Agency Legislative Proposal - 2019 Session

Document Name: DRAFT CID 2019 Credit for Reinsurance

(If submitting electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Connecticut Insurance Department
Liaison: Eric Weinstein **Phone:** 860-297-3864 **E-mail:** Eric.Weinstein@ct.gov
Lead agency division requesting this proposal: Financial Regulation
Agency Analyst/Drafter of Proposal: Jon Arsenault

Title of Proposal: AAC Credit for Reinsurance
Statutory Reference: Click here to enter text.
Proposal Summary: This adopts the 2018 revisions to the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Law to incorporate relevant provisions of the Bilateral Agreement Between the United States and the European Union on Prudential Measures Regarding Insurance and Reinsurance. In 2017 the US entered into the Covered Agreement with the EU which includes a provision on reinsurance collateral. The NAIC worked to update its model law to allow states to update their standards consistent with the covered agreement. It is important for the state to adopt the model so that the state can continue to regulate and will not be preempted by the Federal government. NOTE: This is a placeholder: the NAIC's Reinsurance (E) Task Force Drafting Group's proposed draft of revisions will not be available until late November or Early December 2018.

PROPOSAL BACKGROUND

◊ Reason for Proposal

Please consider the following, if applicable:

(1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary? **No.**

(2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? **States adopt various NAIC model laws and regulations and states will be enacting legislation to adopt this NAIC recommended legislation. Connecticut is up to date on revisions to the Credit for Reinsurance Model Law and most recently passed the January 2016 updates to the model law in the 2017 session (PA 17-59). Passage of this may become a requirement of CID's NAIC Accreditation and failure to adopt will result in the state being preempted by the Federal government.**

(3) Have certain constituencies called for this action? **State insurance regulators throughout the United States.**

(4) *What would happen if this was not enacted in law this session?* **CID will pursue again as failure to adopt will result in the state being preempted by the Federal government.**

Click here to enter text.

◊ **Origin of Proposal** ☒ **New Proposal** ☐ **Resubmission**

If this is a resubmission, please share:

(1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
(2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
(3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
(4) *What was the last action taken during the past legislative session?*

Click here to enter text.

PROPOSAL IMPACT

◊ **AGENCIES AFFECTED** (*please list for each affected agency*)

Agency Name: Click here to enter text.
Agency Contact (*name, title, phone*): Click here to enter text.
Date Contacted: Click here to enter text.

Approve of Proposal ☐ **YES** ☐ **NO** ☐ **Talks Ongoing**

Summary of Affected Agency's Comments
Click here to enter text.

Will there need to be further negotiation? ☐ **YES** ☐**NO**

◊ **FISCAL IMPACT** (*please include the proposal section that causes the fiscal impact and the anticipated impact*)

Municipal *(please include any municipal mandate that can be found within legislation)*
None

State
None

Federal None
Additional notes on fiscal impact Click here to enter text.

◊ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

This will adopt the 2018 revisions to the NAIC Credit for Reinsurance Model Law to incorporate relevant provisions of the Bilateral Agreement Between the United States and the European Union on Prudential Measures Regarding Insurance and Reinsurance. **Will need additional information once fully drafted.*

Insert fully drafted bill here

Copy and paste here.

Agency Legislative Proposal - 2019 Session

Document Name: DRAFT CID Consumer Protections Against Surprise Billing

(If submitting electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Connecticut Insurance Department
Liaison: Eric Weinstein **Phone:** 860-297-3864 **E-mail:** Eric.Weinstein@ct.gov
Lead agency division requesting this proposal: Life & Health
Agency Analyst/Drafter of Proposal: Kristin Campanelli

Title of Proposal: AA Enhancing Consumer Protections Against Surprise Billing
Statutory Reference: 20-7f, 38a-477aa
Proposal Summary: This proposal offers important consumer protections in instances of surprise billing when there is not enough protection for consumers. It closes a loophole in current law in which a consumer could be balance billed for emergency services if they received treatment from a non-participating provider. This proposal prohibits this practice, creates a mediation mechanism between carriers and providers, and holds consumers harmless. Section 1 amends CGS 20-7f to make it an unfair trade practice for facilities to be in violation of the provisions of this bill. Section 2 amends CGS 38a-477aa to close a loophole that allowed consumers to be balance billed in situations where they received emergency treatment from a nonparticipating provider. This proposal fixes this loophole by making it clear that balance billing in such situations is not allowed and can send reimbursement disputes between carriers and providers to mediation if the difference is greater than $1,000. This keeps consumers out of the middle by requiring their carrier and provider to work out the details while holding the consumer harmless.

PROPOSAL BACKGROUND

- ◊ **Reason for Proposal**

Please consider the following, if applicable:

(1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?* **No.**
(2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?* **Various states have implemented similar language to protect consumers.**
(3) *Have certain constituencies called for this action?* **Consumers have unfairly been put into situations with balance and surprise bills.**
(4) *What would happen if this was not enacted in law this session?*

Click here to enter text.

◊ **Origin of Proposal** ☐ **New Proposal** ☒ **Resubmission**

If this is a resubmission, please share:

(1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?* **Different versions of this language were in 2018 Governor's HB 5039. Section 8 of that proposed bill corresponds to Section 1 of this proposal. Section 10 of that proposed bill corresponds to section 2 of this proposal.**
(2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?* **The Insurance Committee removed the language from the Governor's bill in the JFS form.**
(3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
(4) *What was the last action taken during the past legislative session?* **The language was removed from the bill in Committee.**

PROPOSAL IMPACT

◊ **AGENCIES AFFECTED** (*please list for each affected agency*)

Agency Name: Department of Public Health
Agency Contact (*name, title, phone*): Brie Wolf
Date Contacted: Click here to enter text.

Approve of Proposal ☒ **YES** ☐ **NO** ☐ **Talks Ongoing**

Summary of Affected Agency's Comments
Click here to enter text.

Will there need to be further negotiation? ☐ **YES** ☒**NO**

◊ **FISCAL IMPACT** (*please include the proposal section that causes the fiscal impact and the anticipated impact*)

Municipal *(please include any municipal mandate that can be found within legislation)*
None

State None
Federal None
Additional notes on fiscal impact Click here to enter text.

◊ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

This proposal offers important consumer protections in instances of surprise billing when there is not enough protection for consumers. It closes a loophole in current law in which a consumer could be balance billed for emergency services if they received treatment from a non-participating provider. This proposal prohibits this practice, creates a mediation mechanism between carriers and providers, and holds consumers harmless.

Insert fully drafted bill here

Section 1. Subsection (b) of section 20-7f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2020*):

(b) It shall be an unfair trade practice in violation of chapter 735a for any health care provider or facility to request payment from an enrollee, other than a coinsurance, copayment **[**,**]** or deductible, **[**or other out-of-pocket expense,**]** for (1) health care services or a facility fee, as defined in section 19a-508c, covered under a health care plan, (2) emergency services covered under a health care plan and rendered by **[**an out-of-network**]** a nonparticipating health care provider or facility, or (3) a surprise bill, as defined in section 38a-477aa, as amended by this act.

Sec. 2. Sec. 38a-477aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1,* 2020):

(a) As used in this section:

(1) "Emergency condition" has the same meaning as "emergency medical condition", as provided in section 38a-591a;

(2) "Emergency services" means, with respect to an emergency condition, (A) a medical screening examination as required under Section 1867 of the Social Security Act, as amended from time to time, that is within the capability of a hospital emergency department, including ancillary services routinely available to such department to evaluate such condition, and (B)

such further medical examinations and treatment required under said Section 1867 to stabilize such individual, that are within the capability of the hospital staff and facilities;

(3) "Health care plan" means an individual or a group health insurance policy or health benefit plan that provides coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469;

(4) "Health care provider" means an individual licensed to provide health care services under chapters 370 to 373, inclusive, chapters 375 to 383b, inclusive, and chapters 384a to 384c, inclusive;

(5) "Health carrier" means an insurance company, health care center, hospital service corporation, medical service corporation, fraternal benefit society or other entity that delivers, issues for delivery, renews, amends or continues a health care plan in this state;

(6) (A) "Surprise bill" means a bill for health care services, other than emergency services, received by an insured for services rendered by an out-of-network health care provider, where such services were rendered by such out-of-network provider at an in-network facility, during a service or procedure performed by an in-network provider or during a service or procedure previously approved or authorized by the health carrier and the insured did not knowingly elect to obtain such services from such out-of-network provider.

(B) "Surprise bill" does not include a bill for health care services received by an insured when an in-network health care provider was available to render such services and the insured knowingly elected to obtain such services from another health care provider who was out-of-network.

(b) (1) No health carrier shall require prior authorization for rendering emergency services to an insured.

(2) No health carrier shall impose, for emergency services rendered to an insured by an out-of-network health care provider or facility providing emergency services, a coinsurance, copayment, deductible or other out-of-pocket expense that is greater than the coinsurance, copayment, deductible or other out-of-pocket expense that would be imposed if such emergency services were rendered by an in-network health care provider or facility.

