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SENT VIA ATTACHMENT

To the Commerce and Energy Subcommittee,

On behalf of Sun Life, we respectfully submit this letter in response to Virginia House Bill 2035 regarding the design a Paid Family and Medical Leave (PFML) program.

As a one of the largest leave administration providers in America, Sun Life provides income security and leave management services for employees who need to take time off from work because of their own medical condition or for family care reasons, including birth of a new child and care for a family member who is ill. In our day-to-day work, we regularly witness first-hand the profound importance and personal impact of providing paid family and medical leave benefits to employees, and we applaud Virginia for seeking to create a PFML program for employees in the state.

In designing Virginia's program, we respectfully ask that lawmakers leverage leave administrators' experience with other states' PFML programs, specifically in regard to providing employers with flexibility to meet the statutory PFML requirements and creating a sustainable pricing model.

### **Private Plans**

Of the ten jurisdictions that have passed PFML mandates, eight provide employers with flexibility in how they meet the statutory requirements. In these states, most employers direct their employees to apply for benefits through the state program. However, the PFML laws in these states were drafted to provide employers with flexibility to provide the statutory PFML benefits to their employees through a private plan. Employers who choose the private plan option must provide benefits that are equal to or greater than the state program's benefits, cannot charge employees any more than the statutory rate, and must provide all of the same job protections. Private plans can either be self-funded and self-administered by the employer or employers can have their self-funded plans administered by insurers or other third-party administrators. In addition, employers can also purchase fully insured private plans.

Private Plans offer a number of benefits to employers, employees, and the state:

- A. **More generous benefits.** Currently, many employers offer benefits through private plans and programs (both insured and self-insured) that are more generous than the benefits required by statutory PFML programs.
  - Many employers offer private short-term disability insurance or paid medical leave which provides income replacement when an employee is unable to work because of the

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employee's own disability or serious health condition. Often, these policies offer benefits for a longer period of time than the proposed state legislation (some offer short term disability benefits up to 26 weeks).

- Similarly, more and more employers are offering generous employer-sponsored paid family leave benefits, often at full pay.
- As an example, at Sun Life, where required, we offer statutory PFML benefits through a private plan to our own employees, and we integrate the statutory PFML benefits with our more generous employer-sponsored benefits. In that regard, as of January 1, 2020 we began providing all employees, regardless of what state they live in, 16 weeks of fully paid family leave that can be used to bond with a new child, to care for a family member with a serious health condition, for a qualifying military exigency, to care for a covered servicemember who is injured in the line of duty, to address being victim of domestic violence or sexual assault or to be a bone marrow or organ donor. We also offer up to 26 weeks paid medical leave that is available per claim incidence. We have attached a one-page summary that describes our private plan. We are able to offer these enhanced benefits in a seamless manner because of the private plan provisions of existing PFML laws.

Including a private plan option ensures that employers will continue to offer enhanced private benefits – rather than merely simply default to the minimum requirements of the statutory program

**B. Employee experience.** Employers may choose a private plan rather than participate in a state program so that their employees can experience a better and more seamless experience. For example:

- Carriers offer employees a more seamless employee experience with regard to filing short term or long-term disability claims, requests for leave of absence under the FMLA and other laws, as well as obtaining PFML benefits. They only need to call one carrier and all of their leave and benefits needs can be addressed. Further, increasingly, employers are outsourcing their ADA accommodation processes to carriers, and employees can make requests for accommodations to this one source as well. Carriers have invested millions of dollars in technology and claims staffing and processes so that employees can call one provider in order to take care of all of these benefits and that carrier can coordinate these leaves and benefits.
- Carriers can also offer greater services to employees than those provided under the state program, including Return to Work services, Vocational Rehabilitation Services, and Employee Assistance Programs.
- Carriers have developed user-friendly technology to assist employees with their claims, indulging sophisticated web sites where they can file claims and upload claims documentation and also obtain information about the status of claims. Carriers also have sophisticated mobile apps pursuant to which employees can file and obtain information about their claims.
- Experience in other states demonstrates that carriers typically process claims for short- and long-term disability faster than comparable government programs, and carriers tend

to approve a higher percentage of claims than the Social Security Administration and comparable state agencies.

- Employees also can have their benefits payments direct deposited rather than wait for a paper check to be sent.

C. **Employer Experience.** Employers also choose private plans over government programs so that their experience is better:

- Carriers can provide received consolidated reporting for the employer from one source on all disability and absence related services.
- Carriers have developed sophisticated and interactive websites enabling HR and managers to readily obtain claim information and configure reports.

D. **Assist the State with claims administration.** Allowing a private plan option will help reduce the strain on and cost for the State in connection with administering these benefits. Having a private plan option also will encourage continued private sector development of more sophisticated technology and product enhancements that could ultimately benefit state programs as they evolve.

E. **The public good.** Permitting a private plan option will also help encourage evolution of both PFML benefits and employee benefits in general. History shows that some employers are trend setters in terms of enhancing employee benefits in order to attract and retain talent. Permitting a private option will help ensure that PFML benefits do not stagnate at the statutory minimums. In that regard, reviewing the historical evolution of private disability insurance demonstrates that the private market can play an important role in encouraging employers to broaden and richen employee benefits. Four states adopted statutory short-term disability benefits in the 1940's (CA, NJ, NY and RI). Insurance carriers developed their own private short-term disability insurance products and have succeeded in convincing many employers in the United States to provide these products – even though they are not legally required. Similarly, more and more employers are offering generous Paid Family Leave benefits, often at full pay, even though such benefits are not legally required. Carriers are developing insured Paid Family Leave products and allowing a private plan option will provide incentive to continue to pursue this opportunity. And, through carriers and employers, employee benefits keep expanding to include, for example, bereavement leave, adoption and fertility assistance, and sabbatical leave. Carriers are confident that if a robust private sector continues to exist, it will benefit employees and the public good.

We appreciate the ability to provide comments and look forward to continuing to work with you on this important initiative.

Warm regards,

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