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Idaho 2019 Legislation Update: What the Insurance Industry Should Know

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The 2019 Idaho Legislature adopted several pieces of new legislation that impact the insurance industry. Highlights of the new laws, which went into effect July 1, 2019, include:

- **Contracts with Dental Service Providers.** Senate Bill 1069 amended Idaho Code Section 41-1849 to provide that dentists cannot be required to charge in-network rates for services that exceed the annual maximum coverage provided under a patient's dental policy. When the annual maximum is reached, the dentist must disclose any change in fees for service to the patient and the patient must agree to the new fees. The dentist also must not charge more than the lowest amount the dentist charges to uninsured patients.
- **Coverage for Patients in Clinical Trials.** Senate Bill 1097 added a new Chapter 65 to the Idaho Insurance Code. The new chapter requires health insurers to continue to cover the routine costs of care for an insured who is enrolled in an approved clinical trial. The insurer is not required to cover the costs of investigational treatments, the costs of the study, costs that are not covered under the plan, or services that are not consistent with widely accepted medical guidelines. Except for the requirement to cover the routine costs of care, the new chapter does not override cost sharing requirements or other limitations on coverage stated in an insured's benefit plan.
- **Revisions to Requirements for Non-ERISA Self-Funded Health Plans.** House Bill 149 made two revisions to Idaho's law governing non-ERISA self-funded plans (i.e. MEWAs, governmental plans, church plans, etc.). First, the bill exempted the state's own employee health plan from the requirement to register with the Idaho Department of Insurance. Second, the bill revised the surplus requirements for self-funded plans. As revised, the plan's aggregate stop loss policy can substitute for some or all the plan's required surplus. The overall effect is to permit "level-funded" arrangements.
- **Enhanced Short-Term Health Insurance Plans.** House Bill 275 revised Idaho's individual health insurance statutes to create a new category of health insurance referred to as "enhanced short-term." The legislation dovetails with recent federal action to allow non-

ACA coverage to be renewable for up to 36 months. Under the new Idaho law, any plans that are renewable for more than 12 months must comply with benefit mandates and other consumer protections to be specified in administrative rules of the Department of Insurance.

- **Internationally Active Insurance Groups.** House Bill 71 updated the Idaho Insurance Holding Company Systems law to incorporate the NAIC's 2014 amendments related to supervision of internationally active insurance groups.
- **Investments.** House Bill 112 amended three provisions of the chapter on insurance company investments. First, the bill clarified the recordkeeping requirements when an officer or director has an interest in an insurer's investments. The revision also includes an exclusion from reporting when the investment is in a publicly traded company and the officer or director owns less than 1% of the company's stock or bonds as components of investments in ETFs or mutual funds. Second, the bill increased the limitation on investment in home office property from 10% to 15% of assets. Third, the bill increased the limitation on "miscellaneous" investments to the lower of 10% of assets or 75% of capital and surplus. The prior limitation was 5% of assets or 50% of surplus.
- **Online Vehicle Insurance Verification.** House Bill 179 requires the Idaho Department of Transportation to enhance the vehicle insurance verification system so that the system will automatically compare the insurance data to outstanding vehicle registrations and cancel vehicle registrations for vehicles that do not meet the state's financial responsibility requirements.

Gabriel Hamilton advises clients of all sizes on general corporate, transactional, and regulatory matters, with an emphasis on clients in the healthcare and insurance industries. He is a member of the Federation of Regulatory Counsel (FORC), the only national association of attorneys who devote at least 50% of their practice to insurance regulatory matters.

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