(3) (A) If emergency services were rendered to an insured by an out-of-network health care provider or facility providing emergency services, such health care provider may bill the health carrier directly and the health carrier shall reimburse such health care provider or facility the greatest of the following amounts: (i) The amount the insured's health care plan

would pay for such services if rendered by an in-network health care provider; (ii) **[**the usual, customary and reasonable rate for such services**]** The amount for the emergency services calculated using the same method the plan generally uses to determine payments for out-of-network services, excluding any in-network copayment or coinsurance imposed with respect to the participant or beneficiary. The amount in this subsection is determined without reduction for out-of-network cost sharing that generally applies under the plan or health insurance coverage with respect to out-of-network services; or (iii) the amount Medicare would reimburse for such services. **[**As used in this subparagraph, "usual, customary and reasonable rate" means the eightieth percentile of all charges for the particular health care service performed by a health care provider in the same or similar specialty and provided in the same geographical area, as reported in a benchmarking database maintained by a nonprofit organization specified by the Insurance Commissioner. Such organization shall not be affiliated with any health carrier**]** The health carrier shall disclose in its plan document the methods that it utilizes to determine payments for out-of-network services, including but not limited to the use of benchmarking databases and any other information source.

(B)Such payment shall be accepted as payment in full, or Non-participating facility-based providers who object to the payment(s) made in subdivision (A) may elect the Provider Mediation Process described in subparagraph (C).

(C) Provider Mediation Process.

(i) Health carriers shall establish a provider mediation process for payment of non-participating facility-based provider bills where the discrepancy between the provider's fee and the carrier's reimbursement exceeds $1000 for providers objecting to the application of the established payment rate outlined in Subsection (A).

(ii) The health carrier provider mediation process shall be established in accordance with one of the following recognized mediation standards:

(I) The Uniform Mediation Act;

(II) Mediation.org, a division of the American Arbitration Association;

(III) The Association for Conflict Resolution (ACR);

(IV) The American Bar Association Dispute Resolution Section; or

(V) The State of Connecticut Alternative Dispute Resolution programs as identified by the Connecticut Judicial Branch.

(D) Following completion of the provider mediation process, the cost of mediation shall be split evenly and paid by the health carrier and the non-participating facility-based provider.

(E) A health carrier provider mediation process may not be used when the health carrier and the non-participating facility-based provider agree to a separate payment arrangement or when the covered person agrees to accept and pay the non-participating facility-based provider's charges for the out-of-network service(s).

(F) A health carrier shall maintain records on all requests for mediation and completed mediations under this subsection during a calendar year and, upon request, submit a report to the commissioner in the format specified by the commissioner.

(**[**B**]** **G**) Nothing in this subdivision shall be construed to prohibit such health carrier and out-of-network health care provider from agreeing to a greater reimbursement amount.

(c) With respect to a surprise bill:

(1) An insured shall only be required to pay the applicable coinsurance, copayment, deductible or other out-of-pocket expense that would be imposed for such health care services if such services were rendered by an in-network health care provider; and

(2) A health carrier shall reimburse the out-of-network health care provider or insured, as applicable, for health care services rendered at the in-network rate under the insured's health care plan as payment in full, unless such health carrier and health care provider agree otherwise.

(d) If health care services were rendered to an insured by an out-of-network health care provider and the health carrier failed to inform such insured, if such insured was required to be informed, of the network status of such health care provider pursuant to subdivision (3) of subsection (d) of section 38a-591b, the health carrier shall not impose a coinsurance, copayment, deductible or other out-of-pocket expense that is greater than the coinsurance, copayment, deductible or other out-of-pocket expense that would be imposed if such services were rendered by an in-network health care provider.

Agency Legislative Proposal - 2019 Session

Document Name: DRAFT CID 2019 AAC Surety Bail Bond Agents

(If submitting electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Connecticut Insurance Department
Liaison: Eric Weinstein **Phone:** 860-297-3864 **E-mail:** Eric.Weinstein@ct.gov
Lead agency division requesting this proposal: Market Conduct
Agency Analyst/Drafter of Proposal: Tony Caporale

Title of Proposal: AAC Surety Bail Bond Agents
Statutory Reference: **§38a-660(k), §38a-660m**
Proposal Summary: This will give the Department a full calendar year access to the funds needed to audit bail bondsmen. Current law requires bondsmen to pay $450 when renewing their licenses on January 31. That money has been subject to sweeps by the end of the fiscal year giving the Department only five months, thus reducing the effectiveness of the Department's oversight – this short window was noted by the State Auditors of Public Accounts in a recent audit of the Department. This is the 5th year that the Department has proposed this fix based off of the audit report. This proposal will cause the license of a surety bail bond agent to automatically expire on February 1st if the surety bail bond agent fails to pay the $450 fee by the renewal date, and the license will be immediately reinstated if the fee is received not later than 10 days after the expiration of the license. This proposal also establishes authority to adopt regulations to establish continuing education requirement for persons licensed as surety bail bond agents. Finally, the proposal establishes that the Commissioner may examine a licensee's records not more than once every three years without good cause.

PROPOSAL BACKGROUND

- ◊ **Reason for Proposal**

Please consider the following, if applicable:

(1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?* **No.**
(2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?* **Many other states have continuing education requirements.**
(3) *Have certain constituencies called for this action?* **The Auditors of Public Accounts have recommended changing the sweep date of the funds.**
(4) *What would happen if this was not enacted in law this session?* **Revocation of licenses would continue to be more costly and time consuming. Funds established to audit agents would be prematurely sent to the general fund.**

Click here to enter text.

◊ **Origin of Proposal** ☐ **New Proposal** ☒ **Resubmission** 2018 SB 204, File #204
- 2017 HB 7003, File #751
- 2016 HB 5232, File #134

If this is a resubmission, please share:

(1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
(2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?* **CID proposed a reduced amount of continuing education, which would have been including in the regulations to be promulgated after legislative passage.**
(3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?* **In prior years the Department has worked with the Bail Association of Connecticut who had been supportive until 2018. There are other associations within the industry.**
(4) *What was the last action taken during the past legislative session?* **2018 SB 204 was JF in Insurance but died on the Senate calendar.**

PROPOSAL IMPACT

◊ **AGENCIES AFFECTED** (*please list for each affected agency*)

Agency Name: Click here to enter text.
Agency Contact (*name, title, phone*): Click here to enter text.
Date Contacted: Click here to enter text.

Approve of Proposal ☐ **YES** ☐ **NO** ☐ **Talks Ongoing**

Summary of Affected Agency's Comments
Click here to enter text.

Will there need to be further negotiation? ☐ **YES** ☐**NO**

◊ **FISCAL IMPACT** (*please include the proposal section that causes the fiscal impact and the anticipated impact*)

Municipal *(please include any municipal mandate that can be found within legislation)* None
State Minimal – CID will retain funds longer before they are swept into the General Fund.
Federal None
Additional notes on fiscal impact Click here to enter text.

◊ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

Currently surety bond agents are required to pay a licensing fee to the Insurance Department by the 31st of January every year. The proposal establishes automatic expiration of those licenses if such fee is not paid on time and includes a grace period. The Insurance Commissioner is required to annually notify surety bail bonds agents of this policy. The proposal also requires an establishment of continuing education requirements for licensed surety bail bond agents.

The proposal also moves the sweep date of the surety bail bond agent examination account from the end of the fiscal year to the end of the calendar year. The Insurance Department has requested this change because licenses are renewed in January, and therefore the funding is only available for six months.

This would also require the Commissioner to adopt regulations concerning continuing education requirements.

Insert fully drafted bill here

AN ACT CONCERNING SURETY BAIL BOND AGENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (k) of section 38a-660 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

(k) (1) (A) To further the enforcement of this section and sections 38a-660b to 38a-660m, inclusive, as amended by this act, and to determine the eligibility of any licensee, the commissioner may[, as often as the commissioner deems necessary,] examine the books and records of any such licensee: (i) Not more frequently than once during any three-year time period; or (ii) more frequently as the commissioner deems necessary for good cause shown. Each person licensed as a surety bail bond agent in this state shall, on or before January thirty-first, annually, pay to the commissioner a fee of four hundred fifty dollars to cover the cost
of examinations under this subsection.

(B) If such person fails to pay such fee on or before January thirty-first, annually, the license of such person shall automatically expire on the February first immediately following, provided the commissioner shall immediately reinstate any such license if the commissioner receives such fee not later than ten days after such expiration.

(C) The commissioner shall notify, not later than December fifteenth, annually, each person licensed as a surety bail bond agent in this state about such automatic expiration provision.

(2) The fees received by the commissioner pursuant to subdivision (1) of this subsection shall be dedicated to conducting the examinations under said subdivision (1) and shall be deposited in the account established under subdivision (3) of this subsection.

(3) There is established an account to be known as the "surety bail bond agent examination account", which shall be a separate, nonlapsing account within the Insurance Fund established under section 38a-52a. The account shall contain any moneys required by law to be deposited in the account and any such moneys remaining in the account at the **[**close of the fiscal**]** end of each calendar year shall be transferred to the General Fund.

Sec. 2. Section 38a-660m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to (1) implement the provisions of section 38a-660, as amended by this act, and sections 38a-660b to 38a-660k, inclusive, and (2) establish continuing education requirements for persons licensed as surety bail bond agents in this state.

