

A Publication of The Association of Insurance Compliance Professionals

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AICP 2011 ANNUAL CONFERENCE



**It is Almost Time
To Learn How To
Get and Keep Our
Regulatory and
Compliance Ducks
in a Row!**

**September 25–28
Peabody Hotel
Orlando, FL**

Our Annual Conference is almost here! By now you have registered for conference, made your hotel reservations at the Peabody Orlando, home of the famous Peabody ducks, and signed up for your sessions. Here are a few last-minute reminders to help you make the most of your conference experience.

BEFORE YOU GO:

Log into the online session enrollment and print out your personalized conference dashboard (schedule) and selected session handouts so that you can follow along and take notes at your sessions. Remember, handouts will not be available at conference. And new this year is the ability to add personal items to your schedule, such as your chapter event or that informal meeting you may have planned to catch up with friends. Instructions for how to use the new feature can be found in the online session module.

You'll want to bring lots of business cards; there will be many formal and informal opportunities for networking at Compliance Connections and throughout the conference.

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AICP President,
Nicolas J. Marrangoni

A president's term in office is a dichotomy; the year goes by so fast in hindsight and so slow while you are dealing with the minutiae throughout the year. Now that I am at the end of my term, and almost free of the minutiae, I can marvel at the speed at which the year went by.

In my very first president's message, I asked the question *why?* Why belong to the AICP when there are so many other professional organizations you can belong to? Why are you a member of the AICP? By asking these questions, I hoped the answers would lead us to discover the AICP's strengths and weaknesses, areas to expand and grow and areas to redouble our efforts at improving. I based my goals for the year on these things.

While I suspected that we could do a lot this year, I don't think I could have imagined the amazing things we accomplished. I loathe doing the customary look back at OUR accomplishments from the last year for fear of being seen as blowing our own horn; however, I am proud of what we've done and want to recognize the hard work of all the volunteers who made these accomplishments possible. This list is by no means all-inclusive:

1. Made bylaws revisions in response to succession questions and to improve alignment to Delaware law.
2. Improved communication and coordination between national and the chapters through the regional directors.
3. Created a survey for chapter officers to determine areas where national can be more responsive to the needs of the chapters.
4. Changed our conference planning structure to add breadth and depth of people involved in such a huge and important undertaking.
5. Created an AICP banner to be displayed at Annual Conference.
6. Fostered innovate ways for service providers to contribute to our Annual Conference.
7. Videotaped important events at conference for posting to the website.
8. Created a structured task list for advance planning of the 2013 conference in Toronto.
9. Updated and printed a revised version of the AICP Ratemaking Guide.
10. Changed our designation program in response to educational updates in the industry.
11. Continued emphasis on the AICP's financial health with a focus on expense management and revenue generation.
12. Had positive regulator responses to our outreach efforts to high-ranking regulators.
13. Updated logo shop offerings.
14. Continued development of partnerships with organizations that have complimentary goals and objectives.
15. Created an AICP Summary of Benefits to assist in membership recruiting and renewal efforts.
16. Coordinated with the chapters and personal outreach to chapters which led to a reduction in the number of members who did not renew.
17. Revised the initial correspondence sent to all new members to provide more concise, relevant information.
18. Added the Compliance Perspective to the AICP homepage.
19. Began work on upgrades to the AICP email infrastructure to improve reliability and time service.
20. Started, and in many instances completed, necessary legal work on miscellaneous things to protect the organization, including several improved policies and procedures.

In addition to my original question of why, I challenged everyone to ask what; what could you do to help the AICP meet its objectives? From the above list, you can see that many, many people answered the call. I am grateful to each and every one of you who did; the AICP has benefitted greatly from your service.

Also, back in December, I included the following as my goals for this year:

- Updating the website to include more timely and dynamic content.
- Developing tools that quickly and concisely answer the question of why someone should join and stay a member of the AICP.
- Improving communication and coordination between the board of directors and the chapters.

I'd like to think the website has been improved due to #6 and #16. The items in #13 and #15 nicely address my perceived need for new membership tools. Finally, #2 and #3 address my final goal of ensuring that all members, regardless of chapter, receive value for their membership. More important than just my goals, the AICP is financially healthy, and membership renewals appear to be on the upswing again.

Looking ahead, I believe the AICP is well positioned for success in its next 25 years. We have talented and committed volunteers who are always looking for ways to do things better and who are coming up with ideas for exciting and innovating things to try in the future. We have leaders and a board of directors who are dedicated to fostering growth and progress while adhering to their fiduciary responsibility. We have a management company that provides us stability and partners with us, contributing to our success. Finally, we have more than 1,500 members who we can easily look to as the answer to why we belong to the AICP.

In closing, I want to state that it has been an extraordinary pleasure and privilege to serve as president. I want to thank everyone for their hard work and support throughout the year. Finally, I wish Karen luck as she begins her year as president and ask that you support her with the same dedication, commitment and enthusiasm you did for me.



Regards,

Nicholas J. Marrangoni

CPCP, MCM, ARC, CCP, ACS, AIS, API, AINS

President, AICP

Publisher's Statement

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2011 Annual Conference Update

Getting Your Regulatory and Compliance Ducks in a Row

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Last minute travel tips can also be found on the conference website.

If you haven't entered the duck trivia contest yet, there is still time to enter! And you don't even have to attend conference to enter (we hope you will attend, though!). Information can be found on our conference website homepage (follow the link on the aicp.net homepage).

AT THE CONFERENCE:

Check out chapter tables and education table at the registration area. Say hello to the chapter and education reps on hand, pick up useful information about AICP's education designations, and learn about chapter activities. Nearby you will find the Welcome Table, which will welcome you with lots of great local information and discounts.

If you have not yet signed up for a Monday evening chapter event, this is a good time to make those arrangements.

Be sure to visit the Logo Shop to select your favorite AICP logo items. The most popular items sell out quickly, so shop early for the best selection. Sunday is logo wear day so show your support of the AICP with a logo item!

Why do so many of the AICP members become active volunteers? Because it is interesting, fun, and a great way to work with other compliance professionals in support of the association's initiatives. Visit Committee Fair (in the Exhibit Hall) to read about the various national committees and to volunteer.

Visit the Exhibitor Showcase on Sunday and Monday. Say hello to our exhibitors and complete your puzzle card in a contest to win valuable prizes. You will want to stop by the Exhibit Hall throughout the conference, for refreshments and drawings, and to participate in the Silent Auction. This year's auction proceeds will be used to help support our featured charity, Camp Boggy Creek. Details about this wonderful organization can be found on our conference website. Bid early

and often on your favorite items in support of this worthy camping facility that serves children with chronic illnesses and major disabilities. Your contributions can help make a difference in the lives of local area children and their families. You can also make direct donations to the charity at the AICP registration desk.

On Sunday night, after the Exhibitors' Showcase, join us for the Twilight on the Terrace Welcome Reception. This is a great way to unwind from your travels, reconnect with old friends, or make new friends! We'll enjoy buffet-style food as we listen to the cool and sophisticated sounds of the Eddie Marshall Trio.

Monday morning we will set up the ballroom with each chapter having a designated area. Please join with your fellow chapter members for breakfast and for some informal networking. Check for signs at the door and a flyer in your registration packet. Throughout the conference, you will be able to identify fellow chapter members by the color of their badge lanyard.

Finally, remember to fully participate in the many sessions available to you. We have two excellent keynote speakers lined up and the return of our popular View from the Top sessions with a record number of top level insurance department panelists. Participate—take notes, ask questions, and make connections. And complete your surveys—tell us what you liked, and what you'd like to see at next year's conference at the Marriott in San Antonio, Texas, September 30–October 3, 2012.

AICP 2011 Conference Planning Team

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Peggy Schwartz, Conference Vice Chair
Julie Levine and Matt Brasch, Program Co Chairs
Nancy French, Exhibitor Chair
Doug Simino, Activities Chair

AICP Chapters Get Their Groove On for 2011 Annual Meeting

The AICP stays strong and continues to grow because it is at heart a grassroots organization with vibrant regional chapters. During the year, the chapters conduct educational and networking events, but Annual Meeting chapter gatherings are more about revelry than regulatory compliance.

Not to be outdone by State Fair pig races and the other Texas-sized celebrations at last year's 25th Anniversary Annual Meeting, this year the various chapters have put their ducks in a row planning a variety of fun-filled events that are sure to tickle your tail feathers.

Great Lakes Chapter has planned another awesome chapter event for its members and non-members from Illinois and Wisconsin attending Annual Conference. Although this year attendees won't be finding out who is guilty of murder, they will nevertheless discover who has video gaming talents and can maneuver a ropes course with finesse at The Outta Control Magic Comedy Dinner Show on Monday, September 26, from 6 p.m. to 10 p.m.

Who knows what will happen during this interactive extravaganza? Some Great Lakes Chapter member with exceptional magic and/or acting skill may be discovered. Members won't want to miss this very exciting opportunity to showcase their hidden talents.

Further details and a registration form may be found on the AICP website under the "[Special Chapter Events](#)" section of the Annual Conference page.

Gulf States Chapter has planned its national conference chapter event as a dinner on Monday night, September 26, starting at 7 p.m. at Copper Canyon Grill, which is a short walk from the Peabody Hotel. After dinner, those that want to are walking over to BB King's Blues Club for music and drinks. Everyone is welcome and encouraged to attend and can sign up on the [AICP website](#).

Heartland Chapter is planning a fun and exciting evening at BB Kings Blues Club in Orlando on Monday, September 26, from 6 p.m. to 9 p.m. It will be having a buffet dinner (with dessert!) and will be listening (and perhaps dancing!) to live blues and jazz with a VIP view of the stage. It should be a fun time for all, and the organizers hope that all attending Heartland Chapter members will be able to join the group there. A [registration form](#) is on the AICP website—if you want to attend, please get those registrations in! Plus, you don't want

to miss the next Heartland Chapter "blinky" item – what will it be? Join everyone for dinner and find out!

Mid-Atlantic Chapter is holding an event at Cuba Libre on Monday evening from 6:30 p.m. to 9:30 pm. Many members will meet in the lobby of the Peabody at 6:15 and walk to the restaurant—look for the red lanyards! Chapter Members only pay \$63, which includes dinner, drinks, show, and gratuities. Registration and payment must be received by September 19, 2011. Information and the registration form can be found on the [AICP website](#).

Mid-Atlantic Chapter will also be scheduling a Business Meeting during the conference. Members are directed to check the schedule upon arrival at the conference for the date and time. Attendance is important because chapter leadership will discuss the following issues and will require a vote of the membership for certain things: (1) Report from treasurer; (2) Report from regional director; (3) Recap chapter events this year—webinar, Education Day, Lunch Bunches; (4) Discussion of proposed activities for the coming year—and they need your ideas; and (5) Chapter adoption of updated bylaws.

Midwest Chapter: please contact your chapter leadership for information.

New England Chapter is looking forward to a one-of-a-kind entertainment experience with non-stop audience participation on Monday, September 26, from 6:15 p.m. to 10:00 p.m. at Wonder Works. Members and their guests will enjoy both the Outta Control Magic Comedy Dinner Show and the Wonder Works experience for a special discounted price that's available for a limited time. Unlimited fresh, hand-tossed salad, cheese and pepperoni pizza, popcorn, dessert, and unlimited beer, wine, and soda are all included in your admission. PLEASE NOTE: The term "guest" does not include AICP members from other chapters. If space is available New England will welcome other chapters' members/guests, but at their actual cost. Additional details and a registration form are available on the [AICP website](#).

Northwest Chapter is taking a more informal approach to its chapter event and may be going to dinner somewhere in Downtown Disney. Members should check with Bri Dahl for additional information.

South Central Chapter's event this year at Sleuth's Mystery Dinner Theater on Monday, September 26, will prove to be

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The HITECH Act: An Overview of Its Impact on Business Associates

By: Kathryn H. Rowan, Associate, Christian & Small LLP

The Health and Information Technology for Economic & Clinical Health Act ("HITECH"), signed into law on February 17, 2009, was enacted as part of the American Recovery & Reinvestment Act of 2009 (ARRA) to strengthen the HIPAA Security Rule by imposing civil money penalties that the Department of Health and Human Services could enforce for violations of the HIPAA Rules. These amendments to HIPAA's enforcement regulations address privacy and security concerns associated with the electronic transmission of health information and will have a significant impact on attorneys and law firms and their healthcare clients.

Privacy & Security of Personal Health Information

When HIPAA was passed in 1996, it assigned the responsibility to promulgate and enforce regulations to the Department of Health and Human Services (HHS). In 2001, HIPAA's Privacy Rule became effective and provided guidance on the appropriate uses and disclosures of protected health information. HIPAA's later Security Rule, adopted in 2003, established policies and procedures for securing protected health information.

The adoption of the HITECH Act expands the current federal privacy and security protections for health information. As described in a paper by the Majority Staff of the Committees on Energy and Commerce, Ways and Means, and Science and Technology (January 16, 2009), the legislation accomplishes this by:

- Establishing a federal breach notification requirement for health information that is not encrypted or otherwise made indecipherable. It requires that an individual be notified if there is an unauthorized disclosure or use of the person's health information.
- Ensuring that new entities that were not contemplated when the federal privacy rules were written, as well as those entities that do work on behalf of providers and insurers, are subject to the same privacy and security rules as providers and health insurers.
- Providing transparency to patients by allowing them to request an audit trail showing all disclosures of their health information made through an electronic record.
- Shutting down the secondary market that has emerged around the sale and mining of patient health information by prohibiting the sale of an individual's health information without their authorization.

- Requiring that providers attain authorization from a patient in order to use the patient's health information for marketing and fundraising activities.
- Strengthening enforcement of federal privacy and security laws by increasing penalties for violations and providing greater resources for enforcement and oversight activities.

Business Associates

The changes will have a significant impact not only covered entities but also on business associates. Attorneys and law firms who serve as business associates for their healthcare clients and receive or access their clients' protected health information are now statutorily required to comply with HITECH and are directly subjected to the HIPAA safeguards.

While there are several pertinent effective dates under HITECH, one of the more significant effective dates was February 17, 2010, when the application of the rules to, and accountability for, business associates became effective. The HITECH Act extends certain conditions of HIPAA's civil and criminal penalties to business associates, who are now directly required to comply with the safeguards contained in the HIPAA Security Rule. Previously, business associates were subjected to HIPAA privacy and security requirements only via contractual agreements with Covered Entities. The

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AICP Chapters Get Their Groove On for 2011 Annual Meeting *...continued from page 6*

very peculiar, indeed! Members should bring their investigative skills, their appetite, and be prepared to laugh their way through the evening as they enjoy mystery, improvisation, and audience participation. Watch for anything suspicious, interrogate the suspects, and help solve the crime! If you're interested in attending this event, [please contact South Central Chapter to join in their journey into the unknown.](#)

Western Chapter's event will be at Sleuth's Mystery Dinner Theater on Monday, September 26, from 6:15 p.m. to 10 p.m. Tuesday night Sept. 27 will be dinner at the Point. There will also be a nightly drawing for a gift card for all eligible Western Chapter members. Details and a registration form are available on the [AICP website](#).

The HITECH Act: An Overview of Its Impact on Business Associates

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HITECH Act now places business associates under the same comprehensive Security Rule requirements as covered entities to ensure consistency of security when health information is accessed or exchanged between organizations.

The HITECH Act §13400(2) states that “business associate” has the meaning given to that term in 45 C.F.R., §160.103, which states:

“A Business Associate is a person who on behalf of a Covered Entity or organized healthcare agreement [p]rovides, other than in the capacity of a member of the workforce of such Covered Entity, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for such Covered Entity, or to or for an organized health care arrangement in which the Covered Entity participates, where the provision of the service involves the disclosure of individually identifiable health information from such Covered Entity or arrangement, or from another Business Associate of such Covered Entity or arrangement, to the person.”

Some examples of business associates include third-party billing companies, transcriptionists, data storage companies, IT companies, data shredding companies, and attorneys providing legal service to a health plan that involves access to personal health information. Basically, any entity that is exposed to or works with the protected health information on behalf of a covered entity would qualify as a business associate.

