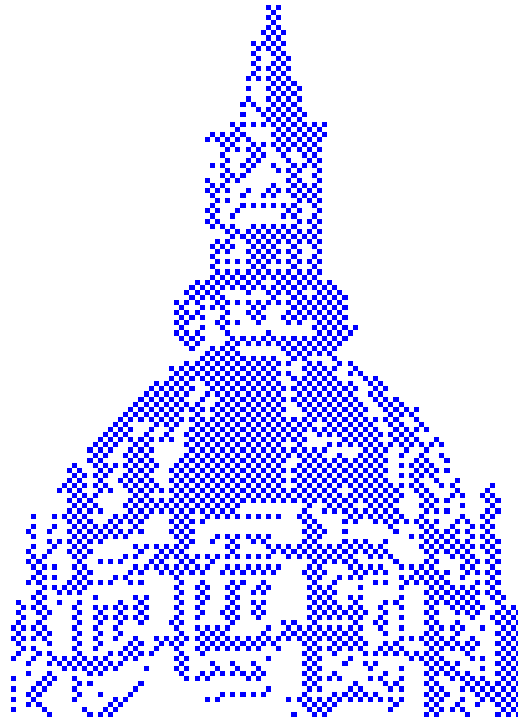




ACTS AFFECTING INSURANCE



2014-R-0146

Kevin E. McCarthy, Principal Analyst

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Notice to Readers

This report provides highlights of new laws (public acts) affecting insurance enacted during the 2014 legislative session. In each summary, we indicate the public act (PA) number.

Not all provisions of the acts are included here. Complete summaries of all 2014 public acts are available on [OLR's webpage](#).

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk's Office, or the General Assembly's website: <http://www.cga.state.ct.us/default.asp>.

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AUTOMOBILE INSURANCE

Arbitration

[PA 14-156](#) allows a court, at the request of all parties in a civil action involving a claim of bodily injury from a motor vehicle accident, to refer the case to an arbitrator chosen by the parties or their attorneys. Under the act, any such arbitration must include limits to the damage award that an injured party may receive.

The act also limits the applicability of the arbitrator's findings and damage award. Under the act, the arbitrator's (1) finding is binding only on the parties to the civil action and (2) damage award cannot be used by or against any party to the arbitration in any later civil action or proceeding.

EFFECTIVE DATE: July 1, 2014, and applicable to any civil action pending on or filed on or after that date.

Commercial Vehicles

The law requires owners of commercial motor vehicles (e.g., large trucks and buses) to annually file evidence with the Department of Motor Vehicles that they have properly insured each such vehicle. The commissioner also may verify this information through an insurance company. [PA 14-130](#) requires the commissioner to accept this evidence or verification as proof that the vehicle owner has insurance coverage in the amounts required by applicable state and federal law.

EFFECTIVE DATE: October 1, 2014)

Uninsured Motorist Coverage Offsets

[PA 14-20](#) prohibits insurers from reducing uninsured and underinsured motor vehicle insurance coverage payments by amounts paid by or on behalf of a tortfeasor (i.e., person at fault) for (1) bodily injury to anyone other than people insured by the policy under which the claim is made or (2) property damage. The act applies to auto liability insurance policies issued or renewed on or after October 1, 2015.

EFFECTIVE DATE: October 1, 2015

Uninsured Motorist Coverage Denials

[PA 14-71](#) prohibits automobile insurers that issue or renew policies on or after October 1, 2014 from denying uninsured motorist coverage to a named insured or related household member who is struck as a pedestrian by the insured's motor vehicle or motorcycle while it was being stolen. The vehicle must be listed on the insured's policy.

EFFECTIVE DATE: October 1, 2014 and applicable to claims arising on or after that date.

HEALTH INSURANCE

Breast Ultrasound Screenings and Occupational Therapy Service

[PA 14-97](#) prohibits health insurance policies from imposing a copayment of more than \$20 for a breast ultrasound screening for which the policies are

required to provide coverage. By law, policies must cover a breast ultrasound screening if a (1) mammogram shows dense breast tissue or (2) woman is at an increased risk for breast cancer.

The act also prohibits health insurance policies from imposing a copayment of more than \$30 per visit for in-network occupational therapy services performed by a state-licensed occupational therapist.