Agency Legislative Proposal - 2019 Session

Document Name: DRAFT CID 2019 Technical Changes to Insurance Statutes

(If submitting electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Connecticut Insurance Department
Liaison: Eric Weinstein **Phone:** 860-297-3864 **E-mail:** Eric.Weinstein@ct.gov
Lead agency division requesting this proposal: Property & Casualty, Life & Health, Financial Regulation, Market Conduct
Agency Analyst/Drafter of Proposal: Kristin Campanelli, Jared Kosky Mike Malesta, Tim Curry, Jon Arsenault, Tony Caporale

Title of Proposal: AAC Technical Changes to Insurance Statutes
Statutory Reference: 38a-8, 38a-37, 38a-156a, 38a-323, 38a-323a, 38a-324, 38a-343, 38a-344, 38a-676, 38a-724, 38a-771, 38a-193, 38a-193a
Proposal Summary: This proposal makes technical changes to the Insurance Statutes. **Section 1** amends 38a-8 to allow the Department, particularly the Life & Health and Property & Casualty Divisions, to engage outside experts when necessary in order to review the appropriateness of insurance product rates filed with the Department and to recover the costs of such engagements from the carrier(s) making the filing. This will allow the Department to keep up with the pace of innovation, evolving technologies, and new insurance products in the market and enable the Department to have expert resources to review product and rate filings, including sophisticated models. Other divisions within the Department already have such a provision with regard to contracting outside experts for financial examinations. **Section 2** amends 38a-37 to opt Connecticut into the Interstate Insurance Product Regulation Compact (IIPRC) for disability income products. Connecticut entered into the Compact in 2016 for life and annuity products but opted out of disability income and long-term care products. The Department's requirements for disability income products largely mirror that of the Compact's and the Department believes that becoming a compacting state for disability income products will allow the Department achieve more administrative efficiencies.

Section 3 amends 38a-156a. Sections 38a-156a to 38a-156m outline the process for a mutual insurance company to reorganize to a mutual insurance holding company. This provision of the law was enacted in sections 1-15 of PA 14-123. Section 38a-156a sets forth the steps in this process, one of which is the affirmative vote from members of the reorganizing insurer. As currently written in Section 38a-156a(d)(1), such plan for reorganization must be approved by an affirmative vote of two-thirds of members, rather than a vote of two-thirds of the members *voting*. This proposal adds the technical clarification that the vote must be two-thirds of the *voting* members – a change consistent with multiple other states with the same provision and with other parts of CGS. Without this change, a domestic mutual insurer would have difficulty taking advantage of this provision of the law.

Sections 4-7 permit electronic delivery of nonrenewals, renewals, and cancellations of certain property and casualty products if such a method is agreed upon between the insured and their carrier. Sections 4, 6 and 7 fix a drafting error from PA 18-158 and Section 5 updates an additional statute that was accidentally omitted from PA 18-158.

- **Sections 4, 6, and 7** make changes to Sections 12-17 of PA 18-158. The public act contains an October 1, 2019 effective date, but this delayed implementation was never the intention. These sections change the effective date to upon passage.
- **Section 5** amends 38a-324 to conform with Sections 12-17 of PA 18-158 (which are being amended by sections 4, 6 and 7) to permit electronic delivery of nonrenewals, renewals, and cancellations if agreed upon between the insurer and the insured. The change to this statute was unintentionally left out of PA 18-158.

Section 8 amends 38a-771 to update the items requiring licensee notification of the Commissioner of changes in information. Licensees are already required to send addresses when they make updates and the Department already does this via email. This makes the following changes: 1. Added notification of a change in email address; 2. Added notification of a change in designated responsible licensed person (DRLP); and 3. Removal of notification of changes of "licensed members of a firm, partnership, association or officers of a corporation." This will increase efficiencies at the Department.

Section 9 repeals subsections (d) and (f) of section 38a-193, and section 38a-193a. Passage of Public Act 18-13 amended the Connecticut Life and Health Insurance Guaranty Association Act to include coverage for health care centers in the event of insolvency. This legislation makes changes to certain insolvency protections that were enacted years ago due to the lack of any insurance guaranty association coverage. This legislation repeals provisions that require health care centers to have a plan for handling insolvency, that require a $500,000 deposit to protect enrollees of a health care center in receivership, and that require a deposit in the amount of 125% of the health care center's outstanding liability for uncovered expenditures for enrollees.

PROPOSAL BACKGROUND

◊ Reason for Proposal

Please consider the following, if applicable:

(1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary? **Sec. 1: No. Sec. 2: No. Sec. 3: No. Sec. 4-7: PA 18-158 amended six statutes, but a seventh (38a-324) was left out thus requiring Sec. 5 of this proposal. Also, the effective dates in PA 18-158 were never intended to be as late as October 1, 2019 – this proposal moves the implementation dates to an earlier point. Sec. 8: No. Sec. 9: Passage of PA 18-13.**

(2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? **Sec. 1: Many other states' departments have the ability to engage outside consultants for purposes of rate filing review and the Department currently implements such provisions in other divisions for purposes of financial examinations. Sec. 2: Connecticut was one of the last states to join the Compact (PA 16-119). Every other compact state has opted into Disability Income products except for Wyoming, with positive results/outcomes. Sec. 3: PA 14-123 created this provision of the law in Connecticut. Additionally, other states have a similar law whereby a domestic mutual insurance company may reorganize to a mutual insurance holding company. This proposed change to membership voting requirements will make the Connecticut law consistent with those of other states, specifically: VT, NH, MA, ME, NY, GA, WI, and FL. Sec. 4-7: Other states allow for electronic delivery of such notifications.**

(3) Have certain constituencies called for this action? **Sec. 1: No. Sec. 2: The Interstate Insurance Product Regulation Compact on behalf of its member companies. Sec. 3: A carrier brought this technical issue to the Department's attention. Sec. 4-7: Property and casualty insurers. Sec. 8: No. Sec. 9. The National Association of Insurance Commissioners (NAIC) recognizes the need to make conforming changes to laws concerning insolvency of HMOs due to the recent change to the NAIC Life and Health Guaranty Association Model Act, which among other things, now includes HMOs.**

(4) What would happen if this was not enacted in law this session? **The Department would likely pursue all sections again. Specifically with regard to Section 1: The Department would continue to perform rate filings using in-house resources, but such reviews may not be as robust as desired: this change will allow the Department to keep up with the pace of innovation, evolving technologies and new insurance products in the market and allow the Department to have expert resources to review product and rate filings including sophisticated models. Sec. 3: A domestic mutual insurer would have difficulty making use of reorganization laws as the requirements for all membership voting may be untenable. Sec. 9: Connecticut HMOs may face additional costs and inefficiencies to comply with certain existing statutory provisions that are not necessary in light of PA 18-13.**

◊ Origin of Proposal ☒ New Proposal ☐ Resubmission

If this is a resubmission, please share:

(1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?

(2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?

(3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?

(4) What was the last action taken during the past legislative session?

Click here to enter text.

PROPOSAL IMPACT

◊ AGENCIES AFFECTED (*please list for each affected agency*)

Agency Name: Click here to enter text. **Agency Contact (*name, title, phone*):** Click here to enter text. **Date Contacted:** Click here to enter text. Approve of Proposal ☐ **YES** ☐ **NO** ☐ **Talks Ongoing**
Summary of Affected Agency's Comments Click here to enter text.
Will there need to be further negotiation? ☐ **YES** ☐**NO**

◊ **FISCAL IMPACT** (*please include the proposal section that causes the fiscal impact and the anticipated impact*)

Municipal *(please include any municipal mandate that can be found within legislation)* None
State **Sec. 1–** Minimal: CID will recover the costs of outside expert fees from the carrier whose filing requires the engagement, similar to the process currently utilized by the Department for financial examinations. Sec. 8 – CID could achieve savings through administrative efficiencies.
Federal None
Additional notes on fiscal impact Click here to enter text.

◊ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

Section 1 would allow the Department, particularly the Life & Health and Property & Casualty Divisions, to engage outside experts when necessary in order to review the appropriateness of insurance product rates filed with the Department and to recover the costs of such engagements from the carrier(s) making the filing. This will allow the Department to keep up with the pace of innovation, evolving technologies, and new insurance products in the market and enable the Department to have expert resources to review product and rate filings, including sophisticated models. Other divisions within the Department already have such a provision with regard to contracting outside experts for financial examinations.

Section 2 would allow the Department to become more efficient as the compact would review disability income products filed in Connecticut. Connecticut is already a compacting state for life and annuity products.

Section 3 would make a technical change to CGS 38a-156d to clarify that a domestic mutual insurer could reorganize to a mutual insurance holding company by a two-thirds vote of its *voting* members, rather than a two-thirds vote of all members. Without this change, a domestic mutual insurer would have difficulty taking advantage of this provision of the law.

Sections 4-7 would allow insureds to receive certain notifications electronically, rather than through the mail. Various other statutes allow such notification for these products. The statutes identified in sections 4, 6, and 7 already passed in PA 18-158 and the changes contained in this proposal make the implementation date earlier. The change in section 5 was unintentionally left out of PA 18-158. In all, these sections increase industry efficiency and provide consumers an additional method of communication with their carrier if they so choose.