New Requirements for Business Associates

Part I, §13401 of the HITECH Act applies the HIPAA Administrative Safeguards (§164.308), Physical Safeguards (§164.310), Technical Safeguards (§164.312), and Policies and Procedures and documentation requirements (§164.316) to business associates of covered entities in “the same manner that such sections apply to the Covered Entity.” These security requirements must also be incorporated into business associate agreements between business associates and their covered entities.

Breach Notice Requirements

Business associates are now required to report a breach of unsecured protected health information to the associated covered entity, providing the identification of “each individual whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.”¹ The covered entity is then required to notify each affected individual. If a breach involves 500 patients or more, then the covered entity must notify HHS. If a breach involves “more than 500 residents of such State or jurisdiction,” notice shall be provided to prominent media outlets serving the state or jurisdiction.²

Content of the notice must include the following: (1) a brief description of what happened, the date of breach, and the date the breach was discovered; (2) a description of the types of unsecured protected health information involved in the breach; (3) precautionary steps individuals should take to protect themselves from the “potential harm resulting from the breach;” (4) a description of the investigation of the breach by the covered entity; and (5) contact procedures for affected individuals to follow to obtain additional information.³

Enforcement

Under Subtitle D, §13400 of the HITECH Act, there are four levels of violations. Each level reflects an increasing level of culpability to which covered entities and business associates now may be subject to civil and criminal penalties:

- The first tier involves violations that are unknown and that would not have been known by exercising reasonable diligence. Penalties begin at \$100 for each violation, with the total amount for all such violations in a calendar year not to exceed \$25,000.

¹45 CFR, §13402. Notification In the Case of Breach.

²45 CFR, §13402(e)(2), Methods of Notice.

³45 CFR, §13402(f), Content of Notification

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The HITECH Act: An Overview of Its Impact on Business Associates

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- The second tier involves violations due to reasonable cause and not to willful neglect. The penalties for each violation begin with \$1,000 for each violation, with the total amount for all such violations in a calendar year not to exceed \$100,000.⁴
- The third tier involves violations of provisions due to willful neglect if corrected within 30 days from knowledge of the violation. The penalties begin with \$10,000 for each violation, with the total amount in a calendar year not to exceed \$250,000.
- The fourth tier involves violations of willful neglect that are uncorrected. The penalties begin with \$50,000 for each violation, with the total amount for all such violations in a calendar year not to exceed \$1,500,000.

As with HIPAA, an individual cannot bring a cause of action against a provider under the HITECH Act. However, it does allow for a state attorney general to bring an action on behalf of residents of the state.

Many Affirmative Defenses No Longer Available

§13410(d) of the HITECH Act removes the affirmative defense for violations in which the covered entity did not know or by reasonable diligence would not have known of the violation. Such violations are now subject to the first tier of penalties.

The act also amended the subsection that provides an affirmative defense for a 30-day time period of correction to only require that the covered entity demonstrate the violation was not due to willful neglect:

“A Covered Entity that did not know and reasonably should not have known of such violations, will not have this affirmative defense available unless it also corrects the violation during the 30 day time period beginning on the first date of such knowledge or during the period determined appropriate by the Secretary based on the nature and extent of the failure to comply.”⁵

The statute on its face suggests that the knowledge involved must be knowledge that a violation has occurred, not just knowledge of the facts constituting the violation. Furthermore, this defense is not available in the event a covered entity's lack of knowledge resulted from its failure to inform itself about its compliance obligations or to investigate received complaints or other information indicating likely noncompliance.⁶

Conclusion

As of January 1, 2011, covered entities and business associates are now required to provide, upon request, an accounting of disclosures of protected health information if the covered entity uses an electronic health record. Clearly, the HITECH Act will continue to impose additional requirements on covered entities and now business associates, such as audits and accounting of disclosures, with the ultimate goal of electronic health records by 2014.

Business associates are now squarely in the middle of the HIPAA and HITECH world through the electronic exchange of protected health information, as they will now be held directly liable for breaches of protected health information. If they have not done so already, Business associates should (1) review their HIPAA policies and procedures to ensure compliance with the security rule safeguards and (2) review their business associate agreements with covered entities to ensure that the new requirements are incorporated.

⁴Reasonable cause is defined under §160.401, as “circumstances that would make it unreasonable for the Covered Entity despite the exercise of ordinary business care and prudence to comply with the administrative simplification provision violated.”

⁵See Summary of 45 CFR Part 160, Federal Register, Vol. 74, No.209, Oct. 30, 2009.

⁶See Summary of 45 CFR Part 160, Federal Register, Vol. 74, No.209, Oct. 30, 2009.

NRRA Regulatory Changes: The State of a Market in Transition

By Richard J. Fidei, Esq. and Jennifer Erdelyi, Esq..

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which was signed by President Obama on July 21, 2010, was considered to be historic legislation intended to facilitate the most sweeping changes to financial services regulation since the Great Depression. Of particular importance to the surplus lines insurance and reinsurance industries is the Nonadmitted and Reinsurance Reform Act (NRRA), a subsection of the Dodd-Frank Act. The NRRA was enacted to create uniform standards for the taxation and regulation of surplus lines placements, to create uniform surplus lines insurer eligibility standards, and to produce streamlined access to the surplus lines market for large commercial purchasers. It also eliminates some of the challenges of the prior state-by-state regulatory system faced by reinsurers and protects ceding insurers from being denied credit for reinsurance by non-domiciliary states under certain circumstances.

Although Congress intended to provide a more uniform system for the regulation of surplus lines insurance and reinsurance, the enactment of the NRRA appears to be leading the industry into a period of significant uncertainty and confusion.

A. Nonadmitted Insurance

1. Home State Taxation

As of July 21, 2011, the NRRA provides that other than the home state of the insured, no state may require any premium tax payment for nonadmitted insurance. For an individual insured, the home state is the state of the individual's principal residence. For an entity, the home state is the state in which the insured maintains its principal place of business. If 100 percent of the insured's risk is not located in that state, the home state is the state with the greatest percentage of the insured's allocated taxable premium. For placements involving an affiliated group of companies, the home state would be the principal place of business of the member of the group with the largest percentage of premium under the policy.

Prior to the enactment of the NRRA, a majority of the states taxed only the portion of the exposure on a multi-state placement allocated to that state. As a result, most states have traditionally not collected 100 percent of the premium tax for a nonadmitted multi-state placement. Since the NRRA was enacted, most states have passed legislation to change their laws so they will be authorized to collect 100 percent of the tax when they are the home states.

In order to address the sharing of taxes collected by an insured's home state, the NRRA clearly provides that the states may enter a compact or otherwise establish procedures to allocate the taxes among the states. While Congress did not set forth the specific parameters for the compact or other uniform procedures, it did memorialize its intent that each state adopt nationwide uniform requirements, forms, and procedures for the reporting, payment, collection, and allocation of premium taxes for nonadmitted insurance.

There are currently two competing state implementation plans: the Nonadmitted Insurance Multi-State Agreement (NIMA) developed by the National Association of Insurance Commissioners (NAIC), and SLIMPACT, sponsored by the National Conference of Insurance Legislators (NCOIL).

NIMA requires participating states to implement uniform requirements for the reporting and allocation of premium tax. A clearinghouse will be established to facilitate the receipt and distribution of premium taxes and transaction data on nonadmitted multi-state insurance. NIMA provides a tax allocation formula that is based upon rates established by each state participating in the NIMA agreement.

Some are concerned that NIMA's allocation formula is similar to the prior system that the NRRA was enacted to eliminate, and NIMA has been described by some as addressing only the collection and allocation of premium taxes but not the uniformity

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The State of a Market in Transition ...continued from page 10

of regulation required by the NRRA. To date, 11 states and one U.S. territory—Alaska, Connecticut, Florida, Hawaii, Louisiana, Mississippi, Nebraska, Nevada, Puerto Rico, South Dakota, Utah, and Wyoming—have entered NIMA.

SLIMPACT is a compact that is typically entered by a state through legislation. It became effective when enacted by two states. It provides for the creation of a commission for rulemaking and governance that becomes effective once ten states have joined the compact. SLIMPACT is described by some in the industry as being a more comprehensive response to the NRRA. In addition to facilitating the collection and allocation of premium tax, the compact is intended to improve efficiency by implementation of uniform regulation among the member states. The SLIMPACT Commission is charged with the adoption of mandatory uniform rules to implement the NRRA. Currently, nine states have enacted SLIMPACT: Kentucky, New Mexico, North Dakota, Indiana, Kansas, Vermont, Rhode Island, Alabama, and Tennessee.

Several states have passed laws that require a study or fiscal analysis to determine how the entry of a compact or agreement would affect the states' premium tax revenues. Some legislation has specifically set forth criteria that must be considered or that must be included in any such agreement or compact. Other states' legislation affords a greater degree of discretion to the insurance commissioner or other state official to enter a multi-state agreement or compact.

Nationally, implementation of the surplus lines taxation provisions of the NRRA is anything but uniform. The states have not agreed upon a uniform system to follow. In some instances, this could lead to inconsistent results, such as how the state may interpret the principal place of business for a company or group of affiliated companies. More than one state could claim to be the home state for the same transaction. Another example relates to how the states may interpret what is the gross premium upon which taxes are generally imposed.

Some include the premium attributable to non-U.S. risks and exposures, while others do not. This could significantly affect the amount of taxes owed and possibly expose an insured to double taxation in a home state and a foreign country. Suffice it to say that many issues remain to be resolved as implementation of the NRRA progresses.

2. Home State Regulation

The NRRA also provides that surplus lines insurance shall be subject to the statutory and regulatory requirements exclusively of the home state of the insured and that the laws of any other state regarding nonadmitted insurance placement, taxation, or broker licensing are preempted. This provision should eliminate confusion over which jurisdiction has the authority to regulate a transaction and should provide clarity in scenarios where a placement would otherwise be subject to multiple regulations of several states. As an example, brokers will only need to ensure they have appropriate licensure in the insured's home state to effectuate a multi-state placement. While this will simplify a number of the issues normally encountered by insurers and brokers, they still need to understand and follow the applicable home state laws and regulations.

3. Surplus Lines Insurers

The NRRA prohibits each state from imposing eligibility requirements on nonadmitted U.S. insurers except in conformity with certain provisions of the NAIC's Non-Admitted Insurance Model Act, unless the state has adopted certain nationwide uniform requirements, forms, and procedures in accordance with the NRRA. In essence, so long as the appropriate thresholds are satisfied, a carrier meeting the minimum eligibility standards in the state of domicile will be entitled to write the coverage in any other state. States may confirm that the insurer has authority in its state of domicile to write the type of coverage involved and that the insurer has capital and surplus equal to the greater

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NRRA Regulatory Changes:

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of \$15 million or the minimum required by the home state in the placement.

Also, a state may not prohibit a broker from placing nonadmitted insurance with an alien (non-U.S.) surplus lines insurer that is listed on the NAIC International Insurers Department's Quarterly Listing of Alien Insurers (NAIC-IID). Accordingly, alien insurance companies listed on the NAIC-IID quarterly list would be entitled to act as a surplus lines insurer in all states.

4. Exempt Commercial Purchasers

Surplus lines brokers placing nonadmitted insurance for an exempt commercial purchaser do not need to satisfy the previously required diligent search requirements so long as the broker discloses that insurance may be available in the admitted market and the exempt commercial purchaser provides a written request for nonadmitted coverage. The NRRA defines certain companies, municipalities, and non-profits as exempt commercial purchasers based on their size, premium volume, and other criteria geared to establish a level of sophistication in the purchase of commercial insurance.

B. Reinsurance

The NRRA also addresses reinsurance. Under the NRRA, a state cannot deny credit for reinsurance to a ceding carrier if its domicile is an NAIC-accredited state or has substantially similar requirements and recognizes credit for reinsurance for the insurer's ceded risk.

If the state of domicile of a reinsurer is an NAIC-accredited state or has substantially similar financial solvency requirements, that state will be solely responsible for regulating the financial solvency of the reinsurer. In addition, no state may require the reinsurer to provide any additional financial information other than the information the reinsurer is required to file with its domiciliary state. Non-domiciliary states of a reinsurer are permitted to

request a copy of any financial statement filed with its domiciliary state. Accordingly, reinsurers are now subject to a single state's authority, rather than ensuring compliance with the regulatory and financial solvency requirements of multiple states.

C. Conclusion

At this point, the legislative process is resulting in a fragmented system. This will create a lot of uncertainty in the market. Also, we can expect that the failure of the states to agree on a nationwide uniform system will draw the attention of Congress and federal policymakers, as they study the effect of the NRRA and the success of the states' implementation efforts.

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IIPRC News

(Provided by the Interstate Insurance Product Regulation Commission)

IIPRC Adds Four States

Over the past 12 months we have seen major developments occurring at the Interstate Insurance Product Regulation Commission with impressive gains in compacting states, uniform standards, filing companies and reviewer resources.

Alabama, Illinois, New Jersey, Nevada, and Oregon have enacted the Interstate Insurance Compact (Compact) so far in 2011. Today, a company can submit one product submission without state-specific variations and receive approval in up to 39 compacting states. When Nevada and Oregon become effective later this year, companies can take advantage of the compact's unique "add-a-state" feature to easily add these new states to previously approved products. Companies using the compact for product approval experience immediate advantages in terms of systems development and implementation, along with having the ability to market and track standard forms for a product across all compacting states.

The compact has fully implemented the individual long-term care uniform standards allowing a company to submit its complete package, including application, policy, rates, advertising and other related forms. The compact is also accepting combination product filings including individual life filings with long-term care riders that accelerate death benefits and individual annuity filings with long-term riders that use the account value. Individual disability income and disability business overhead expense uniform standards are currently in the compact's rulemaking process, with implementation expected in early 2012.

With 75 uniform standards for individual life, annuity and long-term care, companies can file a complete and wide array of products as well as utilize the compact's unique mix-and-match process to file components of a product such as an application, policy, or rider for use with state-approved components. The compact has worked with the System for Electronic Rate and Form Filing (SERFF) to make it easier to complete a Statement of Intent Schedule in a mix-and-match filing by utilizing

templates and copy/paste functionality. The compact has also released several useful tools on its website for companies and compacting states including self-guided, web-based tutorials and reviewer checklists.

More than 120 companies have registered to file with the compact so far this year, exceeding the total level of registered companies in 2010. These registered companies represent more than a combined 50 percent of the nationwide asset-based premium volume and range from Fortune 500 companies to small- and mid-sized companies to fraternal. The compact also altered its fee structure allowing regional companies selling products in 12 or fewer compacting states to take advantage of the compact at a reduced fee.

Compacting states and companies have the advantage of a well-qualified product review team at the commission that will thoroughly review a product filing for compliance with applicable uniform standards before that product gets to market. With the addition of three new team members, the compact now has a full-time actuary, a part-time actuary, three full-time form reviewers and a product operations coordinator and more than 75 years of combined regulatory experience. The compact has adopted a lead reviewer approach to ensure prompt turnaround, responsiveness, and consistency, with each form reviewer having primary responsibility over the form review of the bulk of filings and responding to general inquiries within the respective product lines.

To catch up on all the exciting developments at the compact, visit www.insurancecompact.org.

Staying on Top of Compliance Challenges for Life & Health Insurers

By Kathy Donovan, Senior Compliance Counsel, Wolters Kluwer Financial Services

One of the more compelling and interesting aspects in reviewing life and health market conduct exams and other enforcement actions review is the patterns—the top trouble spots on exams tend to linger year after year. So how can this be changed? It really boils down to an in-depth look at the key challenges and then conducting a close evaluation of your current processes to see exactly where mistakes might be made. After all, you need to know the cause of the problem before it can be fixed.

For life and annuities insurers, the most challenging areas appear to fall under the claims, replacement, advertising, forms and licensing areas. Health insurers share all of the compliance woes that the life and health folks have, with the exception of the policy replacement problems. As we approach the half-way mark in 2011, and with an awareness of new challenges with recently enacted legislation, taking a brief look back at both the functional areas impacted as well as some specific examples might assist in evaluating one's existing processes. This review of some of the top market conduct challenges can demonstrate perennial trouble spots and perhaps assist in putting one's best compliance foot forward.