EFFECTIVE DATE: January 1, 2015

Clinical Peers

[**PA 14-40**](#) eliminates the requirement that health carriers (insurers) contract with “clinical peers” to conduct utilization reviews. It requires carriers to have procedures to ensure that appropriate or required individuals, rather than clinical peers, are designated to conduct these reviews.

By law, carriers must contract with clinical peers to evaluate the clinical appropriateness of adverse determinations (e.g., claims denials). For cases when an urgent care request involves a substance use or mental disorder, the clinical peer must be a psychologist or psychiatrist with specified qualifications. In such cases involving psychologists, the act requires the psychologist to hold a doctoral level psychology degree instead of board certification. It also requires the psychologist to have both, rather than either, training and relevant experience in the relevant field (i.e., child and adolescent substance use disorder, child

and adolescent mental disorder, adult substance use disorder or adult mental disorder). The act also eliminates the requirement that psychiatrists evaluating such cases have training or clinical experience in the relevant field. By law, such psychiatrists must be board-certified.

By law, a carrier must notify an insured and, if applicable, his or her authorized representative, of an adverse determination. The act eliminates the requirement that the notice state that the insured or representative may benefit from free assistance from the Insurance Department’s Division of Consumer Affairs (“division”). Similarly, the law requires the carrier to provide notice when an internal review of an adverse determination that was not based on medical necessity upholds the initial decision. The act eliminates the requirement that the notice disclose the insured’s right to contact the commissioner’s office. The act retains parallel notice requirements regarding the Office of the Healthcare Advocate.

EFFECTIVE DATE: upon passage

Health and Welfare Fee

[**PA 14-217, § 66**](#), requires the annual health and welfare fee paid by each (1) domestic insurer and health care center (HMO) doing health insurance business in Connecticut, (2) third party administrator that provides administrative services for self-insured health benefit plans, and (3) exempt insurer to be deposited in the Insurance

Fund, instead of the General Fund. The act requires that the health and welfare fee be identified as such on the annual statements sent by the insurance commissioner to each applicable entity.

It also requires that the health and welfare fee assessment be adjusted upwards or downwards by the actual expenditures from the prior fiscal year. The fee is used for several Department of Public Health immunization programs.

EFFECTIVE DATE: July 1, 2014

Hospital Facility Fees

Comptroller Study. [PA 14-217](#) requires the comptroller to study and report on how facility fees and the total fees hospitals or health systems charge or bill for outpatient hospital service impact the state employee health insurance plans. It defines a "facility fee" as any hospital or health system fee charged for outpatient services provided in a facility that it owns or operates that is (1) separate and distinct from the fee charged for providing professional medical services and (2) intended to compensate the hospital or health system for its operational expenses.

By December 1, 2014, the act requires the comptroller to analyze the fees' impact on the state employee plans. By March 1, 2015, he must determine the amount of facility fees and total fees charged by hospitals or health systems for the selected service types or categories, on an aggregate basis and by individual hospitals and

health systems. By July 1, 2015, he must determine the feasibility of removing fees he deems inappropriate or unreasonable. By October 1, 2015, the comptroller must submit a report on his analysis and determinations to the Governor, General Assembly, and Health Care Cost Containment Committee.

EFFECTIVE DATE: Upon passage
Fee Notice. [PA 14-145](#) requires a hospital or health system that charges a facility fee to notify a patient in writing (1) that the facility is part of a hospital or health system that charges a facility fee, (2) of the patient's potential financial liability, and (3) that he or she should contact his or her health insurance company for additional information.

It also requires a hospital-based facility to (1) prominently display a sign indicating it charges a facility fee and (2) clearly hold itself out as hospital-based.

Under the act, the notice requirements do not apply to Medicare or Medicaid patients, or those receiving services under a workers' compensation plan that provides medical services.

EFFECTIVE DATE: October 1, 2014

Health Insurance Exchange

Exchange Assessment or Fee Enforcement. [PA 14-217, §§ 87 and 88](#), requires the Connecticut Health Insurance Exchange's chief executive officer to give the insurance commissioner the name of any health carrier (e.g., insurer) that fails to pay

any assessment or user fee the exchange charges. It requires the commissioner to see that the assessment or user fee law is faithfully executed. It allows him to use all powers granted him by law and all further powers reasonable and necessary to enforce the law (e.g., impose fines, cease and desist orders, or license suspension or revocation). The act allows a health carrier aggrieved by the commissioner's administrative action to appeal to New Britain Superior Court.

