

THE INSURANCE FEDERATION OF PENNSYLVANIA, INC.

Public Testimony

Prepared for

The House Insurance Committee

ON

Insurance Fraud Initiatives

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**The Insurance Federation of Pennsylvania, Inc.
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GOOD AFTERNOON, AND THANK YOU FOR THE CHANCE TO BE HERE. I AM SAM MARSHALL WITH THE INSURANCE FEDERATION OF PENNSYLVANIA. WE REPRESENT ALL LINES AND SIZES OF INSURERS - RANGING NOT ONLY FROM STATE FARM TO EASTERN ALLIANCE, BUT ACROSS THE SPECTRUM IN THE AREAS OF LIFE AND HEALTH COVERAGE AS WELL AS WORKERS COMPENSATION AND ALL TYPES OF PROPERTY/CASUALTY COVERAGE.

AS AN INDUSTRY, WE'VE HAD A LONG AND SUSTAINED COMMITMENT TO FIGHTING INSURANCE FRAUD: IT COSTS OUR POLICYHOLDERS MONEY, AND IT UNDERMINES THE INTEGRITY OF THE INSURANCE SYSTEM. YOU'VE HEARD US TALK ABOUT PREDICTABILITY AND STABILITY AS THE CORNERSTONES OF A SOUND INSURANCE SYSTEM. WELL, FIGHTING FRAUD IS PART OF THAT - BECAUSE THE ABILITY TO COMMIT INSURANCE FRAUD ERODES THE PREDICTABILITY AND STABILITY OF INSURANCE.

WE'RE PLEASED TO SEE THE COMMITTEE TAKE UP INSURANCE FRAUD, AND WE'RE PLEASED TO SEE THE STRONG BI-PARTISAN COMMITMENT TO SHARPENING THE TOOLS FOR DOING THE JOB. WE'RE ALSO GRATIFIED TO SEE THIS EXTENDS TO BOTH CHAMBERS - MATCHING MAJOR INITIATIVES HAVE BEEN INTRODUCED IN THE SENATE AND THE HOUSE, WITH SUPPORT FROM REPUBLICANS AND DEMOCRATS AS WELL AS THE ATTORNEY GENERAL.

TODAY, I'LL HIGHLIGHT THE VALUE OF THREE MEASURES IN VARYING STAGES OF LEGISLATIVE DEVELOPMENT, AND TRY TO ADDRESS ANY CONCERNS ABOUT OTHER MEASURES.

TOWING: WE APPRECIATE THE COMMITTEE'S APPROVAL OF HOUSE BILL 2041, ESTABLISHING TOWING STANDARDS AND DISCLOSURES. WE'RE NOT AWARE OF ANY OPPONENTS TO THE BILL, AND IT HAS THE SUPPORT OF THE AGENCY CHARGED WITH ENFORCING IT - THE ATTORNEY GENERAL - SO LET'S HOPE HEARINGS LIKE THIS KEEP THE PRESSURE ON TO GET THIS ENACTED.

INSURER-TO-INSURER IMMUNITY: WE APPRECIATE THE INTRODUCTION OF HOUSE BILL 2154 BY CHAIRMEN DELUCA AND MICOZZIE, AND WE APPRECIATE THE SUPPORT OF THE ATTORNEY GENERAL. THE BILL CONTINUES THE IMMUNITY IN CURRENT LAW FOR THE INSURANCE DEPARTMENT AND FOR PEOPLE SHARING INFORMATION ON SUSPECTED FRAUD WITH GOVERNMENT AGENCIES AND SIMILAR ORGANIZATIONS AND DATABASES DEDICATED TO IDENTIFYING AND STOPPING INSURANCE FRAUD. IT EXTENDS THIS IMMUNITY TO FRAUD FIGHTERS WITHIN INSURERS WHEN SHARING INFORMATION ABOUT SUSPECTED FRAUD WITH THEIR PEERS, WHETHER IN-HOUSE OR IN OTHER INSURERS.

ANY BILL WITH THE WORDS "INSURERS" AND "IMMUNITY" WILL DRAW

SCRUTINY, SO THE LIMITED NATURE OF THIS IMMUNITY BEARS EMPHASIS. IT APPLIES ONLY TO THOSE PEOPLE IN AN INSURER WHO ARE DESIGNATED AS RESPONSIBLE FOR THE INVESTIGATION AND DISPOSITION OF CLAIMS RELATED TO SUSPECTED FRAUD - AND ONLY TO THE EXTENT THOSE PEOPLE ARE SHARING INFORMATION ABOUT SUSPECTED FRAUD WITH OTHERS ALSO DESIGNATED AS FRAUD FIGHTERS. AND IT EXPRESSLY DOESN'T ERODE ANY BAD FAITH OR OTHER CLAIMS AGAINST INSURERS OR THEIR EMPLOYEES BASED UPON ANY OTHER ACTIONS. THAT IS TRULY A LIMITED IMMUNITY: WE'RE NOT ASKING FOR BLANKET IMMUNITY IN THE CLAIMS PROCESS - JUST PROTECTION SO DESIGNATED PEOPLE CAN WORK TOGETHER IN FIGHTING FRAUD.

