical malpractice insurance.	Signed Chapter 637 of the Laws of 2022
A.10229/Niou S.9344/Cleare	Would make technical changes and updates throughout the Insurance Law, specifically related to grammatical clean-up, updating references to the Financial Services Law and eliminating gender-based terminology related to the Superintendent of DFS.	Signed Chapter 435 of the Laws of 2022
A.10475/Niou	Would require the Superintendent of Department of Financial Services to refer insulin medication to the department's Drug Accountability Board (DAB) to examine price increases and consumer impacts, including the effects of the NYS cap on cost-sharing at \$100 per 30-day supply prescription. The DAB would be required to report their findings and the Superintendent would prepare a report, due to the Governor and Legislature within 12 months of the effective date.	Passed Assembly

**APPENDIX D
BILLS VETOED IN 2022**

Bill / Sponsor	Description	Final Action
A.3276/Gunther S.5909/ Kaminsky	Would prohibit the application of fail-first or step therapy protocols to coverage for the diagnosis and treatment of mental health conditions.	Veto memo 140
A.4535-A/ Cook S.4155-A/ Comrie	Would require the Superintendent of DFS to conduct a review of the classification used by authorized insurers issuing auto insurance coverage to commuter vans, ambulettes and paratransit vehicles.	Veto memo 50
A.6877/ Zebrowski S.6028/ Breslin	Would authorize automobile insurers to dispense with or defer the physical inspections required prior to issuing physical damage coverage for private passenger automobiles.	Veto memo 34
A.8617/Meeks S.4329/ Breslin	Would permit life insurers to establish wellness programs in conjunction with the issuance of life insurance policies and sets for requirements for insurers.	Veto memo 150