Insurance Commissioner's Authority. By law, unless expressly specified, the state's health insurance exchange laws and the exchange's actions under those laws do not preempt, supersede, or affect the insurance commissioner's authority to regulate insurance in Connecticut. The act adds that the state's all-payer claims database law and the exchange's actions under it similarly do not preempt, supersede, or affect his authority.

Health Carriers' Compliance with Laws. The act alters the compliance requirements of health carriers with respect to the exchange. Under prior law, health carriers offering qualified health plans in Connecticut had to comply with all applicable state health insurance laws and regulations and the insurance commissioner's orders. The act instead requires such health carriers to comply with all applicable (1) health insurance exchange and all-payer

claims database laws and (2) procedures adopted by the health insurance exchange's board of directors.

EFFECTIVE DATE: upon passage

Long-term Care

Disclosure Requirement. PA 14-8 expands disclosure requirements for individual and group long-term care (LTC) insurance policies. It also extends existing and new disclosure requirements to group policies delivered or issued for delivery (1) to one or more employers or labor organizations or a trust they or the fund's trustee establish and (2) for employees or former employees, members or former members, or the labor organizations.

The act requires an applicant for an individual or group policy to sign an acknowledgment when applying that the insurer has provided the required written disclosure to him or her. If the application method does not allow for a signature at the time of application, the applicant must sign the acknowledgment by the time the policy is delivered.

EFFECTIVE DATE: January 1, 2015

Premium Increases. PA 14-10 requires LTC insurance policy issuers (carriers) to spread premium rate increases of 20% or more over at least three years. It also requires LTC carriers to notify individual policyholders and group certificate holders of a premium rate increase and provide them the option of reducing benefits to reduce the premium rate.

EFFECTIVE DATE: October 1, 2014

Pharmacy Audits

[PA 14-193](#) prescribes how and by whom pharmacy audits can be conducted. It specifies the duties of the auditing entity and how pharmacies can validate their records. It requires the auditing entity to give the audited pharmacy a preliminary review and final report, and allows the pharmacy to appeal the final report. It limits when a pharmacy can be subjected to a charge-back or recoupment.

Under the act, any information collected during an audit is confidential, but the auditing entity may share it with the pharmacy benefits manager (PBM) and the health insurance plan sponsor (e.g., an insurer or self-insured employer) for whom the audit is conducted. It bars the auditing entity from compensating its employees or contractors based on the amount claimed or actually recouped from the audited pharmacy.

The act allows the insurance commissioner to conduct investigations and hold hearings in connection with pharmacy audits. The act allows anyone aggrieved by the commissioner's order or decision to appeal to the courts and makes related minor and technical changes.

The act also requires a PBM, upon a pharmacy's written request, to pay claims to the pharmacy by electronic funds transfer. The payment must be made within 20 days if the claim was filed electronically and within 60 days if it was filed on paper.

EFFECTIVE DATE: October 1, 2014

Step Therapy

[PA 14-118](#) bars health insurers that use prescription drug step therapy regimens from requiring their use for more than 60 days. Under the act, "step therapy" is a protocol or program that establishes the specific sequence for prescribing drugs for a specified medical condition.

At the end of the step therapy period, the act allows an insured's treating health care provider to determine that the step therapy regimen is clinically ineffective for the insured. At that point, the insurer must authorize dispensation of and coverage for the drug prescribed by the provider, if it is covered under the insurance policy or contract.

The act requires insurers to establish and disclose to its providers a process by which they may request, at any time, an authorization to override any step therapy regimen. It prescribes the conditions under which the insurer must grant the override.

The act does not (1) prevent an insured or provider from requesting a review of an adverse decision (e.g., claims denial) under existing law or (2) affect the law requiring insurers to cover pain management treatments.