A closer look at life and annuities claims compliance challenges

An April 2011 life market conduct exam in California found that the insurer had failed to:

- Execute the annual written certification of fair claims practices training required by the code for the dates pertinent to the examination review period. The department alleges that failure to certify fair claims practices training by Sept. 1 of each year is a violation of CCR §2695.6(b) and is an unfair practice under CIC §790.03(h)(3)
- Explain benefits on claim check stubs, including the rate of interest. The failure to disclose the rate of interest paid is alleged to be a violation of CIC §10172.5(c) and is an unfair practice under CIC §790.03(h)(3)
- Include settlement options for traditional life policies on the claim form and the beneficiary statement. Settlement option information for traditional life claims is available to claimants through its claims agent. The failure to explain or disclose the settlement options available to the claimant or beneficiary is alleged to be in violation of CCR §2695.4(a) and is an unfair practice under CIC §790.03(h)(1)

Clean claims and prompt pay laws' violations also continue to have a marked visibility in investigations of health insurers' claim practices. In New York a single finding in a July 2010 exam showed the "respondent failed to process certain claims within the time limitations specified in Section 3224-a of the Insurance Law." This resulted in a \$154,000 fine, while that same criticism was made in a February 2011 exam, resulting in a fine of \$160,500. And a Texas enforcement action in March 2010 determined that an insurer had failed to pay clean claims in a timely manner and to provide certain mandated coverages to insureds.

It is not just the amounts due subscribers that are getting regulator attention. Provider payments are also in focus. A Maryland Insurance Administration order in January of this year found that "the HMO failed to pay providers the contracted amount due for services rendered to the HMO's members." That same Maryland order held that "the HMO failed to allow a provider a minimum of 180 days from the date of covered service to submit a claim for reimbursement for the service." Regardless of the line of insurance, it's clear that claims processes details are being closely examined.

Replacement issues are not rare

We have seen life replacement issues in New York continue to be a problem this year. In January 2011, with an assessed fine of \$225,000, examiners determined that an insurer had violated Section 4226(b) of the Insurance Law and Section 51.6(b)(3) of the Department Regulation No. 60, by failing to, in certain instances involving replacement transactions, examine any comparisons used, including the Disclosure Statement, and ascertain that they were accurate and met the requirements of the Insurance Law and Department Regulation 60. It was determined that the insurer had further violated Section 51.6(b)(9) of Department Regulation No. 60, by failing, in certain instances involving replacement transactions, to provide a revised Disclosure Statement when the life insurance policy issued differed from the life insurance policy applied for. The insurer had also failed to correct deficiencies involving Disclosure Statement or Definition of Replacement forms or reject applications within 10 days from the date of receipt of the application. Further, it did not furnish the existing insurer a copy of the sales material used in the sale of the proposed annuity contract and the completed Disclosure Statement within 10 days of receipt of the application.

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Another example hails from Pennsylvania. In March 2011, the issue of file documentation was noted as an issue in the area of replacements where Pennsylvania examiners found:

- The replacement form was missing from the noted file
- The producer's question on replacement was inconsistent with the finding in the application noted
- The replacement letter to the external replaced company was untimely in the noted file

Know your advertisements

Advertising, which is regulated in the life and health insurance industry, has certainly been a constant factor in recent exams. In fact, it has become somewhat common to see New York criticisms that refer to an insurer's failure to maintain an advertising file at a home office. Additionally, failures to maintain a notation indicating the manner and extent of distribution of advertisements continue to be a problem.

California has similarly investigated advertising compliance recently. In an April 2010 exam, the examiners identified eight pieces of advertising for an annuity product where the riders were advertised as a benefit of the contract. However, they determined there was no clarification provided to the agent or the insured explaining that the riders were only available to policy owners aged 75 and under at the time of purchase. Additionally, regulators found the advertisement for the annuity highlighted that "after 12 months the client can cash out all or part of his money." The problem was that there was no clarification on the advertisement to explain that if a cash-out over the penalty-free withdrawal amount took place in the first 14 years, the withdrawal would be subject to surrender or commutation charges

Regulators are also trying to help insurers avoid problems with advertisements in the future. In a market conduct examination adopted in May 2011 addressing compliance with Ins. 2.16, the Wisconsin Office of the Insurance Commissioner (OIC) issued recommendations that the company develop, document and implement processes and written procedures to ensure:

- All advertisements containing statistical information identify the sources of the statistical information;
- All advertisements containing terms such as "No Medical Exam" or similar terms, disclose in close proximity and with equal prominence that issuance of an insurance

policy may depend on answers;

- All advertisements for policies containing graded or modified benefits contain a written description of the graded or modified benefits on the first page of each advertisement in at least 12-point bold type; and
- All advertisements in its advertising files have a notation indicating both the manner and extent of distribution attached to each advertisement.

The Wisconsin OIC also took new social media tools into account, recommending that the company develop, document, and implement processes and written procedures to ensure that all internet advertisements, including search engine text link advertising and social networking such as Facebook™ and Twitter™, are included in its advertising files.

Licensing and appointment issues abound

Licensing and appointment challenges are, of course, a very real problem for insurers. And life and health companies are no exception. For example, take a Pennsylvania exam from January of this year that the company had "failed to file a notice of appointment and submit appointment fees to the Insurance Department." The company had listed the producers as active; however, department records did not indicate their appointment.

Another example comes from March 2010, when "individuals were listed as producers on 10 applications reviewed in the policy issued sections of the exam." And North Carolina summarized similar criticisms in a 2010 exam: "The Company was again deemed to be in apparent violation of the provisions of NCGS 58-33-26 and 58-33-40 as 2.0 percent of the policy files contained an application that was signed and dated prior to the producer's appointment."

It's clear that insurers are routinely found to be in violation of one or more aspects of licensing and appointment issues.

Less frequent, but still important

This review would not be complete without acknowledging the less frequently observed compliance issues, including life application questions, policy illustrations, doing business in the insurer's own name, and unfair trade practices.

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Staying on Top of Compliance Challenges for Life & Health Insurers

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Over the past few years, the Florida department has determined that some insurers were asking questions about an individual's future travel plans on life insurance applications. As recently as November 2010, it issued an order with a \$10,500 penalty for a company's violation of Section 626.9541, which prohibits insurers from declining life insurance to, refusing to continue the life insurance of, or limiting the amount, extent, or kind of life insurance coverage available to an individual based solely on the individual's future lawful foreign travel plans. It is also important for insurers to make sure applications do not include prohibited questions, such as questions inquiring about upcoming travel.

As far as policy illustrations, New York examiners determined in February 2011, "The examiner reviewed a sample of nineteen life and twenty fixed annuity policies. Only three life policies contained illustrations identifying the city, town or village of the home office of the Company. Sixteen life policies contained the address of the parent" and "of the twenty fixed annuities, only one contained a complete illustration, albeit with the address of the Company's non-New York parent." Of critical importance here is the issue of incomplete files and documents—a somewhat frequent criticism across the states. In this case, the examiner was unable to verify the correct address on the other 19 annuity illustrations because those illustrations were missing pages, including the first page where the address would have usually been included.

Doing business in one's "own name" can also present challenges because examiners may seek validation of this requirement across the insurer's functional areas in forms, advertising, and correspondence. A California health exam released in June 2010 determined that the insurer had failed to conduct its business in its own name in 73 instances, while another California exam in August 2010 revealed that in seven instances, the insurer's correspondence did not properly identify the correct underwriting company. And in October 2010, again examiners found that an insurer's Explanation of Benefits and Acknowledgment of Claim letters for the company's fixed annuity product failed to include the complete company name. All of these determined criticism represent violations of both CIC §880 and the unfair practices enumerated under CIC §790.03(h)(3).

Looking ahead to emerging issues in the market conduct exam process

With multiple states having already adopted the March 2010 changes to the Annuities Suitability Model 275, and the expected continued adoption of these or similar requirements across all states, insurers' thoughts and concerns necessarily turn to addressing the Model's key components. Obtaining applicants' information that can be effectively used to assess suitability, setting appropriately compliant evaluation criteria, adhering to disclosure requirements, product training, and oversight of producers are all elements that spell success in implementing the new requirements.

In July, the Wisconsin OIC issued an order that found a company had failed "to adequately supervise its field management and insurance agents." Regulators determined that the insurers had not taken adequate steps to prevent its Wisconsin sales branch offices and insurance agents from engaging in unsuitable annuity sales and replacements and improper annuity marketing and sales practices, including initiating annuity sales solicitations without disclosure that annuities were being sold. The OIC also found that do-not-call list restrictions had been violated during annuity sales solicitations and that misrepresentations were made relating to annuity sales.

While we anticipate many additional states taking action on Model 275's revisions adopted last year, the industry can also have the somewhat parallel anticipation that market regulation enforcement of those same revised requirements will increase. We also cannot ignore the latest interest many states have taken concerning unclaimed property and the payment of life insurance death benefits. These recently announced investigations into life insurers' claims processes are anticipated to result in some market conduct fines and restitution, along with some possible corrective action plans ordered for life insurers' claims handling procedures.

Recurring and new challenges—where do we go?

Once you have taken a look at the recurring, oftentimes perennial, compliance challenges in timely claim handling, policy replacement, advertising and licensing, as well as the emerging areas of investigative focus, it may be time to examine the many "moving parts" and systems in your own organizations.

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AIA Examines Workers' Compensation Issues

Karen C. Yotis, J.D.

When Norman Whitfield and Barrett Strong penned "Ball of Confusion (That's What the World Is Today)", they could hardly have anticipated that the political anthem the Temptations recorded in 1970 would mirror the state of our country's workers' compensation system 41 years later. But in a nation with 50 states—and 50 different workers' compensation systems (not to mention D.C. and the federal workers' comp system), the ball of confusion analogy is, well, right on.

The American Insurance Association cuts through some of the morass in its article "States of Confusion," published in the Winter 2011 edition of AIA Advocate. The piece describes the new and unique challenges that most states face and outlines the ways that AIA (which is in many respects the Great Goo-ga-Mooga of the P&C industry) fights to keep the workers' compensation rules simple for insurers and employers.

Like the lyrics to the song, workers' compensation has lately been all about "aggravation, demonstration and obligation to our nation," but the AIA article narrows the whole hot mess down to two main employer-specific issues: rising medical costs and legislative raiding of the "surplus" money in state funds to address budget shortfalls.

Reigning in Medical Costs

The article points to a number of proposed solutions to bring medical costs in check. With "the sale of pills at an all-time high," it should come as no surprise that AIA is targeting the lack of transparency in pharmaceutical pricing, the elimination of fee schedule evasions, and a broader use of generics as potential fixes for this tangled skein of problems.

Fee Schedules

AIA's long-standing recommendation that pharmaceutical costs be subject to the Medicaid-based fee schedule tailored to each state has met with a pitiful amount of support from the states. The article singles out California as the only state to adopt this approach and bemoans the failed efforts in Florida to pass fee schedule legislation, which AIA claims would have reduced overall WC costs by 1.1 percent or \$34 million.

Claimants' attorney Vernon Sumwalt, Esq., of [The Sumwalt Law Firm](#) out of Charlotte, North Carolina, offered this possible explanation for the states' failure (or refusal) to adopt AIA's proposed solutions:

"As a general idea, efforts to encourage efficiency in the area of medical compensation should be applauded. In practice, however, checklist formulations on how to provide medical care are insulting to providers, who are trained and educated to exercise medical judgment when rendering treatment and typically delay needed treatment and care for work-related diagnoses. If efforts at cost-containment did not sacrifice the quality of medical care on the front lines, both employers and employees would not be so frustrated with carriers' efforts in this regard."

Closed Formularies

In addition to advocating for greater use of the pharmacy benefit managers network, AIA encourages closed formularies as another important cost containment strategy for rising medical costs. But with Washington as the only state with a closed formulary and Texas as the only other state currently considering one, it appears as if "nobody's interested in learning but the teacher."

Defense attorney Stuart Colburn, Esq., who hails from the Austin firm of [Downs Stanford](#), clarified the status of closed formularies in Texas:

"The Texas Legislature has mandated a Closed Formulary to reduce the overutilization of pharmaceuticals ordered by some doctors. The Texas Closed Formulary will restrict access to certain drugs identified as "N" class drugs by the ODG Guidelines, the state-mandated Treatment Guidelines. The ODG Guidelines have been instrumental in reducing overutilization of medical treatment and reducing the number of medical disputes. Texas regulators implemented the Closed formulary rules for all dates of injury on or after September 1, 2011. Unfortunately, workers injured before that date (known as the legacy claims) will not have the benefit of the closed formulary until September 1, 2013. Some also complain the regulators took away an important tool to combat overutilization of drugs such as opiates and opioids for legacy claims: preauthorization. Prior to January 2011, health care providers were required to seek preauthorization for all drugs that exceed the ODG Guidelines. At the same time regulators adopted the Closed Formulary rules, they stripped the preauthorization requirement for legacy claims. It appears Texas employers and their injured employees will not have the full benefit of the Closed Formulary until September 1, 2013."

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AIA Examines Workers' Compensation Issues

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Sixth Edition of the AMA Guides

And let's not forget the *AMA Guides to the Evaluation of Permanent Impairment* (as if we could, with the AIA leading the charge in support of the much-criticized Sixth Edition). Although only 10 states have adopted it, AIA actively promotes the sixth edition as "the broadest medical community consensus for rating permanent impairment" and dismisses objections to it as "largely the product of parochial interests fed by claimants' bar views of the impact on claimant recoveries under limited circumstances, and, not coincidentally, their own wallets." So "round and around and around we go, where [this issue's] headed, nobody knows."

Andrew J. Reinhardt, Esq., president of the [Workers' Injury Law & Advocacy Group](#), had this to say about the controversial sixth edition:

"It is not surprising that carriers and employers are anxious for all states to promptly adopt the sixth edition of the AMA guides—and before their various legislatures are apprised of the facts. And—these are the facts:

"Consistent with congressional testing of our nation's top experts on not just workers' compensation benefits and trends but on the AMA guides in particular (see [Developments in State Workers' Compensation Systems](#)) the AMA guides impairment ratings have been used as proxy for disability determinations even though admonitions in the guides themselves advise against this usage; 2) each edition of the guides has resulted in lower impairment ratings than the one before with the most recent being more of a paradigm shift; and 3) none of the guides editions are evidence based—rather they are apparently the brainchild of a very small group of physicians whose process of development of the impairment formulas has never been vetted or explained, thereby resulting in secret private rule making, which usurps the job of workers' compensation tribunals on the disability and impairment issues.

"Our research tells us that numerous states whose legislatures have examined these true facts have either rejected the sixth edition or at least postponed adoption of same for further study—including at least CO, IA, KY, NV, UT, and WA. In fact, numerous other states for similar concerns still use either the third or fourth edition—including AL, AR, KS, MD, ME, SD, TX and WI. Only a decided minority of states are officially using the sixth edition—despite great efforts on the part of employ-

er/carrier interests to sell the supposed efficacy of that guide. Those who are reluctant to adopt this latest version are clearly on the right track—and in the majority.

"Additionally, U.S. Congress representatives George Miller and Lynn Woolsey have jointly written to the AMA requesting an explanation as to the basis for the guides, the identity of the individuals involved in creating same, and the source of funding for their work. Regrettably, the AMA has been unwilling to respond."

Other thought leaders in the industry share the WILG's view. One of the more vocal opponents of the sixth edition is California applicant's attorney Robert G. Rassp, Esq., author of [The Lawyer's Guide to the AMA Guides and California Workers' Compensation](#) (LexisNexis Matthew Bender). Rassp's specific objections are that "the sixth edition:

- is "consensus-derived," which means the WPI ratings are not based on any empirical scientific data or epidemiological studies. There is no correlation between any given WPI rating and the effect of an impairment on ADL functioning, let alone work functioning;
- contains five possible ratings for each medical condition, all DRE based, with + or - 1 or 2 WPI from a default WPI rating due to pain or improvement in ADLs;
- uses a WHO definition of ADLs that are completely different than how ADLs are defined in the fifth edition (See Table 1-2 on page 4 of the fifth edition). This is to sell more books in Europe, and again, there are no empirical data to support a change in the definition of what constitutes an ADL;
- lowers the ratings for heart disease and hypertension without any scientific justification; and
- takes the position that if a condition is not listed, then it rates 0% WPI."