Section 8 would increase efficiencies as all renewal notices and confirmations of new, amendment or reinstated licenses are emailed to licensees. Additionally, CID receives a significant amount of emails advising of officers and director changes which CID does not need for issuance or maintenance of the license. Rather, this allows the Department to be advised of a change of the designated responsible licensed person (DRLP) of the entities. Please note that a DRLP is required to maintain such license and that licensees are already required to send addresses when they make updates and the Department already does this via email.

Section 9 repeals provisions of Title 38a, in response to the passage of PA 18-13, that require health care centers to have a plan for handling insolvency, that require a $500,000 deposit to protect enrollees of a health care center in receivership, and that require a deposit in the amount of 125% of the health care center's outstanding liability for uncovered expenditures for enrollees.

Insert fully drafted bill here

Section 1. Section 38a-8 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019):*

(g) To carry out the review of rate, form and similar filings made under this Title, the Commissioner may engage the services of actuaries or other professionals and specialists as may be necessary to assist the Commissioner in conducting the review, the cost of which shall be borne by the company making the filing.

Sec. 2. Article XVII of Section 38a-37 of the general statutes is repealed and the following in substituted in lieu thereof (*Effective upon passage*):

ARTICLE XVII

STATE OF CONNECTICUT OPT OUT

In accordance with the provisions of Article VII, section 4 of this compact, the state of Connecticut opts out of all existing and prospective uniform standards involving long-term care insurance products **[**and all existing uniform standards involving disability income insurance products**]** in order to preserve the state's statutory requirements governing these insurance products.

Section 3. Section 38a-156a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage):*

(d) (1) Upon approval by the commissioner of the proposed plan of reorganization, the board of directors, the chairperson of the board of directors or the president of the reorganizing insurer shall call a members' meeting to present and hold a vote on the plan of reorganization. Such meeting shall be held not earlier than thirty days after the date of the public hearing held under subsection (c) of this section. The plan shall be approved by an affirmative vote of two-thirds of the members of the reorganizing insurer voting.

Sec. 4. Section 38a-323a of the general statutes as amended by Section 13 of Public Act 18-158 is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a) Each insurer that issues, renews, amends or endorses an automobile or homeowners insurance policy in this state on or after **[**October 1, 2017**]** July 1, 2019, shall include with the policy a conspicuous statement specifying that any individual may designate a third party to receive notice of cancellation or nonrenewal of the policy. The statement shall include a designation form, **[**and**]** a mailing address and an electronic mail address the individual may use to designate a third party. Such statement shall be in a form approved by the Insurance Commissioner.

(b) No designation form shall be effective unless it contains a written acceptance by the third party designee to receive copies of notices of cancellation or nonrenewal from the insurer on behalf of the individual. The third party designation shall be effective not later than ten business days after the date the insurer receives the designation form and the acceptance of the third party. The third party may terminate the status as a third party designee by providing written notice to both the insurer and the insured individual. The individual may terminate the third party designation by providing written notice to the insurer and the third party designee. The insurer may require the individual and the third party to send the notices to the insurer by certified mail, return receipt requested, or, if agreed between the insurer and the individual or the insurer and the third party, by electronic means.

(c) The insurer's transmission to the third party designee of a copy of any notice of cancellation or nonrenewal shall be in addition to the transmission of the original document to the insured individual.

When a third party is so designated, all such notices and copies shall be mailed in an envelope clearly marked on its face with, or, if agreed between the insurer and the third party, delivered by electronic means stating, the following: "IMPORTANT INSURANCE POLICY INFORMATION: OPEN IMMEDIATELY". The copy of the notice of cancellation or nonrenewal transmitted to the third party shall be governed by the same law and policy provisions that govern the notice being transmitted to the insured individual. The designation of a third party shall not constitute acceptance of any liability on the part of the third party or insurer for services provided to the insured individual.

Sec. 5. Subsection (a) of Section 38a-324 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a) After a policy of commercial risk insurance, other than workers' compensation insurance and automobile insurance issued under a residual market mechanism as described in section 38a-329, has been in effect for more than sixty days, or after the effective date of a renewal policy, no insurer may cancel any policy unless the cancellation is based on the occurrence, after the effective date of the policy or renewal, of one or more of the following conditions: (1) Nonpayment of premium; (2) conviction of a crime arising out of acts increasing the hazard insured against; (3) discovery of fraud or material misrepresentation by the insured in obtaining the policy or in perfecting any claim thereunder; (4) discovery of any wilful or reckless act or omission by the insured increasing the hazard insured against; (5) physical changes in the property which increase the hazard insured against; (6) a determination by the commissioner that continuation of the policy would violate or place the insurer in violation of the law; (7) a material increase in the hazard insured against; or (8) a substantial loss of reinsurance by the insurer affecting this particular line of insurance. If the basis for cancellation is nonpayment of premium, at least ten days' advance notice shall be given and the insured may continue the coverage and avoid the effect of the cancellation by payment in full at any time prior to the effective date of cancellation. If the basis for cancellation is conviction of a crime arising out of acts increasing the hazard insured against, discovery of fraud or material misrepresentation by the insured in obtaining the policy or in perfecting any claim thereunder, discovery of any wilful or reckless act or omission by the insured increasing the hazard insured against or a determination by the commissioner that continuation of the policy would violate or place the insurer in violation of the law, at least ten days' advance notice shall be given. In all other cases, at least sixty days' advance notice shall be given. Notwithstanding the provisions of this section, the advance notice period for cancellation of any professional liability policy, as defined in section 38a-393, shall be at least ninety days. No notice of cancellation shall be required if such policy is transferred from an insurer to an affiliate of such insurer for another policy with no interruption of coverage and contains the same terms, conditions and provisions, including policy limits, as the transferred policy, except that the insurer to which the policy is transferred shall not be prohibited from applying its rates and rating plans at the time of renewal. No notice of cancellation shall be effective unless it is sent, by registered or certified mail or by mail evidenced by a United States Post Office certificate of mailing, or delivered by the insurer to the named insured by the required date or, if agreed between the insurer and the named insured, by electronic means with proof of delivery receipt.

Sec. 6. Subsection (a) of section 38a-724 of the general statutes as amended by Section 17 of Public Act 18-158 is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a) The use of an employment contract between a public adjuster and the insured shall be mandatory.

(1) Any such contract signed on or after **[**October 1, 2013**]** July 1, 2019, shall contain a provision, prominently displayed on the first page of such contract in not less than twelve-point boldface type, specifying that the insured may cancel the contract, provided such insured notifies the public adjuster at such public adjuster's main office or branch office at the address shown in the contract, by certified mail, return receipt requested, or, if agreed between the insured and the public adjuster, by electronic means with proof of a delivery receipt, posted or delivered not later than midnight of the fourth calendar day after the day on which the insured signs the contract, except that if the signing is on a Friday, Saturday or Sunday, the cancellation shall be posted not later than midnight of the Thursday immediately following, and thereafter the contract shall be void ab initio.

(2) Any such contract signed on or after **[**October 1, 2013**]** July 1, 2019, that does not display the provision as specified in subdivision (1) of this subsection shall be void ab initio.

Sec. 7. The effective date of Sections 12, 14, 15, and 16 of Public Act 18-158 are amended to be effective upon passage.

Sec. 8. Subsection (a) of section 38a-771 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

(a) Any person, firm, partnership, association or corporation holding a license issued pursuant to sections 38a-702b, 38a-702j, 38a-703 to 38a-716, inclusive, 38a-731 to 38a-735, inclusive, 38a-769 to 38a-776, inclusive, 38a-786, 38a-790, 38a-792 and 38a-794 or holding a license in the name of a trade name shall notify the Insurance Commissioner, in writing, not later than thirty days after any: (1) Change in business address, [or] residence address, or e-mail address; (2) change in employer; (3) change in name; or (4) change in licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of this state [licensed members of a firm, partnership, association or officers of a corporation] as stated in the application for license.

Sec. 9. Subsections (d) and (f) of section 38a-193, and section 38a-193a are repealed. (*Effective upon passage*).

Agency Legislative Proposal - 2019 Session

Document Name: DRAFT CID 2019 Technical Fixes to Accident Only Insurance Policies

(If submitting electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Connecticut Insurance Department
Liaison: Eric Weinstein **Phone:** 860-297-3864 **E-mail:** Eric.Weinstein@ct.gov
Lead agency division requesting this proposal: Connecticut Insurance Department
Agency Analyst/Drafter of Proposal: Kristin Campanelli

Title of Proposal: AAC Technical Fixes to Accident Only Insurance Policies
Statutory Reference: 38a-503b, 38a-530b, 38a-535
Proposal Summary: This is a technical correction. This proposal seeks to remove accident only policy forms from mandates that do not apply to accident only policies. Accident insurance is a product that helps pay for expenses an individual may have resulting from an accidental injury. These are not major medical health plans. These types of policies cover certain expenses for injuries resulting from accidents that a traditional, major medical policy might not. As such, mandates intended for health policies do not apply as accident only policies do not provide such benefits. This technical proposal removes the incorrect references to accident only policies from the following mandates: • CGS 38a-503b & 38a-530b: Access to OBGYN services • CGS 38a-535: Preventive pediatric care and blood lead screening and risk assessment

PROPOSAL BACKGROUND

◊ **Reason for Proposal**

Please consider the following, if applicable:

(1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary? **No**

(2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?