EFFECTIVE DATE: January 1, 2015

LIFE INSURANCE

Cancellation Notices

[PA 14-108](#) requires, beginning January 1, 2015, that insurers delivering or issuing individual life

insurance policies in Connecticut notify each life insurance applicant of his or her right to designate a third party to receive policy cancellation notices due to premium nonpayment. Insurers must notify applicants of this right (1) in writing and (2) when the applicant applies for the policy. An applicant may make a designation when applying for insurance or at any time the insurance is in force by giving written notice to the insurer with the third party's name and address.

Under the act, a third-party designee must receive a copy of an original cancellation notice issued to the policyholder.

EFFECTIVE DATE: January 1, 2015

Life Insurance Producer Licensing

[PA 14-216](#) requires an applicant for a life insurance producer license to disclose on the application form whether, in the past 10 years, the Banks Department has denied, suspended, or revoked his or her registration for a profession it regulates. The act requires the banking commissioner to provide monthly lists to the insurance commissioner with the names and Social Security numbers of such professionals who (1) are currently registered with the banking commissioner and (2) have had their registrations denied, suspended, or revoked during the preceding 10 years.

The act requires the insurance commissioner to determine whether the second list includes any (1) applicant for

a life insurance producer license or (2) licensee. The insurance commissioner must consider the Banking Department sanction, in addition to the factors he must already consider, in determining whether to (1) grant a producer license or (2) suspend, revoke, or not renew an existing license. If the commissioner denies an application or sanctions a licensee, the commissioner must advise him or her, in writing, of the reason for his action.

An individual aggrieved by the commissioner's decision denying the license or a final order to suspend, revoke, or not renew a license may appeal to New Britain's judicial district.

EFFECTIVE DATE: October 1, 2014

MISCELLANEOUS

Captive Insurance Companies

[PA 14-6](#) makes unrelated changes in Connecticut's laws regarding captive insurance companies. A captive insurer is an insurance company or entity formed to insure or reinsure the risks of its owners. The law allows a captive to be licensed and domiciled in Connecticut to transact life insurance, annuity, health insurance, and commercial risk insurance business.

Among other things, the act:

1. explicitly bars a captive from writing personal risk insurance for private passenger motor vehicle or homeowners' insurance,
2. expands the types of coverage a branch captive insurer may write,

3. establishes provisions for a captive to follow when relocating to Connecticut; and
4. extends various insurance statutes to captives, including those regarding the acquisition of controlling interest.

EFFECTIVE DATE: October 1, 2014

Insurance Company Reserves

[PA 14-195](#) modifies and expands, in two stages, the scope of the laws governing reserve requirements for insurance companies. Under prior law, the insurance commissioner had to annually value, or cause to be valued, the reserves of life insurance companies. The act expands (1) requirements for an actuary's opinion and memorandum on the sufficiency of the reserves, (2) confidentiality provisions regarding information submitted under these requirements, and (3) the commissioner's powers in using this information.

These provisions run until the National Association of Insurance Commissioners' Valuation Manual goes into effect in Connecticut. At that point, they are superseded by similar provisions that apply to a broader range of insurers. The act specifies (1) the issues the manual must address and (2) when the manual and its changes take effect in Connecticut.

Once the manual goes into effect in Connecticut, the act requires each company issuing life, accident, and health insurance, and deposit-type

contracts to establish reserves using a "principle-based valuation." The act specifies the requirements for this valuation approach and sets valuation standards if the manual does not require companies to use this approach. It requires the commissioner to value, or cause to be valued, the reserves for all outstanding contracts in these lines for all companies that write such contracts in Connecticut or have the authority to do so.

EFFECTIVE DATE: upon passage

Minor and Technical Changes to the Insurance Law

[PA 14-235](#) makes conforming changes to reflect provisions of a 2011 act ([PA 11-58](#)) that extended the law governing Insurance Department market conduct examinations to third party administrators (TPAs – organizations that process insurance claims).

By law, the entity that is the subject of a market conduct examination generally must pay its costs. This provision does not apply to Connecticut insurance companies, which are subject to the assessment that pays the department's expenses. The act similarly exempts Connecticut HMOs, which are also subject to this assessment, from paying the costs for such an examination.

Lastly, the act makes numerous technical changes.

EFFECTIVE DATE: October 1, 2014

Portable Electronics Insurance

[PA 14-64](#) establishes licensing and regulatory requirements for portable electronics insurance. It requires a seller (i.e., one who leases or sells portable electronics) offering or selling portable electronics insurance in Connecticut to obtain a license from the insurance commissioner. It establishes the following fees: \$100 for filing an application for an initial license, \$500 for the initial license, and \$450 for a license renewal. Licenses are valid for two years.