Like the WILG, Rassp also advocates against the Star Chamber approach to impairment ratings and suggested instead that "[s]ome neutral body, such as the Institute of Medicine, should be commissioned by Congress to develop a scientifically based (from epidemiology studies, if possible) disability schedule, such as the one used by the Department of Defense or Social Security Disability that is based on actual science to include realistic estimates of the effects of injuries and treatment on work functioning where there is a correlation between a given WPI or disability rating standard and the actual effect on a person's future earning capacity. They need

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to include medical specialists and keep occupational medicine out of the discussion.”

Rassp's grim conclusion is that “This is too bad for injured workers—the ratings will be very low and unrealistic to reflect true work disabilities.”

Legislative Interest in State Funds

The AIA has been critical of various legislatures for turning to their respective state funds for the fiscal solution to their myriad budget crises. The Advocate article bemoans the presence of legislative fingers in the reserve cookie jar as seriously misguided and explains the ways in which AIA continues to fight the good fight against growing legislative interference with state funds in the following jurisdictions:

Maryland—AIA fought S.B. 507, which would allow the Injured Workers' Insurance Fund to become a “mutual” and maintain its marketplace advantage over private carriers in exchange for \$20 million from the fund by pointing out to Governor Martin O'Malley (D) how the proposed legislation would jeopardize IWIF's solvency and place the private market's surplus at risk.

Colorado—AIA once again battled a proposed \$330 million swap in exchange for allowing the state fund to be what AIA calls “a pseudo-private mutual insurer,” by communicating to Governor Bill Ritter (D) key points that influenced the end of legislative discussions.

Oklahoma—AIA played a role in educating legislators considering changes to the state's WC system by making sure they knew what truly constitutes a privatization of a state fund and continues to keep its eye on developments due to the broad WC reform measures that are anticipated for next year.

Kentucky—AIA continues to speak out against legislative efforts to force the state fund to declare a \$40 million dividend for its policyholders in spite of a state Supreme Court decision that found transfers from the Kentucky Workers' Compensation Funding Commission to the commonwealth's general fund to be unconstitutional.

Arizona—AIA ultimately supported legislation that privatized the state fund by transforming it into a private mutual insurance company owned by its policyholders, with the state fund retaining its statutory standing and marketplace preferences.

Connecticut—AIA combated a proposed “perennial” bill to create a state fund that received much more support than in years past and continues to maintain its vigil, “particularly now that the governorship has switched to Democratic.”

AIA continues also to monitor events as they unfold in Washington (where employer-sponsored efforts to open up the system to the private market were defeated by “labor union and trial bar interests that far outspent proponents”) and in Ohio (where a Republican sweep of the governorship and legislature could improve the climate for considering a restructuring of the state's WC mechanism).

California's “Left Coast Legislation”

Finally, the article devotes a special section to California and highlights a number of developments from the jurisdiction that writes more WC insurance than any other state. AIA decries the confusion caused by lawmakers who have attempted to overturn legislation involving increased permanent disability benefits and limiting cost containment measures such as treatment utilization review and medical provider networks “almost as soon as the ink was dry on the 2004 Schwarzenegger reforms.” AIA also categorizes increases in the use of outpatient services, pharmaceutical costs, inpatient surgery costs and pain medications and class II drugs as the primary cost drivers and speaks out aggressively against what it deems an “out-of-control” lien system.

Not everyone buys into the AIA's version of California events. According to applicants' attorney Julius Young, Esq., a partner at the Oakland, CA firm of [Boxer & Gerson](#), “AIA's analysis of ‘left coast litigation’ misses the mark in many ways, and its article paints an untrue caricature of California's workers' comp system.”

Contrary to the doomsday scenario that the AIA portrays, Young's view is that “California is in fact open for business, and its workers' comp system is not out of control. In fact, according to WCIRB statistics the average premium rate paid by employers per \$100 of payroll was \$2.36 in 2009 and \$2.47 in 2010, down from \$6.44 in 2003.”

Young goes on to explain:

“The AIA's article claims that medical costs have increased by the decision in [Guzman](#). Yes, costs have increased, but not because of the [Almaraz & Guzman](#) cases. Medical cost

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AIA Examines Workers' Compensation Issues

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escalation is a troubling trend in the U.S. healthcare system overall and in most state workers' compensation systems, not just California's. In the latter days of the Schwarzenegger administration, 12 areas were targeted as possible sources of possible cost savings. Efforts to control costs by regulations have been completed in about half of these areas; in the remaining areas, including regionally centered problems with liens, further efforts will likely be undertaken by the Brown Administration. Some of these cost control efforts are controversial to be sure. Thorny issues of the role of compounded medications and opiates in medical treatment and adjustments to physician fee schedules will likely be subject to focus by Brown's administrative director.

"But generally, California court decisions have upheld the validity of properly implemented medical networks and treatment guidelines. A widely cited recent decision, [Valdez](#), may make it harder for doctor mills to game the system. Ultimately, like many state systems, California seeks to retain access to quality care for workers who depend on good care to be able to return to work.

"One area of developing concern in California's system is the increasing expense of cost-containment measures: utilization review, nurse case management and bill review. Those transactional costs have been rising and now appear to be independent system cost drivers.

"Worries that the sky is falling due to the impact of the [Almaraz-Guzman](#) and [Ogilvie](#) cases appear to have been overblown. Several years after those decisions, industry statistics have document only a modest impact on overall system costs. Court decisions after [Almaraz-Guzman](#) have limited the application of the doctrine in many cases.

"Moreover, it's worth noting that the [Almaraz-Guzman](#) and [Ogilvie](#) cases are an outgrowth of large reductions in ratings that led to major reductions in payments to workers with permanently disabling injuries. Out of concern for system costs in difficult economic times, neither the Schwarzenegger nor Brown Administration have moved forward with revisions of the workers' comp rating schedule that were mandated by law for 2010.

"It's important to remember that workers' compensation was designed as a vehicle to deliver indemnity benefits and medical treatment to disabled workers. In the years after the 2003 and 2004 California reforms, employers did benefit from reduced workers' comp costs, but insurers also reaped historically high profits.

"In the last few years the California market has tightened, but insurer requests for advisory double-digit increases were rejected by then-California Insurance Commissioner Poizner, who noted that California insurers were failing to use the legal tools they already have to control costs. Insurers have consistently failed to make a credible case for large advisory rate increases. Meanwhile, actual rate increases by carriers in the market have been modest.

"All in all, 'left coast litigation' is a myth. California, one of the world's largest economies, is open for business. The workers' comp market in California continues to be healthy."

In light of the political climate change sweeping across the WC industry, the AIA will continue to gear up to protect the measures that have improved the system for insurers and employers.

And the band plays on . . .

Karen C. Yotis has been an Illinois attorney for 22 years. She is the former community manager for the LexisNexis Communities, including the LexisNexis Insurance Law Center, and specializes in the areas of social media and insurance regulatory compliance.

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IRES Honors AICP Member Eric Nordman



*AICP Member,
Eric Nordman*

The AICP's very own Eric Nordman was honored recently by the Insurance Regulatory Examiners Society (IRES). Eric received the Al Greer Achievement Award at IRES' annual 2011 Career Development Seminar (CDS) in Minneapolis.

Al Greer was one of the original state insurance examiners who had the vision to

establish the Insurance Regulatory Examiners Society in the late 1980s. As a founding father of IRES, Greer helped fashion its mission—namely, to raise insurance regulation to a highly respected profession marked by technical proficiency and ethical behavior. He went on to serve on its board of directors, was later elected treasurer, and was always willing to help wherever he was needed. The Al Greer Achievement Award is presented annually to an insurance regulator and IRES member who not only embodies the dedication, knowledge, and tenacity of a professional regulator, but who exceeds those standards.

Eric achieved the Al Greer award due to his knowledge of the industry, his overall demeanor, his willingness to help others, and his dedication to continued professional growth and study. He has been a resource within IRES and to all regulators and the insurance industry. He has helped many people who have attended the IRES CDS, and he was able to motivate others to action based upon his attitude and actions. In this manner he became an inspiration to others, gained the respect of many, and embodied the spirit of Al Greer in being a role model.

Eric is a supporter of AICP and is often requested to be a speaker at AICP events, either on a chapter level or at the Annual Meeting and Seminars. In fact, this year Eric is expected to speak three times at the AICP 2011 Annual Meeting and Seminars in Orlando.

On behalf of the AICP, we congratulate Eric on his achievement and wish him continued success.

*Joe Bieniek and Roger Osgood
Co-Chairs, Government and Industry
Relations Committee*

INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION

The Insurance Compact is an innovative vehicle formalizing the joint and cooperative action among compacting states, leveraging regulatory resources and expertise to establish Uniform Standards and form the foundation of a central clearinghouse for prompt review of asset-based insurance products. Companies now have a way to prepare one filing submission under one set of standard product content requirements and subject to one centralized review and approval in 60 days or less allowing one standard product to be marketed in up to 38 Compacting States. The IIPRC is a truly unique speed-to-market tool allowing companies to streamline their market and delivery system for asset-based insurance products. For more information visit the [IIPRC website](#).

Bylaws Committee Had Productive Year

The Bylaws Committee had a very active and productive year with the support of an engaged group of volunteer members.

The Bylaws Committee is tasked to review the rules that apply to the AICP. This committee is perfect for any member who is involved in company governance matters or who would like to learn more about how governance rules play a role in the management of entities.

The Bylaws Committee reviews the bylaws that apply to the national Association and the Model Chapter Handbook that is applicable to each of the AICP chapters. Ultimately the bylaws, and any amendments, are adopted by the national Board of Directors of the AICP. The national Board of Directors also approves any changes to the Model Chapter Handbook and, after those changes are approved, each chapter is to adopt those changes as its guidelines or propose other language that is approved by the chapter and the national Board of Directors.

This year the Bylaws Committee addressed a number of issues regarding the bylaws and the Model Chapter Handbook. Ultimately, final revisions to both documents were approved by the Bylaws Committee. These revisions were submitted to and approved by the national Board of Directors, with minor modification, at its July 2011 meeting.

None of this could have been accomplished without the efforts of a dedicated group of volunteers. I want to especially recognize Charlie Lynch, Julie Levine, and Kathryn Rowan for their efforts in taking the lead in preparing revisions to the governance documents and putting in the extra effort to handle a lot of the moving parts the Bylaws Committee had to address.

We also had terrific participation and assistance from the other Bylaws Committee members, including Kelly Armstrong, Debora Carroll, Dan Cotter, Shirley Grossman, Bob Lutton, Dave Milligan, and Dave Parker. Each was instrumental in the success of the Bylaws Committee's efforts in reaching our objectives for the year.

Next year, the Bylaws Committee will continue its review of issues as they arise with the AICP's

governance documents and propose appropriate changes as needed.

Again, thanks to all Bylaws Committee members for their time and effort in making our activities fun and productive. Mission accomplished!

Rich Fidei, Chair

2011 Conference Planning Committee Thank You

Our Annual Conference is truly a memorable event, unlike any other in our industry—jam packed with educational sessions, notable keynote speakers, networking opportunities, and access to service providers who have the tools and products to help you get and keep your regulatory and compliance ducks in a row. And the amazing part is that it is largely planned and executed by a dedicated and committed group of exceptionally talented and hard-working volunteers! Why do they put their heart and soul into planning this event? I expect if you asked them you would get many different reasons, but for many I suspect it's the opportunity to interact with and network with industry and regulatory peers and their unwavering commitment to being a part of AICP as an organization. From a personal standpoint, I cannot express enough, my sincere thanks to every member of the 2011 Conference Planning Committee who spent many hours working though all the details of putting together this spectacular event. Every single person's contribution, no matter how big or small, really means a lot to me, and special thanks, of course, to the leadership team for their efforts: Peggy Schwartz, Conference Planning vice chair and "Jill of all Trades"; Nancy French, exhibitor chair; Julie Levine and Matt Brash, program co-chairs; and Doug Simino, activities chair.

Everyone on the team is an absolute star in my eyes. I could not have done it without each and every one of you, and for that I say thank you, thank you, thank you, from the bottom of my heart. Every year our conferences get better and better, and it's all because of our volunteers, and the enormous assistance from our management firm, DMG. If you happen to encounter one of these folks at the conference, and you are finding it an excellent

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experience as always, I encourage you to extend your personal thank you to them.

So, thank you: Alan Prochoroff, Andrea Roedel, Betty Dabrowski, Beverly Johnson, Billie Jean Baldwin, Bill Douglas, Bob Boyce, Bob Roth, Brenda Phillips, Brian Hoffman, Carmen Boyd, Carol Cavins, Carol Heard, Carole Deschambault, Cate Paolino, Charles Lynch, Cheryl Davis, David Harrison, David Milligan, David Morris, Dawn Murphy, Deb Colon, Deb Moes, Debbi Marquette, Diane Higdon, Donald Harrison, Donna Crowe, Doris Jackson, Doug Simino, Edward Lybrook, Elaine Bailey, Erica Brownel, Florence Marafatsos, Frank Gelormini, Fred Karlinsky, Ginny McCarthy, Ginny McHugh, Ines Piquet, Jan Vitus, Jeff Nash, Joycelyn Ray, Jon Brynga, Judy Regini, Julie Levine, Karen Andrews, Karen Crooks, Karen McCloskey, Katie Gurnett, **Kathryn Rowan**, Kathy Forno, Kelly Armstrong, Kim Hiar, Kim Kennedy, Kim Wright, Kristine Weydert, Laurie Christensen, Lee Davidson, Lee Nagel, Linda Boyce, Linda Emenhiser, Linda Snook, Lisa Cooper, Lucinda Woods, Marissa Jones, Marlese Polson, Maria Moller, Mary Keim, Mary Anne Perruccio, Matt Brasch, Melinda Babin, Melissa Glavin-Guilotte, Melissa Hull, Michelle Doherty, Mike Fioto, Mike Hollar, Mikki Andrews, Miranda Crescenzo, Nancy French, Nick Marrangoni, Nicole Calhoun, Nikki Porter, Nitza Pfaff, Pamela Bethea, Pamela Sampey, Paul Lindemann, Peg Ising, Peggy Schwartz, Penny Kilberry, Rebecca Booth, Rich Fidei, Robin Clover, Roger Osgood, Rolf Junge, Ron Haughton, Russell Kirsch, Samuel Garro, Sandra Makela, Sara Banfield, Scott Whitaker, Shirley Grossman, Sonja Rodebaugh, Stephen Fisher, Steve LeHew, Steve Youngkrantz, Ted Warlick, Terri Parker, Theresa Cameron, Tim Morris, Tom Tomlinson, Tyrone Settlemier, Walter Kozuch.,

Sue Eckler-Kerns, Chair

Special Thanks to the 2011 Education Committee Members

The current members of the Education Committee are Billie Jean (BJ) Baldwin, Gaile Beebe, Robin Cherry, Miranda Crescenzo, Sam Garro, Maryana Grodnova-Ware, Mike Hailer, Michael Hollar, Donna Peterson, Deborah Rainey, Belinda Randall, Chris Throckmorton, and Jan Vitus.

The Education Committee monitors and develops educational programs that will meet the needs of our diverse membership and support a culture of compliance and is responsible for the ongoing review of the AICP Certification Program, which is composed of the Associate Compliance Professional (ACP) and Certified Compliance Professional (CCP) designations. We ensure that applicants have completed the proper requirements and confer designations at the Annual Conference. Both designations require courses from the American Institute of Chartered Property and Casualty Underwriters (AICPCU), the Life Office Management Association (LOMA), America's Health Insurance Plans (AHIP), and other organizations that offer educational courses.

As part of our ongoing review of the ACP and CCP requirements, the Education Committee updated the requirements for obtaining the ACP designation this year. The American Institute for Chartered Property Casualty Underwriters (AICPCU) updated its curriculum by replacing CPCU 510 with CPCU 500. Since this change affects the ACP requirements, the team made the appropriate changes to keep the ACP designation up to date.