(3) Have certain constituencies called for this action? **No**

(4) What would happen if this was not enacted in law this session? **The Department would pursue again**

◊ **Origin of Proposal** ☒ **New Proposal** ☐ **Resubmission**

If this is a resubmission, please share: *(1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?* *(2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?* *(3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?* *(4) What was the last action taken during the past legislative session?* Click here to enter text.

PROPOSAL IMPACT

◊ **AGENCIES AFFECTED** (*please list for each affected agency*)

Agency Name: Click here to enter text. **Agency Contact (*name, title, phone*):** Click here to enter text. **Date Contacted:** Click here to enter text. Approve of Proposal ☐ **YES** ☐ **NO** ☐ **Talks Ongoing**
Summary of Affected Agency's Comments Click here to enter text.
Will there need to be further negotiation? ☐ **YES** ☐**NO**

◊ **FISCAL IMPACT** (*please include the proposal section that causes the fiscal impact and the anticipated impact*)

Municipal *(please include any municipal mandate that can be found within legislation)* None
State None
Federal None
Additional notes on fiscal impact None

◊ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

This is a technical correction that removes incorrect references that incorrectly applies health mandates for major medical health insurance policies to accident only policies which do not provide such coverage.

Insert fully drafted bill here

Section 1. Sec. 38a-503b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a) As used in this section, "carrier" means each insurer, health care center, hospital service corporation, medical service corporation or other entity delivering, issuing for delivery, renewing, amending or continuing any individual health insurance policy in this state providing coverage of the type specified in subdivisions (1), (2), (4), **[**(6),**]** (10), (11) and (12) of section 38a-469.

(b) Each carrier shall permit a female enrollee direct access to a participating in-network obstetrician-gynecologist for any gynecological examination or care related to pregnancy and shall allow direct access to a participating in-network obstetrician-gynecologist for primary and preventive obstetric and gynecologic services required as a result of any gynecological examination or as a result of a gynecological condition. Such obstetric and gynecologic services include, but are not limited to, pap smear tests. The plan may require the participating in-network obstetrician-gynecologist to discuss such services and any treatment plan with the female enrollee's primary care provider. Nothing in this section shall preclude access to an in-network nurse-midwife as licensed pursuant to sections 20-86c and 20-86g and in-network advanced practice registered nurses as licensed pursuant to sections 20-93 and 20-94a for obstetrical and gynecological services within their scope of practice.

(c) Each carrier may allow a female enrollee to designate either a participating, in-network obstetrician-gynecologist or any other in-network physician designated by the carrier as a primary care provider, or both, and may offer the same choice to all female enrollees.

Sec. 2. Section 38a-530b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a) As used in this section, "carrier" means each insurer, health care center, hospital service corporation, medical service corporation or other entity delivering, issuing for delivery, renewing, amending or continuing any group health insurance policy in this state providing coverage of the type specified in subdivisions (1), (2), (4), **[**(6),**]** (11) and (12) of section 38a-469.

(b) Each carrier shall permit a female enrollee direct access to a participating in-network obstetrician-gynecologist for any gynecological examination or care related to pregnancy and shall allow direct access to a participating in-network obstetrician-gynecologist for primary and preventive obstetric and gynecologic services required as a result of any gynecological examination or as a result of a gynecological condition. Such obstetric and gynecologic services include, but are not limited to, pap smear tests. The plan may require the participating in-network obstetrician-gynecologist to discuss

such services and any treatment plan with the female enrollee's primary care provider. Nothing in this section shall preclude access to an in-network nurse-midwife as licensed pursuant to sections 20-86c and 20-86g and in-network advanced practice registered nurses as licensed pursuant to sections 20-93 and 20-94a for obstetrical and gynecological services within their scope of practice.

(c) Each carrier may allow a female enrollee to designate either a participating, in-network obstetrician-gynecologist or any other in-network physician designated by the carrier as a primary care provider, or both, and may offer the same choice to all female enrollees.

Sec. 3. Section 38a-535 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a) For purposes of this section, “preventive pediatric care” means the periodic review of a child's physical and emotional health from birth through six years of age by or under the supervision of a physician. Such review shall include a medical history, complete physical examination, developmental assessment, anticipatory guidance, appropriate immunizations and laboratory tests in keeping with prevailing medical standards.

(b) Each group health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), **[**(6),**]** (11) and (12) of section 38a-469 delivered, issued for delivery or renewed on or after October 1, 1989, or continued as defined in section 38a-531, on or after October 1, 1990, shall provide benefits for preventive pediatric care for any child covered by the policy or contract at approximately the following age intervals: Every two months from birth to six months of age, every three months from nine to eighteen months of age and annually from two through six years of age. Any such policy may provide that services rendered during a periodic review shall be covered to the extent that such services are provided by or under the supervision of a single physician during the course of one visit. On and after January 1, 2009, each such policy shall also provide coverage for blood lead screening and risk assessments ordered by a primary care provider pursuant to section 19a-111g. Such benefits shall be subject to any policy provisions which apply to other services covered by such policy.

Agency Legislative Proposal - 2019 Session

Document Name: DRAFT CID 2019 The Insurance Data Security Law

(If submitting electronically, please label with date, agency, and title of proposal – 092611_SDE_TechRevisions)

State Agency: Connecticut Insurance Department
Liaison: Eric Weinstein **Phone:** 860-297-3864 **E-mail:** Eric.Weinstein@ct.gov
Lead agency division requesting this proposal: Legal
Agency Analyst/Drafter of Proposal: Jon Arsenault

Title of Proposal: AAC The Insurance Data Security Law
Statutory Reference: 38a-999b
Proposal Summary: This proposal incorporates into CGS the National Association of Insurance Commissioners' (NAIC) Insurance Data Security Model Law. This model law was developed over a two year period with all stakeholders at the table, including; regulators, consumers, brokers, carriers and other stakeholders. The model law establishes standards for data security and standards for the investigation of and notification to the Commissioner of a cybersecurity event applicable to licensees of the Department. The model act creates rules for insurers, agents, and other licensees concerning data security, investigation and notification of a breach. This includes maintaining an information security program based on ongoing risk assessment, overseeing third-party service providers, investigating data breaches and notifying the Department of a cybersecurity event. • Concerning "Information Security Programs," this act would: Require licensees to develop, implement and maintain an "Information Security Program" based on their risk assessment, commensurate with the size and complexity of their operation, as outlined in the act; Require licensees to design their Information Security Program to mitigate their identified risks of their activities, determine which security measures in the act are appropriate to implement, include cybersecurity risks in their enterprise risk management process, and provide personnel with appropriate training; Implements requirements for Boards of Directors; Create oversight of third-party service provider arrangements; Require that the licensee make program adjustments as necessary;

Create provisions for an incident response plan; and require an annual certification to the Commissioner.

- Concerning investigation of a cybersecurity event, this act would create guidelines for licensees to follow in the event of a cybersecurity event and requires that that the licensee, determine whether the event occurred, the nature and scope of the event, the type of any nonpublic information that may have been involved, and perform or oversee measures to restore such security to the systems that were compromised.
- Concerning notification of a cybersecurity event, this act would require that licensees notify the Commissioner promptly and no later than 72 hours from determination of a cybersecurity event as detailed in manner detailed in the act and requires that licensees additionally notify consumers as detailed in the act.
- This act would allow the Commissioner to examine and investigate any licensee to determine if they have been engaged in any conduct in violation of this act in addition to under CGS 38a-14 to 38a-16, inclusive; Contains confidentiality provisions for information shared with the Department, and allows the Department to adopt regulations.
- This act repeals CGS 38a-999b(e), as amended by this act, effective October 1, 2020.

PROPOSAL BACKGROUND

◊ Reason for Proposal

Please consider the following, if applicable:

(1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary? **No.**

(2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? **States adopt various NAIC model laws and regulations and states will be enacting legislation to adopt this NAIC recommended legislation. South Carolina has adopted this model, New York has adopted similar provisions, and it is anticipated that many other states will be considering adoption of this model as Connecticut is. Passage of this may become a requirement of CID's NAIC accreditation.**

(3) Have certain constituencies called for this action? **State insurance regulators throughout the United States.**

(4) What would happen if this was not enacted in law this session? **CID would pursue again.**

◊ Origin of Proposal ☒ New Proposal ☐ Resubmission

If this is a resubmission, please share:

(1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?

(2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?

(3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?

(4) What was the last action taken during the past legislative session?

PROPOSAL IMPACT

◊ **AGENCIES AFFECTED** (*please list for each affected agency*)

Agency Name: Click here to enter text. **Agency Contact (*name, title, phone*):** Click here to enter text. **Date Contacted:** Click here to enter text. Approve of Proposal ☐ **YES** ☐ **NO** ☐ **Talks Ongoing**
Summary of Affected Agency's Comments Click here to enter text.
Will there need to be further negotiation? ☐ **YES** ☐**NO**

◊ **FISCAL IMPACT** (*please include the proposal section that causes the fiscal impact and the anticipated impact*)

Municipal *(please include any municipal mandate that can be found within legislation)* None
State None
Federal None
Additional notes on fiscal impact None

◊ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

This proposal establishes standards for data security and standards for the investigation of and notification to the Commissioner of a cybersecurity event applicable to licensees of the Department. The proposal creates rules for insurers, agents, and other licensees concerning data security, investigation and notification of a breach. This includes maintaining an information security program based on ongoing risk assessment, overseeing third-party service providers, investigating data breaches and notifying the Department of a cybersecurity event.

