AAHU Day at the Capitol - 2022

Welcome to DATC! We appreciate your time and support of **Arizona Association of Health Underwriters**.

DATC marks the 33rd day of the Arizona 55th Legislature, 2nd Regular Session and we are quickly approaching the deadline of February 18th for bills to be heard in their chamber of origin. With only two weeks remaining before the legislative crossover, activity over the next couple of weeks will be intensifying as members attempt to keep their bills alive and moving through the process. Additionally, this week, several bills finally reached the floor for full consideration in the House and Senate.

Leadership and committee chairs continue to sort through the 1,532 bills and 114 resolutions posted so far. This is the second largest number of bills introduced in a single legislative session in over 20 years.

Bills most likely to be discussed at DATC. (numerical order Senate then House)

S1118: INSURANCE; FEES; CONSENT; LIMITS: (Livingston)
Various changes to statutes relating to insurance. Provisions include: The minimum fee for a certificate of director is reduced to $0, from $1.50. An insured is no longer required to agree in writing to a fee or service charge for an insurance transaction for an insurance producer to be allowed to charge the fee or service charge. For the purpose of consent for insurance contracts, an oral communication with a contemporaneous record or recording made of the communication may qualify as consent, instead of being prohibited from qualifying as consent. An agent for a title insurer is no longer prohibited from adopting a corporate or business name containing the words "title insurance" or similar without "agent" or "agency" following. Title insurers are permitted to authorize the use of their corporate name or portion of the name to a title insurance agency. Motor vehicle insurance policies are allowed to contain exclusions except as specifically prohibited by law.

S1161: PRESCRIPTION DRUG COVERAGE; STEERING PROHIBITION: (Barto) – (Anticipate discussions from Chuck Bassett and Dianne McCallister)
A pharmacy benefit manager is prohibited from steering or directing a patient to use the pharmacy benefit manager's affiliated provider through any oral or written communication, from requiring a patient to use the pharmacy benefit manager's affiliated provider in order for the patient to receive the maximum benefit for the service under the patient's health benefits plan, and from requiring or inducing a patient to use the pharmacy benefit manager's affiliated provider, including by providing for reduced cost sharing if the patient uses the affiliated provider. A pharmacy benefit manager, health insurer or third-party payor is prohibited from requiring a clinician-administered drug to be dispensed by a pharmacy, including by an affiliated provider, as a condition of coverage. Applies to contracts entered into, amended, extended, or renewed on or after the effective date of this legislation. Severability clause.

S1330: DISCOUNT PRESCRIPTION DRUGS; PHARMACIES: (Barto) – (Anticipate discussions from Chuck Bassett and Marc Osborne)
A health insurer or pharmacy benefit manager that reimburses a "340B covered entity" (defined) of the entity's contract pharmacy for drugs that are subject to an agreement under specified federal code is prohibited from taking any of a list of specified actions including assessing any fee on the basis of participation in the program or establishing restrictions on the 340B covered entity. The Department of Insurance is required to adopt rules to implement these requirements. Violations constitute an unfair or deceptive act or practice in the business of insurance.

S1395: Mental Health Medication; Prior Authorization: (Shope) – (Anticipate discussions from Chuck Bassett)
The bill requires health insurers to cover any prescribed drug for treatment of a mental disorder, without prior authorization, if a list of specified conditions apply. Under the bill, for the purpose of the Arizona Health Care Cost Containment System, drugs prescribed for the treatment of a mental disorder are not subject to any prior authorization requirement, step therapy, or other protocol that could restrict or delay dispensing the drug if specified conditions apply.

H2043: EMPLOYER LIABILITY; COVID-19 VACCINE REQUIREMENT: (Nguyen) – (Anticipate discussions from Marc Osborne)
If an employer denies a religious exemption and requires a person to receive a COVID-19 vaccination as a prerequisite to or requirement for maintaining employment, the employer is liable to the person for damages that result from a significant injury that is caused by receiving the COVID-19 vaccination. A claimant who prevails under this provision must be awarded actual damages, court costs, and reasonable attorney fees or statutory damages of $500,000, whichever is greater, and may also recover exemplary damages. These rights supplement any other rights and remedies provided by law.

H2144: HEALTH INSURANCE COVERAGE; BIOMARKER TESTING: (Cobb) - (Anticipate discussions from Marc Osborne)
A health or disability insurer that issues, amends, or renews a subscription contract or insurance policy on or after January 1, 2023 is required to provide coverage for "biomarker testing" (defined) for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of a subscriber's disease or condition when the test is supported by medical and scientific evidence. The Arizona Health Care Cost Containment System Administration and its contractors are required to provide biomarker testing for the same purposes.