PUBLIC ADJUSTER REFORM: WE ASK THAT THE COMMITTEE CONSIDER STRENGTHENING PENNSYLVANIA'S PUBLIC ADJUSTER LICENSING LAW TO ENSURE THAT CONSUMERS GET PROPER DISCLOSURES WHEN CONTRACTING WITH ADJUSTERS. SPECIFIC ITEMS FOR DISCLOSURE SHOULD INCLUDE:

- NOTICE THAT THE INSURED HAS THE RIGHT TO RESCIND THE CONTRACT WITHIN 15 DAYS OF SIGNATURE.
- NOTICE THAT THE ADJUSTER'S FEES COME OUT OF AN INSURER'S CLAIMS PAYMENT UNDER A POLICY, NOT IN ADDITION TO THOSE PAYMENTS.

- NOTICE THAT THE ADJUSTER WILL PROVIDE THE INSURED A COPY OF ANY LOSS OR ESTIMATE IT SENDS TO THE INSURER.

WE'RE DISCUSSING THESE IDEAS WITH THE INSURANCE DEPARTMENT, SINCE IT IS THE AGENCY RESPONSIBLE FOR LICENSING PUBLIC ADJUSTERS AND APPROVING THEIR CONTRACTS. WE THINK THESE ARE STRAIGHT-FORWARD AND REASONABLE DISCLOSURES AND REQUIREMENTS, AND WE WELCOME ANY INPUT FROM OTHERS.

WHILE WE'VE TALKED ABOUT THREE TARGETED ITEMS, I'LL CLOSE WITH A BROADER OBSERVATION. AT TIMES, IT SEEMS THE QUESTION IS NOT SO MUCH WHAT CAN BE DONE TO FIGHT INSURANCE FRAUD AS WHETHER INSURERS REALLY CARE ABOUT FIGHTING FRAUD - WITH THE PRESUMPTION BEING THAT THIS COMMITMENT ISN'T STRONG ENOUGH AND CAN BE STRENGTHENED BY LEGISLATION.

WELL, THE GOOD NEWS IS THAT WE DO CARE ABOUT FIGHTING FRAUD. COMPANIES ACROSS THE BOARD - ALL SIZES AND ALL LINES - DEVOTE CONSIDERABLE RESOURCES TO THIS. THE APPROACHES WILL AND SHOULD VARY, BUT THE COMMITMENT IS CONSISTENT. THAT'S WHY PEOPLE DON'T COMPLAIN THAT INSURERS ARE TOO EASY IN PAYING CLAIMS OR TAKING ON NEW RISKS - USUALLY JUST THE OPPOSITE.

THE REALITY IS THAT WE ASK HARD QUESTIONS AND REQUEST DOCUMENTATION NOT BECAUSE WE DON'T WANT TO PAY CLAIMS, BUT BECAUSE WE WANT TO PAY ONLY FAIR CLAIMS. I APPRECIATE THE NUMBER OF LAWS ON THE BOOKS TO PREVENT US FROM BEING OVERZEALOUS IN THIS COMMITMENT - THAT'S WHAT PROMPT-PAY LAWS, RESTRICTIONS ON UTILIZATION REVIEW, BAD FAITH STATUTES, THE UNFAIR INSURANCE PRACTICES ACT AND THE LIKE AMOUNT TO. I HOPE AS YOU CONSIDER ANY FRAUD PACKAGE, YOU RECOGNIZE BOTH OUR INDUSTRY'S ACROSS-THE-BOARD COMMITMENT TO FIGHTING FRAUD AND THE EXISTING CHECKS AND BALANCES ON THAT COMMITMENT. THEY SHOW THAT YOUR WORRY ISN'T THAT WE DO TOO LITTLE, IT IS THAT WE MIGHT DO TOO MUCH.

WE ALSO RECOGNIZE THE IMPORTANCE OF LAW ENFORCEMENT IN FIGHTING FRAUD, AND THE IMPORTANCE OF INSURERS WORKING WITH LAW ENFORCEMENT. THAT'S ONE REASON WE SUPPORT - AND FUND - THE INSURANCE FRAUD PREVENTION AUTHORITY AND ITS GRANTS TO LAW ENFORCEMENT. OVER THE YEARS, WE'VE LEARNED THE REAL CHALLENGE IS NOT SO MUCH HOW MUCH WE REPORT IN TERMS OF SUSPECTED FRAUD, BUT WHAT WE REPORT. THERE ARE SOME INEVITABLE DIFFERENCES - WE'RE CLAIMS INVESTIGATORS, AND LAW ENFORCEMENT AGENCIES ARE CRIMINAL PROSECUTORS, SO THERE IS A LEARNING CURVE ON BOTH SIDES. WE'RE WORKING ON IT, AND WE'RE GRATEFUL FOR THE PROGRESS THAT'S BEING MADE.

THE POINT IS, OUR INDUSTRY IS ALREADY COMMITTED TO FIGHTING FRAUD, AND TO WORKING WITH LAW ENFORCEMENT ON THAT - SO WE DON'T BELIEVE EITHER AREA NEEDS MORE REGULATORY REQUIREMENTS, ESPECIALLY AT A TIME WHEN INDUSTRY AND GOVERNMENT REGULATORY RESOURCES ARE STRETCHED THIN. WHAT IS NEEDED ARE THE PRACTICAL TOOLS WE'VE TALKED ABOUT TODAY - TOWING STANDARDS, INSURER-TO-INSURER IMMUNITY AND PUBLIC ADJUSTER STANDARDS. WE'RE THANKFUL FOR YOUR EFFORTS ON ALL THREE FRONTS, AND WE'RE READY TO WORK WITH YOU ON GETTING THESE MEASURES ENACTED.

AGAIN, THANK YOU FOR THE OPPORTUNITY TO BE HERE, AND I'M HAPPY TO ANSWER ANY QUESTIONS.