The act (1) requires sellers to make certain information about portable electronics insurance available to prospective buyers and (2) allows buyers, insurers, and sellers to cancel coverage under certain conditions.

The act exempts specified portable electronics insurance claims employees from Connecticut's casualty claims adjuster licensing requirements. It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2014

Reorganization of Mutual Insurers and Using Connecticut as "State of Entry"

Reorganization. [PA 14-123](#) establishes a process by which a Connecticut mutual insurer can reorganize itself as a stock insurer owned by a mutual holding company. It requires the insurer to develop a plan, which is subject to approval by its board of directors, the insurance commissioner, and the insurer's

members. It prescribes the powers and duties of the mutual holding company and prohibits it from engaging in the insurance business.

The act regulates how an insurer or intermediate holding company can offer voting stock, once the reorganization goes into effect, to a person other than the mutual holding company or a subsidiary it wholly owns.

It prescribes how (1) holding companies can merge, (2) a mutual insurance company can reorganize with an existing Connecticut or out-of-state holding company, and (3) a holding company can convert into a stock corporation. It establishes limits on when certain actions can be brought against the affected companies. The act generally makes information, documents, and copies connected with these provisions confidential and exempt from the Freedom of Information Act. The act allows the commissioner to adopt implementing regulations.

State of Entry. Under prior law, an alien (non-U.S.) insurer could enter the United States through another state and establish its U.S. branch there. The act establishes a process by which alien insurers can use Connecticut as their "state of entry" to transact insurance business through a U.S. branch. To do this, the alien insurer must obtain a Connecticut insurance license and establish a trust account funded at or above the level required for a Connecticut insurer. The resulting

branch is subject to all state insurance laws that apply to an insurer domiciled in this state, unless otherwise provided.

The act specifies application and licensing requirements for the alien insurer. The act restricts the types of business the branch can engage in. It allows the commissioner to liquidate the branch or revoke the alien insurer's license if any trustee violates or refuses to comply with the act's requirements and grants him other powers.

The branch must submit annual and quarterly reports to the Insurance Department and the National Association of Insurance Commissioners.

The act establishes a procedure under which the alien insurer can domesticate its U.S. branch. Domestication is a reorganization of the branch in which a Connecticut insurer succeeds to all of the branch's business and assets and assumes all of its liabilities.

The act allows the commissioner to apply to the courts to rehabilitate a U.S. branch that, without his approval, (1) transfers or attempts to transfer its entire property or business in violation of the act or (2) enters into any transaction that effectively merges, consolidates, or reinsures substantially all of its property or business in or with another person.

EFFECTIVE DATE: upon passage

Risk Management

[PA 14-107](#) requires each Connecticut insurer to establish and maintain a framework to help it identify, assess, monitor, manage, and report on its material and relevant risks. This requirement may be satisfied if the insurance group of which the insurer is a member maintains a framework that applies to the insurer's operations.

The act requires each insurer or its insurance group to conduct an Own Risk and Solvency Assessment (ORSA) at least annually and whenever there are significant changes to its risk profile. It requires, starting January 1, 2015, Connecticut insurers to submit to the insurance commissioner an ORSA summary report containing the information described in the ORSA Guidance Manual applicable to the insurer and its group upon request. It allows him, after notice and hearing, to impose a civil penalty of \$1,000 per day on a Connecticut insurer for each day that it fails, without just cause to timely file a summary report. He may reduce this fine if the insurer demonstrates that it would be a financial hardship. The commissioner must review the summary report.

The act exempts certain insurers from these requirements and allows others to seek a waiver from the commissioner.

Under the act, the ORSA summary report and related material in the Insurance Department's possession or control obtained by, created by, or disclosed to, the commissioner or any

other person are generally confidential and the bill restricts the use of this material.

The act gives the commissioner various powers and duties in administering these provisions, including entering into written agreements to share information.