H2198: EMPLOYEE TERMINATION; COVID-19 VACCINE; COMPENSATION: (Kaiser) – (Anticipate discussions from Marc Osborne)
An employee who is terminated for not receiving a COVID-19 vaccine as a condition of employment must receive either severance compensation paid by an employer in the amount of the employee's annual salary in one lump sum or installment payments over 12 months, or reemployment with the employer at the same or similar position held on the date the employee was terminated and a reasonable accommodation provided by the employer to the employee. Retroactive to December 1, 2021.

H2486: HEALTH PROVIDERS; INSURERS; ESTIMATED COSTS: (Wilmeth) – (Anticipate discussions from Chuck Bassett and Dianne McCallister)
Beginning January 1, 2023, a health insurer that offers a health care plan in Arizona is required to establish a comparable health care service incentive program that includes an interactive mechanism on its publicly accessible website or a toll-free telephone number that enables an enrollee to request and obtain information on the payments made to network health care facilities or health care providers for comparable health care services as well as quality data for those facilities or providers to the extent available. Beginning with the next health insurance rate filing after the effective date of this legislation, a health insurer that offers a health care plan in Arizona is required to establish a shared savings program for all health care plans it offers in Arizona in the individual and small group market and that are not offered on a health care exchange. The shared savings program must directly incentivize enrollees to shop for care provided by in-network health care providers or facilities for comparable health care services less than the average amount paid by the health insurer.

H2569: PRESCRIPTION DRUG COVERAGE; LIMITATIONS: (Wilmeth) – (Anticipate discussions from Chuck Bassett and Dianne McCallister)
A pharmacy benefit manager, health insurer, or third-party payor is prohibited from requiring a "clinician-administered drug" (defined) to be dispensed by a pharmacy as a condition of coverage, and from covering a prescription drug as a different benefit or tier if the drug is dispensed or administered at the prescriber's office or any other outpatient clinical setting. Applies to contracts entered into, amended, extended, or renewed on or after the effective date of this legislation.

H2698: INSURANCE; ASSIGNMENT OF BENEFITS: (Martinez) - (Anticipate discussions from Marc Osborne)
Statute prohibiting insurance payments for services from being made to anyone other than the health care provider to whom payment was assigned applies to an insurer whether acting as an insurer or performing administrative services.

Additional Bills of Interest (numerical order Senate then House, (not inclusive))

S1016: PHARMACIES; OFF-LABEL USE; REFUSAL PROHIBITION: (Townsend)
During a proclaimed public health state of emergency, a pharmacy is prohibited from refusing to fill a prescription order for a prescription-only drug that is being prescribed for an "off-label use" (defined) and that is potentially lifesaving. (Read: Ivermectin)

S1052: MEDICAL PROCEDURES; PROHIBITIONS: (Townsend)
The state, any political subdivision of the state that receives and uses tax revenues, and any person doing business in Arizona are prohibited from requiring any Arizona resident to submit to a medical procedure, including a vaccination, if a potential complication from or adverse reaction to the medical procedure may cause the person's death. Also repeals statute prohibiting state and local governments from establishing a COVID-19 vaccine passport, from requiring any person to be vaccinated for COVID-19, and from requiring a business to obtain proof of the COVID-19 vaccination status of any patron entering the business establishment, which was originally signed into law as Laws 2021, chapter 409 (part of the FY2021-22 budget), but was deemed unconstitutional by the Arizona Supreme Court in Arizona School Boards Association et al v. State of Arizona.

S1393: REFUSING TREATMENT; RIGHT; REQUIREMENTS: (Barto)
A health care institution is prohibited from imposing any mode of treatment, including vaccination, on a patient who declines the treatment and is prohibited from threatening to withhold any service from a patient as a result of the refusal. A patient has the right to leave a health care institution at any time. A health care institution in violation is required to pay damages of $20,000 per violation per patient, adjusted for inflation, in addition to the reasonable attorney fees and costs of suit. Contains a legislative intent section.

HB 2198 Employee Termination; COVID-19 Vaccine; Compensation: (Kaiser)
The bill stipulates that an employee who is terminated for not receiving a COVID-19 vaccine as a condition of employment must receive either severance compensation paid by an employer in the amount of the employee’s annual salary in one lump sum or installment payments over 12 months, or reemployment with the employer at the same or similar position held on the date the employee was terminated and a reasonable accommodation provided by the employer to the employee.