The Education Committee also completed the extremely daunting task of updating the current Ratemaking Text and Exam. The new text, complete with a fresh, new look and updated information, will make its debut the Annual Conference.

An extra-special thank you goes out Chris Throckmorton for his dedication to making the much-needed content updates. In addition, thanks go out to BJ Baldwin for leading the subcommittee responsible for getting this project off the ground. Her team consisted of Mike Hollar and Deb Rainey, who worked diligently to update the exam, and Jan Vitus, Miranda Crescenzo, and Belinda Randall, who all contributed to the review (and re-review) process after the content was updated. The team should be proud of this accomplishment and should be acknowledged for the members' hard work.

We aspire to enhance the educational pursuits of our members. We welcome any member to join our team.

Michael Fioto
Steve Youngkrantz, Co-Chairs

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GIRrrrrrrrrrrr.....Thank You



Thank you to the members of the Government and Industry Relations (GIR) Committee! You're GREAT!

We've had some great accomplishments this past year, and we could not have done it without the help of the 35 active members of GIR. These are dedicated individuals to AICP and

we are grateful they choose to work on GIR. The mission of GIR is to increase regulator awareness of, and involvement in, the AICP. GIR also establishes and enhances relationships with the regulatory community. We could not do what we do without our volunteers.

We would first like to recognize:

Kelly Armstrong
Jim Bookhamer
Erica Brownell
Jon Brynga
Steve Fisher
Kathy Forno
Katie Gurnett
Mike Hailer
Ron Haughton
Carol Heard

Brian Hoffman
Florence Marafatsos
Dave Milligan
Tim Morris
Jeff Nash
Ines Piquet
Clarissa Preston
Kathryn Rowan
Jan Vitus

These individuals helped us achieve some of our major initiatives, which include:

- Added additional letters to send to new commissioners and departing commissioners and to acknowledge other achievements of commissioners while in office; seven letters, with some are tailored for Commissioners who are AICP members, were added.
- Sent more than 60 of the above-mentioned letters to commissioners; each letter included information about the AICP
- Changed the alert procedures in May to include additional high-level information on what the information/alert pertains to, such as who or what the alert affects, lines of business affected, and the subject matter of the item
- Sent nearly 200 alerts to the AICP membership informing them of important changes or new information from insurance departments.
- Set up an exhibit exchange with the Insurance Regulatory Examiners Society (IRES) at their annual Career Development Seminar (CDS) held in Minneapolis in early August; IRES will exhibit at the Annual Conference in Orlando, so look for it at the Peabody.
- Kept the assigned website pages current..
- Provided numerous calendar of event items on our website informing members of various industry events that they may find relevant to their specific job functions
- Worked with President Nick Marrangoni to identify a regulator to provide content to the Compliance Perspective regarding the NAIC E-Regulation Conference held in May.
- Maintained the prospect database of regulators and non-regulators in Excel and provided the information to our management firm, DMG.
- Worked on numerous items to enhance commissioner and state insurance department personnel involvement at AICP functions.
- Found that we are currently behind the year-end goal of having 100 regulator members, although we may still add 10 more members by the end of the year.
- Worked with Chapters on granting a complimentary membership to regulators.
- Worked with Conference Planning on regulator complimentary membership.
- Documented various procedures for our annual charges.
- Updated the Wiki with the various procedures we documented.

We also provided support to the Conference Planning Committee in obtaining regulator speakers for the upcoming Annual Conference in Orlando. The subcommittee chairs of Katie Gurnett and Sandra Makela were aided by Karen Andrews, Kelly Armstrong, Jon Brynga, Theresa Cameron, Deb Colon, Cheryl Davis, Steve Fisher, Kathy Forno, Donald Harrison, Ron Haughton, Carol Heard, Brian Hoffman, Rolf Junge, Fred Karlinsky, Kim Kennedy-Gillette, Florence Marafatsos, Ginny McHugh, Dave Milligan, David Morris, Tim Morris, Jeff Nash, Mary Anne Perruccio, Kathryn Rowan, Tom Tomlinson and Jan Vitus.

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2011 was a great year for the Government and Industry Relations Committee as we promoted AICP with regulators! With the great people listed above. Their efforts have helped AICP and each of its members this year and into the future. Thank you!

With our gratitude,
Joe Bieniek and Roger Osgood
Co-Chairs Government and Industry Relations

Marketing Committee Thank You

The Marketing Committee would like to recognize its many volunteers who generously gave of their time to help the AICP forward its marketing efforts throughout the year.

Ludmila Kandiba and Joe Bieniek did a fantastic job pursuing alliances and promoting the AICP.

Carol Heard & Erica Brownell did an awesome job coordinating the Logo Shop this year.

Shirley Grossman, Ginger Johnson, Peggy Schwartz, and Linda Snook kept website content, marketing policy and promotional materials updated.

Shirley Grossman and Anne Aponte did a superb job handling all aspects of the Scholarship Program to a successful conclusion.

Doug Pennington, who despite a major job change and relocation, continued to handle the AICP's nascent social networking efforts.

Thanks to Nancy French, who helped us get our act together and assisted wherever and whenever needed, and to Kathy Forno, who remained a faithful volunteer despite going through a job change.

Special thanks to Joe Bieniek, who coordinated AICP booth presences at several insurance meetings this year, and to the volunteers who generously gave their time to staff the booths and tout the benefits of AICP membership: 2011 IRES Career Development Seminar in Minneapolis, Minnesota: Dawn Murphy, Scott Whittaker and Nick Marrangoni; NAIC 2011 Spring Meeting in Austin, Texas: Gina McBride and Clarissa Preston; NAIC 2011 E-Regulation Conference in

Kansas City, Missouri: Scott Whittaker, Erica Brownell, and Derek Hill.

All the marketing volunteers proved to be active and enthusiastic participants, and we are thankful to each of them.

Steve LeHew
Anne Aponte
Co-Chairs

Thank You to the 2010-2011 National Membership Committee Members!

The Membership Committee had a very productive year. Our team of dedicated volunteers worked diligently on several annual charges. Together we revised the membership application, supervised the development and publication of the annual membership directory, reviewed and updated multiple membership website pages, and researched and established a new class of membership: retirees.

Thank you all for your time, collaboration and "can-do!" spirit. The continued success of the AICP organization is made possible by your hard work, dedication, and volunteerism.

Committee Members: Rebecca Booth, Erica Brownell, Dan Cotter, Susan Coulter, Miranda Crescenzo, Ron Hardeman, Carol Heard, LeAnne Pope, Peggy Schwartz, Walter Kozuch, Judy Wickens

Florence Marafatsos and Lea Stokes
Chairs

A Note of Recognition and Thanks to the Publication Committee

I want to personally thank the Publication Committee Members who write regulatory summaries and edit copy for the AICP's quarterly publication, *The Journal*. Your contributions throughout the year are sincerely appreciated.

Cynthia Burseson, Co-Chair and Assistant Editor: You are the calm in the storm who makes sure that everything ends up in the right place. Thanks so much for having my back this year; I really appreciate the way you picked up the slack.

Darrell Turner, Executive Editor: Thank you for your exceptional work on the layout for each issue of *The Journal* and for working with Drohan to ensure that our copy is displayed to its best advantage.

Stacye Adams, Assistant Editor: The devil is always in the details, and you grab the devil by the horns with the careful way you tend to all matters great and small. Thank you for updating our Wiki page and keeping the content there fresh and current.

To *The Journal's* Regional Editors:

Brady Smith: You do yeoman's work by writing regulatory updates for two regions, and you don't chastise me for not keeping my promise about finding another volunteer to share the load. I'm particularly grateful for the easy way you have of suggesting solutions to problems and for the insight I get from your AICP history lessons.

Rich Fidei: Your regulatory updates are always the first to arrive in my inbox. Thank you for getting your copy in to us well ahead of deadline every single time.

Kathryn Rowan: Please accept the warmest of welcomes from our committee. *The Journal* hadn't featured regulatory updates from the Southwest Region for much too long, and it's good to finally fill that content gap. You hit the ground running and found your stride right away and it's a pleasure to have you on board.

Cailie Currin: You have been a dedicated and valued member of the Publications Committee for many years, and we thank you for sharing your time and experience writing for *The Journal*. You'll be missed in a big way.

Art Bowden, Kelly Armstrong, Lindsay McGee, Betty Dabrowski, Anne Aponte, Peggy Schwartz, Doug Geraci, Jan Vitus and Lori Chambers – The Publications Committee sets the bar very high with

our Journal in large part because of your collective expertise. Thank you so much for your hard work throughout the year.

The Publications Committee is a tenacious bunch. Volunteers stay on top of regulatory developments in their regions, they stay engaged with regulators, and they find a way to continue writing in spite of their professional demands. Because *the Journal* is a quarterly publication, a regional editor's work never really ends. As soon as one issue goes online, the whole process starts again, and before they know it they're up against another deadline. This never-ending cycle of service resembles the punishment suffered by the mythical Greek king Sisyphus. Rolling a huge rock up a steep hill—and being forced to begin again (and again) when the rock inevitably rolls back down—comes pretty darn close to describing our group's quarterly grind.

Thank you all for your perseverance and your commitment, and for your continued willingness to keep pushing the rock.

Karen Yotis, Co-Chair

A Big Thank You to Members of the Website Committee!

This year's Website Committee: Laurie Christensen, Jennifer Franz, Maryana Grodnova-Ware, Nikki Porter, Tyrone Settlemier, Deborah Shortridge, Doug Simino, and Brady Smith, is a group of individuals who were always available to handle any task that needed to be done—and there were many! We want to take this opportunity to sincerely thank each and every one of our team members for their hard work, dedication, and attention to detail. Each member brought commitment and talent to the committee, and we appreciate each and every one of them. We could not have maintained the AICP website without you!

Elaine Bailey
John Haworth
Co-Chairs

Chapter E-Day/Annual Activities Review

Great Lakes Chapter Education Day

The Great Lakes Chapter was proud to host its 2011 Education Day April 15th in Milwaukee, Wisconsin. The program was appropriately titled “Gold Star Days – Come Learn with us!” And learn was what we did. We had two keynote speakers. Commissioner Ted Nickle of the Wisconsin Office of the Commissioner of Insurance offered his perspective on the Insurance Industry while Ross Kodner of MicroLaw Inc. gave us “60 PC tips in 60 Minutes”. Attendees were offered a wide selection from the 11 sessions with 23 different guest speakers including 7 regulators from across the states.

Now with all these sessions going on, that didn’t mean we couldn’t have a little fun. The night before reception was a big hit. We didn’t really need the get-to-know you “ice breaker” game but we’re glad we played one. A few interesting items were learned about our members including the fact that someone rode an elephant, another person was once shot and someone else shares a mailbox with their neighbors...very interesting indeed!! A hardy good time was had by all.

We also took the AICP’s spirit of giving to a local charity. A friendly donation competition was held for the benefit of the Milwaukee Library Foundation’s “Super Reader” program. Members who work in Life/Health went up against our Property/Casualty folks to see who would collect the most contributions from their industry. In the end it was a close call but the Life/Health team claimed their fame in victory. Total donations of \$160 benefited this worthy cause.

Of course, this program would not have been possible without our generous sponsors whom we sincerely thank for their financial support: Wolters Kluwer, Thomson Reuters, Martin & Company, First Consulting, Milliman, and Lindemann LLC.

Special thanks also goes out to the many volunteers on the ad-hoc planning committee. We couldn’t have done it without you -- your time and efforts to making this program a success.

If you didn’t have a chance to attend we hope to see you at our next event!

Gulf States E-Day

On June 24, 2011, the Gulf States Chapter held an E-Day in Atlanta. This annual event has steadily improved over the years and this year was no exception. We had over 50 people attend the event and were honored to have Georgia Insurance Commissioner Ralph Hudgens as our keynote speaker. We also had numerous regulators from the states of Georgia, Mississippi, North Carolina and South Carolina, as well as a number of industry professionals.

This would not have been possible without the dedicated efforts of our Planning Committee, lead by chairperson, Nan Myers. We also owe a special debt of gratitude to Jamie Ford, who has worked hard to enhance the life and health side of our presentations. In addition, a special thanks to Bev Witt for stepping up to help where needed (as usual).

Overall, we owe a debt of gratitude to our speakers, regulators and members for making this E-Day a great success.

Heartland Chapter E-Day

The Heartland Chapter held our annual e-day event in Omaha, Nebraska, on Wednesday, April 6, 2011. We had a great turnout – around 70 attendees and speakers. We were fortunate to have some great speakers and support from several exhibitors and sponsors to make the day a success. After breakfast, the day kicked off with an opening address by Nebraska Insurance Director Bruce Ramge followed by sessions on networking, a market conduct panel, and breakout sessions on retained asset accounts and commercial lines.

After lunch, we had a chapter business meeting followed by a presentation by the local non-profit charity that we sponsored. The charity was Heartland Equine Therapeutic Riding Academy (HETRA), which uses horses for physical therapy for children and adults. One of the children who benefits from HETRA along with her mother and the HETRA director attended lunch and presented a PowerPoint show and explained how HETRA works. Did I mention that to raise money for the charity, we had a horse race? Each of the chapter officers were paired up with a HETRA therapy horse and people voted throughout the day on their favorite horse. The horse

Chapter E-Day/Annual Activities Review *...continued from page 27*

that won the race was Diamond (Heartland Chapter Regional Director Dave Milligan). We raised \$750 in donations from the horse race and during the Chapter business meeting, the chapter voted to match that amount for a total donation of \$1,500. Our donation helped HETRA reach their fundraising goal for 2011 - a thank you to the Heartland Chapter was included in HETRA's April newsletter (on the front page!).

After lunch, our own AICP General Counsel, Rich Fidei, gave the luncheon keynote address, followed by breakout sessions on health care reform and P & C Hot Topics. This was the session that discussed bedbugs and insurance – yes, believe it or not, there is a connection! New York has even proposed a bill addressing bedbugs. Did you know that bedbugs engorge to three times their normal size when drinking your blood?

The day ended with an ethics in insurance presentation and drawings for door prizes donated by participating companies and our exhibitors/sponsors. All in all, it was a great day. We want to say thanks again to all of the e-day committee members, sponsors, and exhibitors – we couldn't make it happen without everyone's efforts.

Mid-Atlantic Chapter Education Day

The Mid-Atlantic Chapter hosted a very successful E-day in Weehawken, New Jersey on May 16th, with approximately 75 people in attendance. The success was due to the tireless energy and efforts of several members, regulators, trade associations, law firms and outside consultants and vendors.

The New York Insurance Department Superintendent James Wrynn gave the welcoming address and Anne Marie Narcini from the NJ Department of Banking and Insurance gave the afternoon address on Social Media and Compliance Challenges. Everyone benefited from interacting with representatives from the NY Department (Maurice Morgenstern, Gerald Scattaglia, Merline Smith, Lou Felice and Gail Keren); the NJ Department (Neil Sullivan); the IIPRC (Karen Schutter and Charlie Rapacciuolo); PCIAA (Richard Stokes); ISO (John Baldan); and Compliance Assurance Corp (Patrick Reeder). Breakout sessions covered topics ranging from state filing issues, Regulation 194, hot topics for both L&H and P&C, an IIPRC update, the effect of Federal Health Care Reform on the Industry in NJ and NY, new technology in predictive modeling and rate filing, and mistake management in the Compliance industry.

Some great teamwork was involved in putting together this program, and we'd like to thank the members of the planning committee for their effort:

- Matthew Brasch, Chair
- Stacy Patacsil
- Charlie Lynch
- Betty Dabrowski
- Sue Eckler-Kerns
- BJ Baldwin
- Gloria Jauss
- Michelle Ringelheim
- Alan Prochoroff
- Larry Gross
- Mike Fioto
- Karen McCloskey

We would also like to thank our Sponsors:

- Stalker Vogrin Bracken & Frimet
- Wolters Kluwer Financial Services
- Thomson Reuters
- Coulter & Associates
- Saul Ewing LLP
- McHugh Consulting Resources, Inc.