EFFECTIVE DATE: January 1, 2015

PROPERTY AND CASUALTY INSURANCE

Certificates of Coverage

[PA 14-74](#) prohibits people from using property and casualty insurance "certificates of insurance" for specified purposes. It defines a "certificate of insurance" as a document or instrument an insurer or insurance producer prepares or issues as evidence that personal or commercial risk insurance has been issued on property, operations, or risks located in Connecticut. A certificate of insurance does not include insurance policies, binders, endorsements, or auto insurance identification cards.

Under the act, no one may:

1. prepare, deliver, or issue a certificate of insurance that includes false or misleading information about the coverage provided in the underlying policy;
2. amend or alter a certificate or deliver or issue a new certificate unless the amendment or certificate accurately reflects the underlying insurance policy;

3. represent that a certificate confers new or additional rights to anyone beyond those covered by the underlying policy;
4. represent that amending a certificate will alter, amend, or extend the coverage provided by the underlying policy;
5. require or request another person to perform any of the acts specified above; or
6. prepare, issue, demand, or require an opinion letter or other correspondence, in addition to or instead of a certificate, that is inconsistent with the act, but the insurer or producer may prepare or issue an addendum to the certificate to explain the coverage provided by the underlying policy.

The act also prohibits a certificate from including a warranty that the underlying policy complies with the insurance or indemnification requirements of a contract. Referring in a certificate to a contract number or description will not be construed to be such a warranty.

The act authorizes the insurance commissioner to investigate anyone he reasonably believes is violating its provisions. By law, a violator is subject to a fine of up to \$15,000.

EFFECTIVE DATE: October 1, 2014

Damage from Trees

[PA 14-125](#) makes the owner of real property from which a tree or branch falls onto adjoining private property (tree owner) liable for the expense of removing the tree or branch if (1) the adjoining property owner had previously notified the tree owner that the tree or branch was diseased or likely to fall and (2) the tree owner failed to remove or prune the tree or branch within 30 calendar days after receiving this notice.

Under the act, the adjoining property owner must (1) send the written notice to the tree owner by certified mail and (2) ask the tree owner to prune or remove the tree or branch. Any notice given a tree owner before October 1, 2014 that meets the bill's requirements is valid for its purposes.

The act does not (1) limit anyone's right to pursue a civil remedy as allowed by law or (2) affect any rights a policyholder may have under an insurance policy, although an insurer may deduct from any amount it owes the insured the amount the policyholder recovered from the tree owner, to the extent the policy would have covered the loss.

EFFECTIVE DATE: October 1, 2014

Liability for Horses

[PA 14-54](#) states that in any civil action brought against the owner or keeper of any horse or related animal to recover damages for an injury the animal allegedly caused that these animals do not belong to a naturally

mischievous or vicious species.

Additionally, the act creates a presumption in any civil action that the individual animal does not possess a propensity for behavior that would foreseeably be dangerous to humans. This presumption is rebuttable by evidence the animal exhibited behavior in the past that alerted the owner or keeper that it had a propensity to engage in the behavior that allegedly caused the injury in question.

The act bill also prohibits state courts from holding owners or keepers of such animals strictly liable for damages they cause. These changes potentially reduce the owner or keeper's civil liability for damages.

A recent Connecticut Supreme Court decision classified horses as an inherently dangerous species with vicious propensities because they have a natural propensity to bite, which imposes a duty on the owner or keeper to guard against foreseeable injuries.

EFFECTIVE DATE: upon passage

Miscellaneous Provisions

[PA 14-175](#) makes unrelated changes to property and casualty insurance laws. Among other things, it:

1. bars insurers from refusing to issue or renew a homeowners' policy solely because the insured failed to (a) install any type of storm shutters on a residential dwelling, rather than just permanent shutters, or (b) have storm shutters on the premises of the dwelling;
2. expands the scope of the law prohibiting insurers from taking certain steps solely because of losses an insured homeowner incurs due to catastrophic events;
3. extends the deadline for filing a suit or action to recover a claim under a standard fire insurance policy from 18 to 24 months after a loss;
4. allows certain insurers to provide flood insurance on a less-than-statewide basis, as selected by the insurer;
5. expands the notice provided on surplus lines insurance policies; and
6. makes any public adjuster employment contract that results from a solicitation made between 8 p.m. and 8 a.m. void from the beginning and thus unenforceable. (The law already prohibited such solicitations.)

EFFECTIVE DATE: Various

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