Insert fully drafted bill here

Section1. Section 38a-999b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019*):

(a) Title. This section, as amended by this act, shall be known and may be cited as the "Insurance Data Security Law."

(b) Purpose and Intent. (1) The purpose and intent of this section, as amended by this act is to establish standards for data security and standards for the investigation of and notification to the Commissioner of a Cybersecurity Event applicable to Licensees, as defined in section 3.

(2) This section, as amended by this act, may not be construed to create or imply a private cause of action for violation of its provisions nor may it be construed to curtail a private cause of action which would otherwise exist in the absence of this section, as amended by this act.

[(a) As used in this section:

(1) "Breach of security" has the same meaning as provided in section 36a-701b;

(2) "Company" means a health insurer, health care center or other entity licensed to do health insurance business in this state, pharmacy benefits manager, as defined in section 38a-479aaa, third-party administrator, as defined in section 38a-720, that administers health benefits, and utilization review company, as defined in section 38a-591a;

(3) "Encryption" means the rendering of electronic data into a form that is unreadable or unusable without the use of a confidential process or key; and

(4) "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data: (A) A Social Security number; (B) a driver's license number or a state identification number; (C) protected health information as defined in 45 CFR 160.103, as amended from time to time; (D) a taxpayer identification number; (E) an alien registration number; (F) a government passport number; (G) a demand deposit account number; (H) a savings account number; (I) a credit card number; (J) a debit card number; or (K) unique biometric data such as a fingerprint, a voice print, a retina or an iris image, or other unique physical representations. "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state or local government records or widely distributed media.**]**

(c) Definitions. As used in this section, as amended by this act, the following terms shall have these meanings:

(1) "Authorized Individual" means an individual known to and screened by the Licensee and determined to be necessary and appropriate to have access to the Nonpublic Information held by the Licensee and its Information Systems.

(2) "Commissioner" means the Insurance Commissioner.

(3) "Consumer" means an individual, including but not limited to applicants, policyholders, insureds, beneficiaries, claimants, and certificate holders who is a resident of this State and whose Nonpublic Information is in a Licensee's possession, custody, or control.

(4) "Cybersecurity Event" means an event resulting in unauthorized access to, disruption or misuse of, an Information System or information stored on such Information System. The term "Cybersecurity Event" does not include the unauthorized acquisition of Encrypted Nonpublic Information if the encryption, process or key is not also acquired, released or used without authorization. Cybersecurity Event does not include an event with regard to which the Licensee has determined that the Nonpublic Information accessed by an unauthorized person has not been used or released and has been returned or destroyed.

(5) "Department" means the Insurance Department of the State of Connecticut.

(6) "Encrypted" means the transformation of data into a form which results in a low probability of assigning meaning without the use of a protective process or key.

(7) "Information Security Program" means the administrative, technical, and physical safeguards that a Licensee uses to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle Nonpublic Information.

(8) "Information System" means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination or disposition of electronic information, as well as any specialized system such as industrial/process controls systems, telephone switching and private branch exchange systems, and environmental control systems.

(9) "Licensee" means any Person licensed, authorized to operate, or registered, or required to be licensed, authorized, or registered pursuant to the insurance laws of this State but shall not include a purchasing group or a risk retention group chartered and licensed in a state other than this State or a Licensee that is acting as an assuming insurer that is domiciled in another state or jurisdiction.

(10) "Multi-Factor Authentication" means authentication through verification of at least two of the following types of authentication factors: (A) Knowledge factors, such as a password; or (B)

Possession factors, such as a token or text message on a mobile phone; or (C) Inherence factors, such as a biometric characteristic.

(11) "Nonpublic Information" means information that is not Publicly Available Information and is: (A) Business related information of a Licensee the tampering with which, or unauthorized disclosure, access or use of which, would cause a material adverse impact to the business, operations or security of the Licensee; (B) Any information concerning a Consumer which because of name, number, personal mark, or other identifier can be used to identify such Consumer, in combination with any one or more of the following data elements: (i) Social Security number, (ii) Driver's license number or non-driver identification card number, (iii) Account number, credit or debit card number, (iv) Any security code, access code or password that would permit access to a Consumer's financial account, or (v) Biometric records; (C) Any information or data, except age or gender, in any form or medium created by or derived from a health care provider or a Consumer and that relates to (i) The past, present or future physical, mental or behavioral health or condition of any Consumer or a member of the Consumer's family, (ii) The provision of health care to any Consumer, or (iii) Payment for the provision of health care to any Consumer.

(12) "Person" means any individual or any non-governmental entity, including but not limited to any non-governmental partnership, corporation, branch, agency or association.

(13) "Publicly Available Information" means any information that a Licensee has a reasonable basis to believe is lawfully made available to the general public from: federal, state or local government records; widely distributed media; or disclosures to the general public that are required to be made by federal, state or local law. For the purposes of this definition, a Licensee has a reasonable basis to believe that information is lawfully made available to the general public if the Licensee has taken steps to determine: (A) That the information is of the type that is available to the general public; and (B) Whether a Consumer can direct that the information not be made available to the general public and, if so, that such Consumer has not done so.

(14) "Risk Assessment" means the Risk Assessment that each Licensee is required to conduct under subdivision (3) of subsection (d) of this section, as amended by this act.

(15) "State" means the State of Connecticut.

(16) "Third-Party Service Provider" means a Person, not otherwise defined as a Licensee, that contracts with a Licensee to maintain, process, store or otherwise is permitted access to Nonpublic Information through its provision of services to the Licensee.

[(b) (1) Not later than October 1, 2017, each company shall implement and maintain a comprehensive information security program to safeguard the personal information of insureds and enrollees that is compiled or maintained by such company. Such security program shall be in writing

and contain administrative, technical and physical safeguards that are appropriate to (A) the size, scope and type of business of such company, (B) the amount of resources available to such company, (C) the amount of data compiled or maintained by such company, and (D) the need for security and confidentiality of such data.

(2) Each company shall update such security program as often as necessary and practicable but at least annually and shall include in such security program:

(A) Secure computer and Internet user authentication protocols that include, but are not limited to, (i) control of user identifications and other identifiers, (ii) multifactor authentication that includes a reasonably secure method of assigning and selecting a password or the use of unique identifier technologies such as biometrics or security tokens, (iii) control of security passwords to ensure that such passwords are maintained in a location and format that do not compromise the security of personal information, (iv) restriction of access to only active users and active user accounts, and (v) the blocking of access after multiple unsuccessful attempts to gain access to data compiled or maintained by a company;

(B) Secure access control measures that include, but are not limited to, (i) restriction of access to personal information to only those individuals who require such data to perform their job duties, (ii) assignment, to each individual with computer and Internet access to data compiled or maintained by such company, of passwords that are not vendor-assigned default passwords and that require resetting not less than every six months and of unique user identifications, that are designed to maintain the integrity of the security of the access controls, (iii) encryption of all personal information while being transmitted on a public Internet network or wirelessly, (iv) encryption of all personal information stored on a laptop computer or other portable device, (v) monitoring of such company's security systems for breaches of security, (vi) for personal information that is stored or accessible on a system that is connected to the Internet, reasonably up-to-date software security protection that can support updates and patches, including, but not limited to, firewall protection, operating system security patches and malicious software protection, and (vii) employee education and training on the proper use of the company's security systems and the importance of the security of personal information;

(C) Designation of one or more employees to oversee such security program and the maintenance of such security program;

(D) (i) Identification and assessment of reasonably foreseeable internal and external risks to the security, confidentiality or integrity of any electronic, paper or other records that contain personal information, (ii) evaluation and improvement where necessary of the effectiveness of the current safeguards for limiting such risks, including, but not limited to, (I) ongoing employee training, (II) employee compliance with security policies and procedures, and (III) means for detecting and preventing security system failures, and (iii) the upgrade of safeguards as necessary to limit risks;

(E) Development of employee security policies and procedures for the storage of, access to, transport of and transmittal of personal information off-premises;

(F) Imposition of disciplinary measures on employees for violating security policies or procedures or other provisions of the comprehensive information security program;

(G) Prevention of terminated, inactive or retired employees from accessing personal information;

(H) Oversight of third parties with which such company enters into contracts or agreements that have or will have access to personal information compiled or maintained by the company, by (i) selecting third parties that are capable of maintaining appropriate safeguards consistent with this subsection to protect such personal information, and (ii) requiring such third parties by contract or agreement to implement and maintain such safeguards;

(I) Reasonable restrictions on physical access to personal information in paper format and storage of such data in locked facilities, storage areas or containers;

(J) Review of the scope of the secure access control measures at least annually or whenever there is a material change in the company's business practices that may affect the security, confidentiality or integrity of personal information;

(K) Mandatory post-incident review by the company following any actual or suspected breach of security, and documentation of actions the company takes in response to such breach, including any changes the company makes to its business practices relating to the safeguarding of personal information; and

(L) Any other safeguards the company believes will enhance its comprehensive information security program.