Northwest Chapter Summary of Events

We have held some smaller get togethers to promote the valuable networking opportunities that we provide. Two of our new chapter members, Brian Kreger and Steven Beeghly of Kreger Beeghly PLLC, graciously offered their offices for these meetings. They bring a refreshing and different point of view to the compliance industry.

The Oregon Insurance Division was kind enough to host a meeting for us in Salem, OR. Regulators from the Division presented us with great topics. We were able to meet and chat with some of the people that we work with every day. Sometimes putting a face with the name makes all the difference!

The Northwest Chapter E-Day was held on May 18th in Lacey, WA. Regulators and industry members came together for a great day of education and networking.

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Chapter E-Day/Annual Activities Review

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South Central Chapter Year End Review

It has been a busy year for South Central Chapter. On March 29, we held an e-Day in Austin, TX. Using the NAIC's March meeting to springboard our event, we were able to secure great speakers! Hillorie Leaman (Drinker Biddle & Reath LLP) did a great job on wowing the crowd with her knowledge of privacy and its applicability to lines of business/employees. Hot from the NAIC meeting with hot topics in hand was Joe Bieniek. Of course, let's not forget our important sponsor for this meeting Wolters Kluwer, who not only assisted us financially, but added to our learning for the day with a comprehensive legislative overview by Kathy Donovan. The meeting was well attended. Thanks to all of our volunteers and speakers for making the day a success for the chapter. Great job, team!

On August 11, our second e-Day was held at Crowne Plaza hotel in Baton Rouge. Once again playing all available cards, we launched our meeting following a Louisiana Department of Insurance, Filing & Compliance Seminar. From the Louisiana Department of Insurance Mike Boutwell gave us unique regulator insight on licensing and other compliance issues. Richard Fidei of, Colodny, Fass, Talenfeld, Karlinsky & Abate LLP provided updated regulatory information on the Dodd-Frank Act and Florida Regulatory Updates. And there you are again Wolters Kluwer! Once again, you've stepped up to the plate to assist us both financially and with a speaker! Dawn Barker gave us great hints on managing regulatory change. A REALLY loud shout out to all of our volunteers and speakers for making the Louisiana e-Day something we will always remember!

Finally, as incoming president of South Central Chapter, I want to take a minute to thank all of our hardworking volunteers. You know who you are and there are too many to name. Kudos! For the hard work you do, for your determination to see our chapter succeed in spite of our distances, and the years of BST (blood, sweat & tears). I appreciate you and I recognize that this chapter could not succeed without all that you give! YOU make a difference! One last final thing (really), anywhere in this article did I say "thank you" Wolters Kluwer and especially Bill Boyce? THANK YOU for always believing in us and being there for our chapter!

Donna Benard, Vice-President South Central Chapter

Staying on Top of Compliance Challenges for Life & Health Insurers

By Kathy Donovan, Senior Compliance Counsel, Wolters Kluwer Financial Services ...continued from page 16

You may want to consider the following questions as you evaluate your organizations' own processes:

- Have you recently assessed your underwriting, claims, and licensing/appointment system for current compliance across all states?
- If you are anticipating market regulation activity in one or more states, have you reviewed recent market conduct exams and enforcement actions in those states?
- Are you ready for the new requirements for annuities suitability?

The "moving parts" of so many claims and underwriting and licensing processes unfortunately provide ample opportunities for missteps. Identifying the existing requirements, managing the new and revised requirements, and ensuring their effective implementation are focused helps ensure that those moving parts stay well oiled and running seamlessly.

AICP Members in the News

Kathryn H. Rowan – Bylaws Committee



The Bylaws Committee is pleased to recognize the invaluable contributions of its member in the news, Kathryn Rowan, Esq. Kathryn began in the insurance industry in 1992 with United Investors

Life Insurance Company, a Torchmark subsidiary, handling marketing and communications. She later began her compliance career with United Investors Life, handling state and federal regulatory compliance projects including annual SEC filings for variable life and variable annuity products and Rule 38a-1 compliance. At that time, Kathryn earned her LOMA, associate, insurance regulatory compliance designation.

Subsequently, Kathryn was named compliance manager for United Investors Life and Liberty National Life Insurance Company, both TMK subsidiaries. As compliance manager, Kathryn was responsible for overseeing state insurance department filings for life, annuity, health and accident products, monitoring state legislative and regulatory activity in 49 states and the District of Columbia, handling market conduct exams and product development.

In 2006, Kathryn decided to enter law school and worked full time while earning her law degree. In 2009, she joined Christian & Small LLP, a Birmingham, Alabama law firm that specializes in business, litigation and tax law. Also, Kathryn has continued her focus on insurance regulatory matters and compliance issues for insurers. Her practice areas include insurance regulatory compliance, insurance defense and coverage matters and ERISA. Kathryn has written two articles, "HIPAA Privacy & Security Rules: Impact on Business Associates" and "The HITECH Act: An Overview of Its Impact on Business Associates."

Kathryn attended her first AICP Conference in 2010 and immediately became involved in the Bylaws and Government & Industry Relations Committees.

She is also a valuable member of the Gulf States Chapter and is the Southwest Region Editor for the AICP Journal. Kathryn will enter the University of Connecticut online LLM insurance program in the fall of 2011.

Kathryn is a native of Birmingham, Alabama and attended the University of Alabama and University of Alabama at Birmingham, earning a degree in communications. She currently serves on the Board of Directors for the Crohn's & Colitis Foundation – Alabama Chapter, is a member of the Alabama State Bar, and serves on the CLE Committee for the Birmingham Bar Association. She is a member of the American Bar Association (ABA) Labor and Employment, Tort Trial and Insurance Practice Sections; the Alabama Defense Lawyers Association; the Defense Research Institute (DRI): Insurance Law Committee and Insurance Regulatory Sub-Committee; and the Life and Health Compliance Association.

In her spare time, Kathryn enjoys playing competitive tennis, running, Alabama football, and fixing up her house, which she shares with her two dogs, Dixie and Jackson.

Rich Fidei

Connie Doud – Heartland Chapter



When I was asked to write about a Heartland Chapter member for this column, I started thinking of chapter members that I have worked with since

joining AICP myself. One member who has always been welcoming to new members in our chapter is Connie Doud.

Connie has been an AICP member for 20 years—she joined the Society of State Filers in 1991 and has been a continuous member since that time, except for one year due to a job change. She is currently a research analyst for Farmers Mutual Hail Insurance Company and has been with them since 2000. Prior

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to that, she was a product manager with GuideOne for one year, and from 1972 through 1999, she was at Grinnell Mutual Reinsurance Company in a variety of roles—underwriting, methods and procedures, information systems, and research and development. As you can see, she brings a lot of experience and varied backgrounds to the AICP.

Connie is a CCP (Certified Compliance Professional, one of AICP's educational designations) and also holds the CPCU designation. She is currently the vice-president of the Iowa Chapter of CPCU. For those of you on the life or health side who might not know what this designation is, it stands for Chartered Property Casualty Underwriter.

In regard to AICP roles that Connie has had, wow—she's been very active at both the chapter and national levels. She has served in every Heartland Chapter officer role (including a combined secretary/treasurer role!) as well as being a regional director. Connie has also been on Heartland Chapter E-day committees and chaired our scholarship committee from 2002 through 2010. The Heartland chapter has its own scholarship that we award, named in honor of former NAIC employee and Heartland Chapter member Jim Latteman (see the Heartland Chapter website for more information about this scholarship).

In addition to serving as the Heartland regional director, Connie has also been on the National Scholarship committee (hmmm – I'm sensing a theme here) and on the Public Relations Committee.

Connie is married to Greg Flannigan, and they have four adult children together as well as a "spoiled" Jack Russell terrier. She is active in her church, and in her spare time, Connie likes to bicycle. As a matter of fact, you may be familiar with one of the bike rides that Connie has participated in nine (yes, nine!) times – RAGBRAI. For those of you who haven't heard of RAGBRAI, it's an annual bike ride that crosses from one side of Iowa to the other. It has over 20,000 riders (Lance Armstrong rode part of it a few years ago) and is the largest and oldest organized bike ride in the country. People come from all over the world to participate in it. In July! In Iowa (which is not flat as some people like to think)! Connie logs between 1,000 and 2,000 miles a year

on her bike. Plus, she tries to get in a round of golf once a week as well. Wow—what a busy lady!

I asked Connie if there was anything special about AICP that she wanted to share, and here are her comments: "AICP is a great organization, and I have learned a lot through my involvement and my network of friends I have made along the way. I highly recommend AICP to anyone in the business of insurance compliance."

I'd like to thank Connie for all her years of service to the AICP and the Heartland Chapter. She's been a great resource for me as well as other members, both on the chapter and local levels. Thanks, Connie

Bonnie Blue



Peggy Schwartz, New England Chapter

Marguerite "Peggy" Schwartz is a dedicated AICP member and volunteer who has served on many chapter and

national committees and boards since joining the organization in the late 90s. All who have the pleasure of her acquaintance and the opportunity to volunteer alongside her know that she has a wealth of knowledge about the AICP and a tremendous passion and dedication to the organization's success.

Peggy is currently a product filing manager at Boston Mutual Life Insurance Company, and says that the part about her job that she loves the most is the constant work. She says she thrives on having multiple projects she's juggling at once, which could be one of the reasons she's involved in so many different aspects of the AICP!

While there may not seem to be a direct correlation between the two roles, Peggy credits the development of many of the skills she uses in her current role as a compliance manager—organization, time awareness, team orientation, flexibility and positive reinforcement—to her first job as a camp counselor for 8–10-year-old girls.

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She encourages anyone just starting out in a career in the compliance world to volunteer—and not just for the AICP, although that is a given—as she also credits her volunteer experiences with giving her many of the job skills she comes to rely on today. She additionally recounts receiving a visit from the president of her company when word got out that she had been elected president of the LOMA society, who then relayed the critical role volunteerism played in his success as well.

As for what prompted her to become involved in the AICP leadership she explains that, despite being extremely nervous, she accepted a request to become membership chair within her first year of being a member. She points to the positive and goal-oriented nature of her fellow New England Chapter members and volunteers as a big part of her success and of why she is now looked to by many as a mentor within the organization. During her tenure as regional director for the NE Chapter, her attempts to ensure that there was effective interaction between the chapter and the National Board were seen and felt by all—and will no doubt help to ensure that superior relations continue in the years ahead.

Peggy says that her most memorable moment throughout her time with the AICP was at this past NE Chapter Education Day, when she was recognized by her fellow chapter members and by the Chapter Board for her many years of dedication to the chapter and to the organization. She was not only surprised by the gesture, it also made her feel special. She proudly displays the clock she received on her desk at work and reflects fondly on what she considered a wonderful day.

If she could say one thing to all AICP members about volunteering for a committee at either the chapter or national level, she would want them all to know what a great feeling it is to work toward a simple goal...and achieve it. She finds that, while oftentimes in her “real job” as a compliance manager the work she does never seems to accomplish anything, the work she does for AICP is much different. She loves the feeling of success she gets when she is able to line up speakers for

E-Day or Annual Conference sessions, and then hearing from her fellow chapter members just how meaningful and educational that speaker or session was. She is then able to take the positive energy she receives from that success back to her job and face her projects with a renewed sense of commitment and empowerment. She again finds that volunteerism, at any level, makes people more productive and effective in the work they do on the job.

And for the grand finale...what does Peggy do in her down time? She enjoys taking trips back in time by writing Regency romance novels under the pen name of Maggie Black. This only leaves me with one question: If you haven't met Peggy Schwartz, what are you waiting for?

Karen M. Andrews



Steve LeHew – Nominating Committee

The Nominating Committee is pleased to spotlight Steve LeHew as our Member in the News because of his volunteer

spirit and consistent support of the AICP. Steve is much too modest in his recounting of how he has served the AICP in the past. However, I know firsthand how dedicated he is because we served on the board together as regional directors and again when Steve was national AICP president and I was vice president.

Steve has a tremendous amount of creative ideas for the AICP, and he has an incredible desire to bring fairness and integrity to his service to the AICP. He strives always to see all sides of an issue and has the best interest of the AICP at heart. He carried out all his duties with professionalism and a healthy dose of humor! If any of you have ever been to past national conferences and attended the sessions on Hollywood Squares or the Newlywed Game you would have seen some of Steve's humor and quips at work. One of my favorite recollections

is when he played “Hail to the Chief” as he was being introduced at conference but played the “funeral dirge” when I took the stage to take over as incoming president. I can still laugh about that one!

Steve enjoys traveling and has quite a spirit of adventure in him! At national board meetings, it is typical for all to go out for dinner after spending all day in a conference room. When Steve was national president and hosted a board meeting in Chicago, he arranged for the Board of Directors to go on a three-hour Segway tour of Chicago after we completed our business for the day. It was a lot of fun! He also arranged for Brady Smith as outgoing president in 2008 to take a ride in a sailplane as a thank-you gift from the AICP for his years of service. It was a lifelong dream of Brady's.

So read on. I do not want to spoil the surprise! I learned a lot of new things about Steve from doing this article, not the least of which are.....

Steve, for whom do you work, and what does your position entail? I work for Zurich North America, where I am a product development analyst.

When did you join the AICP, and why? I joined the AICP around 1998, when the insurance company where I worked at the time offered me the opportunity to work in their compliance department.

Please elaborate on the various positions you have held with the Great Lakes Chapter. How did you become involved in these? Penny Kilberry suggested that I consider serving as the chapter's regional director. I did, and while serving on the national board decided to run for chapter VP the next year when the chapter needed officer candidates. I did not realize at the time that the Great Lakes term of office for VP was two years (which then becomes two years for president and then two years for past president).

Which committees have you served on in the past? How did you become involved in these? Once you start volunteering and become a known quantity, all sorts of volunteer opportunities pop up. I haven't kept a comprehensive list or anything, but over the years I have served on the Bylaws, Chapter

Relations, Conference Planning, Marketing, and Nominating committees. I have also served on non-committee “task forces” or “initiatives” such as the webinar taskforce and the Canada initiative.

What have been the biggest rewards about each? Getting to know my fellow volunteers, establishing relationships with them, and accomplishing things together that will move the organization forward. And failing sometimes too, but having fun and learning along the way.

Do you feel serving as a chapter officer and/or working on these committees has helped you in your job? If so, how? It can be challenging working with a large group of unpaid volunteers who have widely differing ideas about what the organization should be doing and in what direction it should be steered. Serving in any sort of leadership capacity with the AICP definitely helps you develop your people skills and helps you grow a professional network that could have all sorts of unexpected benefits as life progresses.

Based on your involvement in the AICP, what advice would you give to a new member? I think that like many things, you get out of it what you put in. Perhaps I'm biased, but I do think that the more you participate and volunteer, the more connections you'll make, and the more experience you'll pick up along the way.

What is your favorite community service project? Back in 1986, I was given the opportunity through my mother's employer to live with a family in Spain for the summer through a corporate scholarship with YFU, “Youth For Understanding”. It's one of the oldest foreign exchange programs in the United States. As an adult, I volunteer with YFU to interview American students applying for scholarships to live abroad and later training groups of students at orientations before they leave for their exchange experience. I really enjoy the chance to give back to the organization that gave me such a meaningful growth experience as a teenager.

What places would you like to visit and why? There are all sorts of places I haven't been to yet. I can say that instead of something like a cruise, I'd like to go visit one place for at least two weeks and

try to soak up as much local color as possible. I think India would be fascinating.

What has been your most adventurous trip?

My most adventurous trip was the summer after college I spent in Honduras training to be a Peace Corps volunteer. While I ultimately decided that the program was not for me and returned home, it was very enlightening to live with a family in a Third World country for an extended period of time. I have also been fortunate to attend a wedding in Seville, Spain (the church service started at 9:00 p.m., and everything else happened after that, and another wedding in Cork, Ireland.

What are your hobbies and interests? I love reading in my spare time, and am fortunate to live on Chicago's lakefront, where I try to bike as much as I can when weather permits. I also love movies and watch way too much reality television.

I hope you all get a chance to meet Steve at a chapter event or annual conference. Better yet, I hope you get a chance to serve with him on a committee or task force. I am proud to consider him my friend and hope you all get a chance to do so as well.

Ginny McHugh
Nominating Committee Chair

Bri Dahl—Northwest Chapter

Dynamic! Enthusiastic! Energetic! Funny! These are just a few of the characteristics you easily see in Bri Dahl, our 2011 Northwest Chapter's Member InThe News. And what's more, you will find these qualities



contagious when interacting with Bri. She truly is a dynamo with a great sense of humor. And, within all that energy is a person who works diligently for her employer, gives of herself tirelessly for the AICP Northwest Chapter, and devotes as much time as she can to her children and friends. Let's get to know Bri a little better.

Bri currently works for Mutual of Enumclaw as a pricing analyst in commercial product development. She began in November, 1999, and has been

promoted through several positions during her tenure. She is a significant partner in the product development process, writes rules and forms, files and negotiates approval with regulators, and keeps up with all the new legislative enactments and regulatory adoptions that affect the business lines she supports.

Bri brings her energy and enthusiasm to the AICP. She became a member of the AICP in 2007, and she sure didn't wait long to become involved! She became the Northwest Chapter's secretary that year (2007-2009). Bri was also the Northwest Chapter's vice president (2009-2010) and is this year's chapter president. She has brought all of her drive and enthusiasm with her to each and every position she holds or has held!

When asked about the AICP, Bri was quick to point out that she thought the main strength of the association was the opportunity to build professional as well as personal relationships. Strengthening her professional network is important, but enhancing her personal network has also been a great addition to being involved in the AICP. Bri also noted the "staying informed" results of being a member of the AICP and that the educational emphasis really pays off and definitely contributes to her professional growth.

So, with all of the time Bri commits to her employer and time she spends participating in AICP initiatives, does she have a life beyond work and the AICP? She sure does! You can't contain a person with all of her energy!

Bri is a single mom to two kids—Marissa, who is a vivacious (wonder where she gets that from), energetic, always on the run, and social seven-year old. "She's a person who is very nurturing," notes Bri, "even of me!" And six-year old Cohen laughs a lot, feels big with big emotions ("he loves his Mom"), and is all boy. Bri's dedication to her children is unsurpassed, and she loves to plan things to do with her children to keep them actively engaged in life in positive ways. They respond with a lot of energy and devotion to their Mom. Bri says, "I never worry about their being kidnapped—they'd be brought back!"

Bri's circle of friends is one of the most important

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Membership Corner *...continued from page 34*

parts of her life. "My friends are my heartbeat," she says. "I love hanging out with my friends. Someone is over pretty much every evening. They know there's always enough food for anyone to stop by."

Bri is really into photography. She takes wedding pictures, special pictures of her friends and their children (such as senior pictures), and pictures galore of her two children. Bri also loves taking advantage of the many wineries in Washington and joins in wine tastings and pairing good wine with meals. She also has friends in Sonoma Wine Country whom she loves to visit.

When you get to know Bri, and that's not difficult because of her outgoing personality, it's clear that Bri is a people person. Within all of her energy, enthusiasm, and laughter is also a person who is very thoughtful of others and who wants the

best for her friends and especially for her children. "I want my kids' lives to be full," she says.

I asked Bri if she had anything more she wanted to say. She said, "I'm not very exciting. I just like to be with my friends and my children." Hmmmmm...not very exciting? Well, you can determine whether that's true when you meet her!

Bill Douglas

Past President, Northwest Chapter



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Heartland Chapter: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota

Midwest Forum: Indiana, Kentucky, Michigan, Ohio, West Virginia

IL Explains Changes to Health Carrier External Review Act

On August 26, 2011, the Illinois Department of Insurance issued a company bulletin to all health plans and external review organizations outlining the changes made to the Illinois Health Carrier External Review Act as a result of the passage of IL HB 224. These changes apply to adverse determinations or final adverse determinations that were made within the four months before the act's effective date. Changes include an expanded definition of "adverse determination," updated external review notice requirements and a changes that a request for external review must now be sent to the DOI instead of the carrier, the ability of covered persons to elect an authorized representative to advocate on their behalf, revised timelines within which to appeal adverse determinations, and enhanced record retention requirements for Independent Review Organizations (IROs). In addition, the new law requires that the DOI randomly assign Independent Review Organizations for standard and expedited external reviews of all adverse determinations, including those that relate to experimental or investigational treatments or services. IRO assignments are currently made by health carriers.

The bulletin may be found online at
<http://insurance.illinois.gov/cb/2011/ExternalReviewPackage.pdf>

Kelly Armstrong

IL Amends Landlord and Tenant Act

House Bill 1233, which becomes effective January 1, 2012, provides that after a residential dwelling unit in a county having a population of more than 3 million has been vacated by a tenant, a landlord must change the locks of the dwelling unit before the unit is again occupied. Further, the landlord must provide the new tenant with a signed disclosure form acknowledging that this requirement has been met. The act also provides that if a landlord has not changed the locks as required, and a theft occurs that is attributable to the landlord's failure to meet that requirement, the landlord is liable for any damages that the tenant incurs as a result of that failure.

The bill may be found online at
<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=097-0470>

Kelly Armstrong

IL Requires Arbitration of Certain Auto Subrogation Claims

Illinois Senate Bill 152 takes effect January 1, 2010, and requires certain auto physical damage subrogation claims to be arbitrated. It provides that physical damage subrogation claims arising from auto damages incurred on or after January 1, 2012, shall be arbitrated between insurers where the amount in controversy, exclusive of the costs of the arbitration, is less than \$2,500. The arbitration shall be in accordance with the terms of and rules adopted pursuant to the Nationwide Inter-Company Arbitration Agreement. The bill also sets forth provisions concerning alternate forums and mandatory arbitration. It says these provisions do not require an insurer to become a member of any organization or to sign the Nationwide Inter-Company Arbitration Agreement.

The bill may be found online at

<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=097-0513>

Kelly Armstrong

IL Bars Insurers from Refusing to Cover Volunteer Drivers

Illinois House Bill 1378, which became effective August 9, 2011, prohibits an insurer from refusing to issue vehicle insurance to a person solely because the person is a volunteer driver. Further, insurers may not impose a surcharge or otherwise increase the rate for a vehicle policy solely on the basis that the named insured or any member of the insured's household or a person who customarily operates the insured's vehicle is a volunteer driver.

The bill may be found online at

<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=097-0285>

Kelly Armstrong

IL Increases Liability Insurance Requirements for Certain Vehicles

Illinois Senate Bill 1669, which took effect July 28, 2011, amends Section 12-707.01 of the Vehicle Code and increases the minimum of personal injury liability insurance required for school buses, commuter vans, or motor vehicles owned by or used for hire by and in connection with the operation of a private or public school, a day camp, a summer camp, or a nursery school, as well as commuter vans or passenger cars used for a for-profit ridesharing arrangements and vehicles used for purposes requiring a school bus driver permit. The required liability limits have been raised from \$25,000 for any one person injured in any one accident and \$100,000 for two or more persons injured in any one accident by reason of such vehicle's operation to \$1 million for any one person injured in any one accident and \$5 million for two or more persons injured in any one accident by reason of such vehicle's operation.

The bill may be found online at

<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=097-0224>

Kelly Armstrong

IA Issues Bulletin on Stranger-Oriented Annuity Transactions

On July 1, 2011, the Iowa Division of Insurance issued Bulletin 11-05, which encourages insurance companies to put safeguards in place to prevent or limit their exposure to stranger-originated annuity (STOA) transactions. The division suggests that companies that offer annuity products that could be possible STOA targets (1) review chargeback policies and put safeguards in place to prevent or limit their exposure to stranger-originated annuity transactions, (2) create detection methods to identify STOA transactions, (3) review annuity applications processes to ensure that specific questions are posed with regard to the relationship between the annuitant and contract owner, and (4) report actual and potential STOA transactions to the Iowa Insurance Division.

The bulletin may be found online at

http://www.iid.state.ia.us/sites/default/files/commissioners_bulletins/2011/07/01/bulletin_11_05_protect_against_soat_2_pdf_20239.pdf

Kelly Armstrong

IN Sets Standards for Producers Selling Annuity Products

The Indiana Department of Insurance issued Bulletin 184 on June 30, 2011, summarizing significant changes made to producer licensing laws pertaining to the sale of annuity products and/or variable life and annuity products. The department expects all insurers to implement product-specific training standards and materials on or before January 1, 2012, and producers must begin complying with the insurer's training standards within 30 days of implementation. Insurers are required to verify that producers have completed the mandated training before appointing a producer to sell its products and insurers are expected to have some process in place to ensure producers are complying with the standards.

The bulletin may be found online at

http://www.in.gov/idoi/files/4903_001.pdf

Kelly Armstrong

MI to Require Reporting of Personal Auto Information

Beginning December 30, 2011, personal lines insurers will be required to report information to the Michigan secretary of state (SOS) for purposes of on-line renewals. The passage of SB 441 and SB 442 makes available to the Department of Community Health necessary information from auto insurers, through the secretary of state, to pursue Medicaid third party liability recoveries. SB 441 will require all automobile insurers to provide one certificate of insurance for each insured private passenger nonfleet vehicle to the insured and one certificate of insurance to the secretary of state that contains the insured individuals' names, addresses, vehicle identification numbers, and policy numbers. SB 442 specifies that the Secretary of State would require submission of "policy information," as opposed to the vehicle identification number only, to indicate proof of insurance. "Policy information" would be defined as the automobile insurer's name and the insureds' names, addresses, vehicle identification numbers, and policy numbers.

SB 441 may be found online at

<http://www.legislature.mi.gov/documents/2011-2012/publicact/pdf/2011-PA-0091.pdf>

SB 442 may be found online at

<http://www.legislature.mi.gov/documents/2011-2012/publicact/pdf/2011-PA-0092.pdf>

Kelly Armstrong

WI Reaffirms Non-filing of Surplus Lines Forms

On July 8, 2011 the Wisconsin Office of the Commissioner of Insurance issued a bulletin concerning surplus lines filings in light of the decision in *Edward I. Gillen Co. v. Insurance Co. of the State of Pennsylvania*, 747 F. Supp. 2d 1058. The Federal District Court in the Eastern District of Wisconsin held in *Gillen* that s. 631.20 (form filing) and s. 631.85 (arbitration clause approval required) applied to a surplus lines policy. The commissioner's office has not historically required surplus lines insurers to file forms in Wisconsin and, notwithstanding the *Gillen* decision, the office continues its position that surplus lines forms need not be filed, including those with arbitration clauses.

The bulletin may be found online at
<http://oci.wi.gov/bulletin/0711surplines.htm>

Kelly Armstrong

WI Summarizes New Law on Motor Vehicle Policies

On July 15 2011, the Wisconsin Office of the Insurance Commissioner issued a bulletin summarizing provisions of the recently enacted 2011 Wisconsin Act 14 (AB 4). AB 4 applies to motor vehicle policies issued or renewed on or after November 1, 2011. Among other changes, underinsured motorist coverage is no longer mandatory, and stacking of uninsured and underinsured motorist limits up to three motor vehicles is no longer required.

The bulletin may be found online at
<http://oci.wi.gov/bulletin/0711act14.htm>

Kelly Armstrong



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AL Sets Tax Deductions for Homeowners in AIUA Zones

Alabama Senate Bill 395, which became effective September 1, 2011, provides that certain taxpayers legally residing in Alabama Insurance Underwriting Association (AIUA) zones may qualify for income tax deductions and sets out the requirements and process. It also declares that specific rate filings and related actuarial information for homeowners insurance shall be treated as public information and available to the public for review.

The bill may be found online at
<http://e-lobbyist.com/gaits/AL/SB395>

Lindsay McGhee

FL Overturns 'Crashworthiness' Ruling

A controversial 2001 Florida Supreme Court ruling that defined how motor vehicle "crashworthiness" cases are tried was overturned with the enactment of [CS/SB 142 Relating to Negligence](#), which Florida Governor Rick Scott signed into law on June 23, 2011. CS/SB 142 allows juries to consider the fault of all persons who contributed to an accident when apportioning damages in a products liability action alleging an enhanced injury and requires the jury instructions to apportion certain fault in a products liability action.

A detailed report on the new law may be found online at
<http://www.cftnews.com/index.php?cmd=article&id=7032>

Richard J. Fidei



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FL Enacts Insurance-Related Bills

Florida Governor Rick Scott signed various insurance-related bills into law on June 17, 2011. CS/CS/HB 99 expands the types of commercial lines insurance that are exempt from the prior normal rate filing and review requirements. CS/HB 723 creates s. 440.094, F.S., which provides for extraterritorial reciprocity under Florida's Workers' Compensation Law.

CS/HB 1087, addresses a variety of issues related to personal and commercial lines of insurance, including the following topics:

- Payments of Workers' Compensation Benefits
- Alien Insurer Exemptions from Certificate of Authority Requirement
- Annual Statements of Authorized Insurers
- Disqualification and Penalties for Financial Services Licensees and Applicants
- Public Adjusters
- Persons Designated to Receive Insurer Notifications
- Delivery of Information Requested from a Self-Insured Corporation
- Licensure of Service Warranty Associations

More information on each bill may be found online at <http://www.cftnews.com/index.php?cmd=article&id=6994>

Richard J. Fidei

FL Changes Minimum Surplus Rules for Residential Property Insurers

Pursuant to the enactment of CS/CS/CS/SB 408, the Florida Office of Insurance Regulation issued a July 1, 2011 Informational Memorandum (OIR-11-O5M) advising all residential property insurers in the State of Florida of corresponding changes to the minimum surplus requirements.

More information about the changes may be found online at <http://www.cftnews.com/index.php?cmd=article&id=7070>

Richard J. Fidei

FL Sets New Definitions of Losses Reimbursable under FHCF

To ensure that Florida Hurricane Catastrophe Fund Reimbursement (FHCF) Contract forms are appropriately amended pursuant to the provisions of newly enacted CS/CS/CS/SB 408 and made effective as soon as possible, the State Board of Administration filed Emergency Rule 19ER11-2 (relating to Rule 19-8.010) on July 1, 2011 to change the definition of losses reimbursable by the Florida Hurricane Catastrophe Fund according to the new law.

More information about the emergency rule may be found online at <http://www.cftnews.com/index.php?cmd=article&id=7059>

Richard J. Fidei

FL Cat Fund Updates Coverage Selections and Premium Calculations

The Florida Hurricane Catastrophe Fund (FHCF) published coverage selections and premium calculations updated as of June 30, 2011 for its 2010/2011 Contract Year. The FHCF has also published 2011/2012 Exposure Examination Advanced Preparation Instructions, Operations Questions and a Required Records Checklist.

The coverage selections and premium calculations may be found online at http://fhcf.paragonbenfield.com/pdf/10fin_pre.pdf.

The exposure examination information may be found online at <http://fhcf.paragonbenfield.com/current/11expaudit.html>.

Richard J. Fidei

FL Re-Launches Homeowners Rate Comparison Site

On July 26, 2011, the Florida Office of Insurance Regulation (OIR) re-launched an interactive program designed to assist Florida homeowners who are shopping for the best property insurance rates. The system allows consumers to select between two standard risks in any of Florida's 67 counties. The new system, called the [Consumer HomeOwners Insurance Comparison Electronic System \(CHOICES\)](#), is a revamp of an earlier one developed in 2007. Consumers may access CHOICES through the OIR Web site at www.floir.com.

Richard J. Fidei

MS Joins Nonadmitted Insurance Multistate Agreement

The Mississippi Insurance Department has issued Bulletin 2011-8, dated July 19, 2011, to explain that Mississippi has joined the Nonadmitted Insurance Multistate Agreement (NIMA) to collect and allocate premium taxes and fees through a central clearinghouse when a multi-state risk is involved. The bulletin outlines the purpose of NIMA and provides information regarding the clearinghouse operation and the collection and calculation of taxes and fees. Tax allocation schedules and the NIMA reporting form are included in the bulletin.