(c) On or after October 1, 2017, each company shall certify annually to the Insurance Department, under penalty of perjury, that it maintains a comprehensive information security program that complies with the requirements of subsection (b) of this section.**]**

(d) Information Security Program. (1) Implementation of an Information Security Program. Commensurate with the size and complexity of the Licensee, the nature and scope of the Licensee's activities, including its use of Third-Party Service Providers, and the sensitivity of the Nonpublic Information used by the Licensee or in the Licensee's possession, custody or control, each Licensee shall, not later than October 1, 2020, develop, implement, and maintain a comprehensive written Information Security Program based on the Licensee's Risk Assessment and that contains administrative, technical, and physical safeguards for the protection of Nonpublic Information and the Licensee's Information System.

(2) Objectives of Information Security Program. A Licensee's Information Security Program shall be designed to: (A) Protect the security and confidentiality of Nonpublic Information and the security of the Information System; (B) Protect against any threats or hazards to the security or integrity of Nonpublic Information and the Information System; (C) Protect against unauthorized access to or use of Nonpublic Information, and minimize the likelihood of harm to any Consumer; and (D) Define and periodically reevaluate a schedule for retention of Nonpublic Information and a mechanism for its destruction when no longer needed.

(3) Risk Assessment**.** The Licensee shall: (A) Designate one or more employees, an affiliate, or an outside vendor designated to act on behalf of the Licensee who is responsible for the Information Security Program; (B) Identify reasonably foreseeable internal or external threats that could result in unauthorized access, transmission, disclosure, misuse, alteration or destruction of Nonpublic

Information, including the security of Information Systems and Nonpublic Information that are accessible to, or held by, Third-Party Service Providers; (C) Assess the likelihood and potential damage of these threats, taking into consideration the sensitivity of the Nonpublic Information; (D) Assess the sufficiency of policies, procedures, Information Systems and other safeguards in place to manage these threats, including consideration of threats in each relevant area of the Licensee's operations, including: (i) Employee training and management; (ii Information Systems, including network and software design, as well as information classification, governance, processing, storage, transmission, and disposal; and (iii) Detecting, preventing, and responding to attacks, intrusions, or other systems failures; and (E) Implement information safeguards to manage the threats identified in its ongoing assessment, and no less than annually, assess the effectiveness of the safeguards' key controls, systems, and procedures.

(4) Risk Management. Based on its Risk Assessment, the Licensee shall: (A) Design its Information Security Program to mitigate the identified risks, commensurate with the size and complexity of the Licensee's activities, including its use of Third-Party Service Providers, and the sensitivity of the Nonpublic Information used by the Licensee or in the Licensee's possession, custody, or control. (B) Determine which security measures listed below are appropriate and implement such security measures. (i) Place access controls on Information Systems, including controls to authenticate and permit access only to Authorized Individuals to protect against the unauthorized acquisition of Nonpublic Information; (ii) Identify and manage the data, personnel, devices, systems, and facilities that enable the organization to achieve business purposes in accordance with their relative importance to business objectives and the organization's risk strategy; (iii) Restrict access at physical locations containing Nonpublic Information, only to Authorized Individuals; (iv) Protect by encryption or other appropriate means, all Nonpublic Information while being transmitted over an external network and all Nonpublic Information stored on a laptop computer or other portable computing or storage device or media; (v) Adopt secure development practices for in-house developed applications utilized by the Licensee and procedures for evaluating, assessing or testing the security of externally developed applications utilized by the Licensee; (vi) Modify the Information System in accordance with the Licensee's Information Security Program; (vii) Utilize effective controls, which may include Multi-Factor Authentication procedures for any individual accessing Nonpublic Information; (viii) Regularly test and monitor systems and procedures to detect actual and attempted attacks on, or intrusions into, Information Systems; (ix) Include audit trails within the Information Security Program designed to detect and respond to Cybersecurity Events and designed to reconstruct material financial transactions sufficient to support normal operations and obligations of the Licensee; (x) Implement measures to protect against destruction, loss, or damage of Nonpublic Information due to environmental hazards, such as fire and water damage or other catastrophes or technological failures; and (xi) Develop, implement, and maintain procedures for the secure disposal of Nonpublic Information in any format. (C) Include cybersecurity risks in the Licensee's enterprise risk management process. (D) Stay informed regarding emerging threats or vulnerabilities and utilize reasonable security measures when sharing information relative to the character of the sharing and

the type of information shared; and (E) Provide its personnel with cybersecurity awareness training that is updated as necessary to reflect risks identified by the Licensee in the Risk Assessment.

(5) Oversight by Board of Directors. If the Licensee has a board of directors, the board or an appropriate committee of the board shall, at a minimum: (A) Require the Licensee's executive management or its delegates to develop, implement, and maintain the Licensee's Information Security Program; (B) Require the Licensee's executive management or its delegates to report in writing at least annually, the following information: (i) The overall status of the Information Security Program and the Licensee's compliance with this Act; and (ii) Material matters related to the Information Security Program, addressing issues such as risk assessment, risk management and control decisions, Third-Party Service Provider arrangements, results of testing, Cybersecurity Events or violations and management's responses thereto, and recommendations for changes in the Information Security Program. (C) If executive management delegates any of its responsibilities under subsection (d) of this section, as amended by this act, it shall oversee the development, implementation and maintenance of the Licensee's Information Security Program prepared by the delegate(s) and shall receive a report from the delegate(s) complying with the requirements of the report to the Board of Directors above.

(6) Oversight of Third-Party Service Provider Arrangements. (A) A Licensee shall exercise due diligence in selecting its Third-Party Service Provider; and (B) Not later than October 1, 2021, a Licensee shall require a Third-Party Service Provider to implement appropriate administrative, technical, and physical measures to protect and secure the Information Systems and Nonpublic Information that are accessible to, or held by, the Third-Party Service Provider.

(7) Program Adjustments. The Licensee shall monitor, evaluate and adjust, as appropriate, the Information Security Program consistent with any relevant changes in technology, the sensitivity of its Nonpublic Information, internal or external threats to information, and the Licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to Information Systems.

(8) Incident Response Plan. (A) As part of its Information Security Program, each Licensee shall establish a written incident response plan designed to promptly respond to, and recover from, any Cybersecurity Event that compromises the confidentiality, integrity, or availability of Nonpublic Information in its possession, the Licensee's Information Systems, or the continuing functionality of any aspect of the Licensee's business or operations. (B) Such incident response plan shall address the following areas: (i) The internal process for responding to a Cybersecurity Event; (ii) The goals of the incident response plan; (iii) The definition of clear roles, responsibilities and levels of decision-making authority; (iv) External and internal communications and information sharing; (v) Identification of requirements for the remediation of any identified weaknesses in Information Systems and associated controls; (vi) Documentation and reporting regarding Cybersecurity Events

and related incident response activities; and (vii) The evaluation and revision as necessary of the incident response plan following a Cybersecurity Event.

(9) Annual Certification to Commissioner of Domiciliary State. Annually, each insurer domiciled in this State shall submit to the Commissioner, a written statement by February 15, certifying that the insurer is in compliance with the requirements set forth in subsection (d) of this section, as amended by this act. Each insurer shall maintain for examination by the Department all records, schedules and data supporting this certificate for a period of five years. To the extent an insurer has identified areas, systems, or processes that require material improvement, updating or redesign, the insurer shall document the identification and the remedial efforts planned and underway to address such areas, systems or processes. Such documentation must be available for inspection by the Commissioner.

(e)[(d)] As used in this subsection, as amended by this act, "company" means a health insurer, health care center or other entity licensed to do health insurance business in this state, pharmacy benefits manager, as defined in section 38a-479aaa, third-party administrator, as defined in section 38a-720, that administers health benefits, and utilization review company, as defined in section 38a-591a. Upon request by the Insurance Commissioner or by the Attorney General, each company shall provide to the commissioner or the Attorney General a copy of its **[**comprehensive**]** information security program. If the commissioner or the Attorney General determines that such security program does not conform to the requirements set forth in subsection **[**(b)**]** (d) of this section, as amended by this act, the commissioner or the Attorney General shall notify the company of such determination and such company shall make changes as necessary to bring such security program into conformance to the commissioner's or the Attorney General's satisfaction.

(f) Investigation of a Cybersecurity Event. (1) If the Licensee learns that a Cybersecurity Event has or may have occurred the Licensee or an outside vendor and/or service provider designated to act on behalf of the Licensee, shall conduct a prompt investigation.

(2) During the investigation, the Licensee, or an outside vendor and/or service provider designated to act on behalf of the Licensee, shall, at a minimum determine as much of the following information as possible: (A) Determine whether a Cybersecurity Event has occurred; (B) Assess the nature and scope of the Cybersecurity Event; (C) Identify any Nonpublic Information that may have been involved in the Cybersecurity Event; and (D) Perform or oversee reasonable measures to restore the security of the Information Systems compromised in the Cybersecurity Event in order to prevent further unauthorized acquisition, release or use of Nonpublic Information in the Licensee's possession, custody or control.

(3) If the Licensee learns that a Cybersecurity Event has or may have occurred in a system maintained by a Third-Party Service Provider, the Licensee will complete the steps listed in subdivision (2) of this subsection or confirm and document that the Third-Party Service Provider has completed those steps.

(4) The Licensee shall maintain records concerning all Cybersecurity Events for a period of at least five years from the date of the Cybersecurity Event and shall produce those records upon demand of the Commissioner.

[(e) Each company that discovers an actual or suspected breach of security shall (1) comply with the notice requirements set forth in section 36a-701b, (2) be subject to the penalty set forth in subsection (g) of section 36a-701b for failure to comply, and (3) offer appropriate identity theft prevention services and, if applicable, identity theft mitigation services, as set forth in subparagraph (B) of subdivision (2) of subsection (b) of section 36a-701b.**]**

(g) Notification of a Cybersecurity Event. (1) Notification to the Commissioner. Each Licensee shall notify the Commissioner as promptly as possible but in no event later than 72 hours from a determination that a Cybersecurity Event has occurred when either of the following criteria has been met: (A) This State is the Licensee's state of domicile, in the case of an insurer, or this State is the Licensee's home state, in the case of a producer, as those terms are defined in section 38a-702a; or (B) The Licensee reasonably believes that the Nonpublic Information involved is of 250 or more Consumers residing in this State and that is either of the following: (i) A Cybersecurity Event impacting the Licensee of which notice is required to be provided to any government body, self-regulatory agency or any other supervisory body pursuant to any state or federal law; or (ii) A Cybersecurity Event that has a reasonable likelihood of materially harming: (I) Any Consumer residing in this State; or (II) Any material part of the normal operation(s) of the Licensee.

(2) The Licensee shall provide as much of the following information as possible. The Licensee shall provide the information in electronic form as directed by the Commissioner. The Licensee shall have a continuing obligation to update and supplement initial and subsequent notifications to the Commissioner concerning the Cybersecurity Event. (A) Date of the Cybersecurity Event; (B) Description of how the information was exposed, lost, stolen, or breached, including the specific roles and responsibilities of Third-Party Service Providers, if any; (C) How the Cybersecurity Event was discovered; (D) Whether any lost, stolen, or breached information has been recovered and if so, how this was done; (E) The identity of the source of the Cybersecurity Event; (F) Whether Licensee has filed a police report or has notified any regulatory, government or law enforcement agencies and, if so, when such notification was provided; (G) Description of the specific types of information acquired without authorization. Specific types of information means particular data elements including, for example, types of medical information, types of financial information or types of information allowing identification of the Consumer; (H) The period during which the Information System was compromised by the Cybersecurity Event; (I) The number of total Consumers in this State affected by the Cybersecurity Event. The Licensee shall provide the best estimate in the initial report to the Commissioner and update this estimate with each subsequent report to the Commissioner pursuant to this section; (J) The results of any internal review identifying a lapse in either automated controls or internal procedures, or confirming that all automated controls or internal procedures were

followed; (K) Description of efforts being undertaken to remediate the situation which permitted the Cybersecurity Event to occur; (L) A copy of the Licensee's privacy policy and a statement outlining the steps the Licensee will take to investigate and notify Consumers affected by the Cybersecurity Event; and (M) Name of a contact person who is both familiar with the Cybersecurity Event and authorized to act for the Licensee.

(3) Notification to Consumers. Licensee shall comply with section 36a-701b notification law, as applicable, and provide a copy of the notice sent to Consumers under that statute to the Commissioner, when a Licensee is required to notify the Commissioner under subdivision (1) of this subsection.

(4) Notice Regarding Cybersecurity Events of Third-Party Service Providers. (A) In the case of a Cybersecurity Event in a system maintained by a Third-Party Service Provider, of which the Licensee has become aware, the Licensee shall treat such event as it would under subdivision (1) of this subsection. (B) The computation of Licensee's deadlines shall begin on the day after the Third-Party Service Provider notifies the Licensee of the Cybersecurity Event or the Licensee otherwise has actual knowledge of the Cybersecurity Event, whichever is sooner. (C) Nothing in this Act shall prevent or abrogate an agreement between a Licensee and another Licensee, a Third-Party Service Provider or any other party to fulfill any of the investigation requirements imposed under section 5 or notice requirements imposed under this section.

(5) Notice Regarding Cybersecurity Events of Reinsurers to Insurers. (A) (i) In the case of a Cybersecurity Event involving Nonpublic Information that is used by the Licensee that is acting as an assuming insurer or in the possession, custody or control of a Licensee that is acting as an assuming insurer and that does not have a direct contractual relationship with the affected Consumers, the assuming insurer shall notify its affected ceding insurers and the Commissioner of its state of domicile within 72 hours of making the determination that a Cybersecurity Event has occurred. (ii) The ceding insurers that have a direct contractual relationship with affected Consumers shall fulfill the consumer notification requirements imposed under section 36a-701b and any other notification requirements relating to a Cybersecurity Event imposed under this section. (B) (i) In the case of a Cybersecurity Event involving Nonpublic Information that is in the possession, custody or control of a Third-Party Service Provider of a Licensee that is an assuming insurer, the assuming insurer shall notify its affected ceding insurers and the Commissioner of its state of domicile within 72 hours of receiving notice from its Third-Party Service Provider that a Cybersecurity Event has occurred. (ii) The ceding insurers that have a direct contractual relationship with affected Consumers shall fulfill the consumer notification requirements imposed under section 36a-701b and any other notification requirements relating to a Cybersecurity Event imposed under this section.

(6) Notice Regarding Cybersecurity Events of Insurers to Producers of Record. In the case of a Cybersecurity Event involving Nonpublic Information that is in the possession, custody or control of a Licensee that is an insurer or its Third-Party Service Provider and for which a Consumer accessed the

insurer's services through an independent insurance producer, the insurer shall notify the producers of record of all affected Consumers as soon as practicable as directed by the Commissioner. The insurer is excused from this obligation for those instances in which it does not have the current producer of record information for any individual Consumer.

[(f) The Insurance Commissioner shall enforce the provisions of subsections (b) to (d), inclusive, of this section.**]**

(h) Power of Commissioner. (1) The Commissioner shall have power to examine and investigate into the affairs of any Licensee to determine whether the Licensee has been or is engaged in any conduct in violation of this section, as amended by this act. This power is in addition to the powers which the Commissioner has under sections 38a-14 to 38a-16, inclusive. Any such investigation or examination shall be conducted pursuant to the applicable aforementioned statutes.

(2) Whenever the Commissioner has reason to believe that a Licensee has been or is engaged in conduct in this State which violates this section, as amended, the Commissioner may take action that is necessary or appropriate to enforce the provisions of this section, as amended by this act.

(i) Confidentiality. (1) Any documents, materials or other information in the control or possession of the Department that are furnished by a Licensee or an employee or agent thereof acting on behalf of Licensee pursuant to subparagraphs (B), (C), (D), (E), (H), (J), and (K) of subdivision (2) of subsection (g) of this section, as amended by this act, or that are obtained by the Commissioner in an investigation or examination pursuant to subsection (h) of this section, as amended by this act, shall be confidential by law and privileged, shall not be subject to disclosure under section 1-210, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's duties.

(2) Neither the Commissioner nor any person who received documents, materials or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subdivision (1) of this subsection.

(3) In order to assist in the performance of the Commissioner's duties under this Act, the Commissioner: (A) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subdivision (1) of this subsection, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries, with the Attorney General and with state, federal, and international law enforcement authorities, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material or other information; (B) May

receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries, from the Attorney General and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; (C) May share documents, materials or other information subject to subdivision (1) of this subsection, with a third-party consultant or vendor provided the consultant agrees in writing to maintain the confidentiality and privileged status of the document, material or other information; and (D) May enter into agreements governing sharing and use of information consistent with this subsection.

(4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subdivision (3) of this subsection.

(5) Nothing in this section, as amended by this act, shall prohibit the Commissioner from releasing final, adjudicated actions that are open to public inspection pursuant to section 1-210 to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

(j) Exceptions. (1) The following exceptions shall apply to this section, as amended by this act: (A) A Licensee with fewer than ten employees, including any independent contractors, is exempt from subsection (d) of this section, as amended by this act; (B) A Licensee subject to Pub. L. 104–191, 110 Stat. 1936, enacted August 21, 1996 (Health Insurance Portability and Accountability Act) that has established and maintains an Information Security Program pursuant to such statutes, rules, regulations, procedures or guidelines established thereunder, will be considered to meet the requirements of subsection (d) of this section, as amended by this act, provided that Licensee is compliant with, and submits to the Commissioner a written statement certifying its compliance with, the same; (C) An employee, agent, representative or designee of a Licensee, who is also a Licensee, is exempt from subsection (d) of this section, as amended by this act, and need not develop its own Information Security Program to the extent that the employee, agent, representative or designee is covered by the Information Security Program of the other Licensee.

(2) In the event that a Licensee ceases to qualify for an exception, such Licensee shall have 180 days to comply with this section, as amended by this act.

(k) Penalties. Whenever it appears to the Commissioner that any Licensee has committed a violation of this Act, the Commissioner may, after reasonable notice and hearing, suspend, revoke or refuse to issue or renew any license or certificate of registration of the violator, or in lieu thereof or in

addition to such suspension, revocation or refusal, may impose a fine not to exceed fifty thousand dollars.

(l) Regulations. The Commissioner may adopt such regulations, in accordance with chapter 54 of the general statutes, as are necessary to carry out the provisions of this section, as amended by this act.

Sec. 2. Subsection (e) of section 38a-999b of the general statues, as amended by this act, is repealed effective October 1, 2020.