Bulletin 2011-8 may be found online at <http://www.mid.state.ms.us/pages/bulletins.aspx>

Lindsay McGhee

MS Outlines Submission Requirements for Health Insurance Rate Hikes

On June 29, 2011 the Mississippi Department of Insurance issued Bulletin 2011-7 to outline the submission requirements for health insurance rate increases for licensed accident and health insurance carriers. The department is updating its policies and procedures in order to ensure compliance with all federal and state requirements regarding health insurance rate modifications. This bulletin provides the process of filing and implementing health insurance rates and modifications of existing rates and outlines the data and documentation that must be submitted when issuing a rate increase applicable to individual and small group accident and health policies, excluding Medicare Supplement policies, long-term care policies, supplemental medical insurance policies, and any other health policies specifically excluded from the provisions of the Patient Protection and Affordable Care Act (PPACA). The updated policy applies to rate increases issued any time on or after September 1, 2011.

Bulletin 2011-7 may be found online at <http://www.mid.state.ms.us/pages/bulletins.aspx>

Lindsay McGhee

NC Announces Surplus Lines License Renewals

The North Carolina Department of Insurance issued a memorandum dated July 8, 2011 advising surplus lines licensees in North Carolina that they must renew their licenses through the National Insurance Producer Registry (NIPR) and pay the \$50 renewal fee before August 31, 2011. The memorandum explains the federal requirement that may impact licensing requirements and requests that each licensee review NC Bulletin 2011-B-7. In addition, it also provides statutory requirements for maintaining active membership in a regulatory support organization and reminds licensees of monetary penalties for not having a valid license in effect.

For more information, refer to the hot topics using the link below
<http://www.ncdoi.com/ASD/>

Lindsay McGhee

NC Addresses Licenses Cancelled for Non-payment

The North Carolina Department of Insurance has issued a memorandum dated June 28, 2011 addressing the types of licenses that may have been cancelled if renewal fees were not paid on March 31, 2011 and providing instructions for reapplication. In addition, the memorandum explains that North Carolina has implemented a new Designated Home State adjuster application and provides details for non-resident and resident individual adjusters.

For more information, refer to the hot topics using the link below
<http://www.ncdoi.com/asd/>

Lindsay McGhee

NC Requires Electronic Applications for Designated Adjusters

On June 28, 2011 the North Carolina Department of Insurance issued a memorandum requiring all non-resident individual adjuster applicants and licensees to use the new National Insurance Producer Registry (NIPR) electronic application process for individual designated home state adjuster.

For more information, refer to the hot topics using the link below
<http://www.ncdoi.com/asd/>

Lindsay McGhee

SC Issues Notice of Tentative Accident and Health Rates

On July 29, 2011 the South Carolina Department of Insurance released Bulletin 2011-08 notifying insurers writing credit accident and health insurance in conjunction with loans subject to 1966 S.C. Act No. 988, Consumer Finance Law, of the tentative rates for 2012. With a current year experience producing an aggregate loss ratio of approximately 50 percent and a weak but growing national economy, the tentative rate proposed for 2012 for three-day retro accident and health insurance remains unchanged from the 2011 rate of 31 cents per year per \$5.00 unit of monthly indemnity.

Bulletin 2011-08 may be found online at
<http://doi.sc.gov/bulletinsandorders/Pages/2011Bulletins.aspx>

Lindsay McGhee

SC Issues Notice of Tentative Credit Property Insurance Rates

On July 29, 2011, the South Carolina Department of Insurance released Bulletin 2011-07, notifying insurers writing credit property insurance of the tentative rates for 2012. The tentative rates expressed as a percentage of the total amount of the loan are as follows: Automobile, Fire and Theft – Single Interest is .0135 percent; Automobile Collision – Single Interest is .0506 percent; Household Goods – Single Interest is .0131 percent and Household Goods – Dual Interest is .0688 percent.

Bulletin 2011-07 may be found online at <http://doi.sc.gov/bulletinsandorders/Pages/2011Bulletins.aspx>

Lindsay McGhee

SC Issues Notice of Tentative Credit A&H Rates

On July 29, 2011 the South Carolina Department of Insurance released Bulletin 2011-06, notifying insurers writing credit accident and health insurance of the tentative rates for 2012. The bulletin provides a complete table of the tentative single premium rates per \$100 of initial indebtedness proposed for 2012 for both types of insurance.

Bulletin 2011-06 may be found online at <http://doi.sc.gov/bulletinsandorders/Pages/2011Bulletins.aspx>

Lindsay McGhee

SC Provides Compliance with PPACA External Review Requirements

The South Carolina Department of Insurance issued Bulletin 2011-4, dated July 5, 2011, to inform all licensed insurers and health maintenance organizations issuing health insurance coverage in South Carolina, certified independent review organizations, and South Carolina-certified private review agents of the procedures for compliance with the external review requirements of the Patient Protection and Affordable Care Act (PPACA). Instructions for insurers to submit requests for external review and assignment of independent review organizations are included in the bulletin.

Bulletin 2011-4 may be found online at <http://doi.sc.gov/bulletinsandorders/Pages/2011Bulletins.aspx>

Lindsay McGhee

SC Establishes New A&H Rate Filing Procedures

The South Carolina Department of Insurance has adopted new rate filing procedures for health insurance issuers to comply with 45 C.F.R. Part 154 and the related additional reporting requirements that must be met when submitting rate filings to the department. Bulletin 2011-03, released on June 29, 2011, informs insurers of the new rate filing procedures. The additional reporting requirements apply to any rate increase filed on or after September 1, 2011.

Bulletin 2011-03 may be found online at <http://doi.sc.gov/bulletinsandorders/Pages/2011Bulletins.aspx>

Lindsay McGhee

SC Stresses Rules on Premium Finance Companies

On June 14, 2011 the South Carolina Department of Insurance released Bulletin 2011-02 to remind insurers of the requirements of 38-5-200 (Required use of particular insurance premium finance company or other installment plan prohibited). The bulletin advises insurers that they may not require the use of particular finance company or installment plan and of limitations on offering discounts. In addition, the bulletin informs insurers of the prohibitions and alerts insurers that the department may take regulatory action against violators. Insurers engaging in prohibited practices are instructed to cease and desist immediately.

Bulletin 2011-02 may be found online at <http://doi.sc.gov/bulletinsandorders/Pages/2011Bulletins.aspx>

Lindsay McGhee

TN Revises Captive Insurance Law

Enacted on June 10, 2011, Tennessee House Bill 2007 deletes Title 56, Chapter 13 (Tennessee Captive Insurance Company Act) and enacts new provisions for the Revised Tennessee Captive Insurance Act.

Effective September 1, 2011, the bill authorizes the formation of additional types of captives and allows captives to write workers' compensation insurance to employers. In addition, a new Captive Insurance Company Application is available on the Tennessee Department of Commerce and Insurance website at <http://www.state.tn.us/commerce/insurance/index.shtml>.

H.B. 2007 may be found online at <http://www.tn.gov/sos/acts/107/pub/pc0468.pdf>

Lindsay McGhee

TN Requires Notice of Provider Receipt of TennCare Payments in Medical Malpractice Reports

Tennessee Senate Bill 510 amends medical malpractice reporting requirements effective January 1, 2012, to require counsel for claimants to provide information as to whether the healthcare provider named in the claim received payment from TennCare. The information must be provided for claims closed or open and pending on or after January 1, 2012.

S.B. 510 may be found online at <http://www.capitol.tn.gov/Bills/107/Bill/SB0510.pdf>

Lindsay McGhee



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Mid-Atlantic Region News

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Mid-Atlantic Chapter: District of Columbia, Delaware, Maryland, New Jersey, New York City, Pennsylvania, Virginia

DE Provides Procedures for FOIA Requests

On July 1, 2011, Delaware amended §7218, Title 18 of the Delaware Code enabling small employer health insurance carriers to make stop-loss insurance coverage available to small employers with more than 15 employees. The issuance of stop-loss coverage to small employers, defined as those having no more than 50 employees, is no longer prohibited as of July 1, 2011. This bill limits that prohibition to employers with 15 or fewer employees.

DE Title 18, Chapter 72 may be found online at <http://delcode.delaware.gov/title18/index.shtml#TopOfPage>

Betty Dabrowski

DE Prohibits Post-Claim Rescissions

The Delaware Legislature has enacted House Bill 420 to create Chapter 61 of Title 18 of the Delaware Code. Chapter 61 prohibits rescissions based on post-claims underwriting of any health insurance policies except in cases of fraud or intentional misrepresentation of material fact. All health insurance contracts issued or delivered after September 23, 2010 must be approved by the Delaware Department of Insurance before a health insurance policy can be rescinded based upon post-claim underwriting. Domestic/Foreign Insurers Bulletin No. 43, dated June 9, 2011, provides instructions for carriers seeking to rescind a health insurance policy.

Domestic/Foreign Insurers Bulletin No. 43 may be found online at www.delawareinsurance.gov/departments/documents/bulletins/DomesticForeignInsurersBulletin43.pdf

DE Title 18, Chapter 61 may be found online at <http://delcode.delaware.gov/title18/index.shtml#TopOfPage>

Betty Dabrowski

DE Expedites Independent Health Care Appeals Program

The Delaware Department of Insurance is revising Regulation 1301 (Internal Review, Arbitration & Independent Utilization Review of Health Insurance Claims) to comply with the Patient Protection and Affordability Care Act (PPACA). The DOI has issued Domestic/Foreign Insurers Bulletin No. 44, dated July 20, 2011, to provide guidance to insurers in the interim.

The bulletin may be found online at www.delawareinsurance.gov/departments/documents/bulletins/DomesticForeignInsurersBulletin44.pdf

Betty Dabrowski

DE Provides Procedures for Freedom of Information Act (FOIA) Requests

On June 9, 2011, the Delaware Department of Insurance issued Forms and Rates Bulletin No. 34 to inform insurers, producers, and other interested citizens of the procedures for obtaining information under the Freedom of Information Act (FOIA) in compliance with Regulation 908.

The department's regulatory specialist has been named the newly designated FOIA Coordinator. All requests for information under the FOIA should be directed to:

Delaware Department of Insurance
Attn: Regulatory Specialist
841 Silver Lake Boulevard
Dover, DE 19904
(302) 674-7379

Forms and Rates Bulletin No. 34 may be found online at
<http://www.delawareinsurance.gov/departments/documents/bulletins/formbull34.pdf>

Anne Aponte

DC Advises on Rebates in Title Insurance

On August 12, 2011, the District of Columbia Department of Banking, Insurance and Securities issued Bulletin 11-IB-02-06/23 – Revised to remind title insurance producers not to offer, directly or indirectly, credits, discounts, or any type of inducement before, during, or after a settlement that are contingent upon the purchase of residential or commercial title insurance.

The bulletin provides a list of examples and encourages insurers or producers to contact the department should their program differ from the norm and require an opinion. In such cases, insurers or producers may submit a detailed written description of the program to Philip Barlow, associate commissioner for insurance, at Philip.barlow@dc.gov.

The department intends to aggressively monitor title insurance activities and enforce District law through monetary penalties and license revocation or suspension.

Additional information may found online at
http://disr.washingtondc.gov/disr/frames.asp?doc=/disr/lib/disr/pdf/Bulletin_11-IB-02-06_23.pdf

Anne Aponte



Association
of Insurance
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Mission Statement

The Association of Insurance Compliance Professionals serves the insurance compliance community by promoting relationships, exchanging information, and providing learning opportunities within a dynamic regulatory environment.

DC Revises Procedures for License Applicants

Under The Violent Crime Control and Law Enforcement Act of 1994 (the Act) individuals convicted of a crime involving dishonesty, breach of trust, or a violation of the act are prohibited from engaging in the business of insurance.

The commissioner of the Department of Insurance, Securities and Banking issued Bulletin 11-IB-01-06/20 on June 20, 2011, instituting procedures for prohibited persons seeking consent to engage in the business of insurance pursuant to 18 U.S.C. § 1033 by filing a 1033 Application. Five management level employees have been appointed by the Commissioner to conduct preliminary reviews of 1033 Applications, leading to an appropriate decision.

For questions relating to the bulletin, contact Adam Levi at (202) 442-7759 or by email at adam.levi@dc.gov.

The bulletin may be found online at

disr.washingtondc.gov/disr/frames.asp?doc=/disr/lib/disr/pdf/Revised_1033_Procedures_Bulletin.pdf

For more information on the procedures governing persons subject of 18 U.S.C. 1033 and applications, access the department's website at

disr.washingtondc.gov/disr/cwp/view,a,1300,q,641154.asp#producers

Anne Aponte

MD Modifies Draft Regulation on Nonpreferred Providers

On May 17, 2011, the Maryland Insurance Administration issued Bulletin 11-11 announcing that proposed regulation MD ADC 31.10.41 Assignment of Benefits to Nonpreferred Providers has been modified. An updated version of the draft regulation is included with the bulletin.

Bulletin 11-11 may be found online at

<http://www.mdinsurance.state.md.us/sa/documents/BulletinLH11-11-AssignmentofBenefitsreg05-11.pdf>

Betty Dabrowski

MD Reiterates Personal Injury Protection Rules

The Maryland Insurance Administration issued Bulletin 11-16 on July 25, 2011, reminding property and casualty insurers that issue policies containing personal injury protection (PIP) that they may not impose a surcharge or re-tier policies for claims or payments made under that coverage. To assist insurers with compliance, the bulletin provides clarification and examples.

Bulletin 11-16 may be found online at

<http://www.mdinsurance.state.md.us/sa/documents/Bulletin11-16PIPandRatingRules.pdf>

Anne Aponte

MD Reminds Auto Insurers of Premium Notice Requirements

Bulletin 11-1, issued by the Maryland Insurance Administration on July 29, 2011, reminds property and casualty insurers that written notice of a premium increase must be issued to an insured at least 45 days prior to the effective date of the premium increase. That includes increases for surcharge, retiering or reclassification of an insured; or the removal or reduction of a discount. COMAR 31.08.03.06 provides information on specific circumstances when a premium increase notice does not need to be sent.

The bulletin may be found online at

<http://www.mdinsurance.state.md.us/sa/documents/Bulletin11-17PremiumIncrease.pdf>

Anne Aponte

NJ Revises Life Insurance Advertising Requirements

Effective June 6, 2011, New Jersey revised and supplemented requirements at NJ ADC 11:2-23.5 (Disclosure requirements) and NJ ADC 11:4-59 (Disclosure & Suitability Requirements for Annuities Directly Solicited to Consumers). The revisions define terms, amend requirements for buyer's guide and disclosure requirements, provide suitability standards, provide insurer supervision procedures, and address penalties.

To find the provision online, use the link below and search for Title 11, Chapters 2 and 4
<http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp=>

Betty Dabrowski

NJ Amends Public Adjuster Law

The New Jersey Department of Banking and Insurance has amended the public adjuster licensing laws to provide for a two-year licensure period and completion of 15 hours of continuing education each two-year period. The amendments also prohibit public adjusters from soliciting the adjustment of loss or damage occurring in New Jersey from an insured between the hours of six p.m. and eight a.m. during the 24 hours after the loss has occurred. The amendments are outlined in Bulletin No. 11-10 and became effective July 4, 2011.

The bulletin may be found online at
http://www.state.nj.us/dobi/bulletins/blt11_10.pdf

Anne Aponte

VA Outlines Use of Retained Asset Accounts

Effective July 1, 2011, the Virginia legislature enacted Article 1.1, Use of Retained Assets. It defines terms and sets out requirements for explanation of settlement options, supplemental contracts, and disclosures for retained asset accounts to beneficiaries.

Chapter 31 of Title 38.2 of the Virginia Administrative Code may be found online at
<http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+TOC>

Betty Dabrowski

VA Establishes Rules on Life Insurance Marketing Practices

Effective July 1, 2011, Virginia repealed Chapter 40, Rules Governing Life Insurance & Annuity Marketing Practices and adopted Chapter 41, Rules Governing Advertisement of Life Insurance & Annuities. It defines terms, prescribes the form and content of advertisements, and outlines disclosure requirements.

Chapter 41 of Title 14 of the Virginia Administrative Code may be found online at
<http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+TOC>

Betty Dabrowski



Northeast Region News

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New England Chapter: Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont

ME Abolishes Independent Producer License

Maine Bulletin 380 explains how the repeal of the independent producer license will affect licensed producers and clarifies when an appointment by the insurer is required. As of September 28, 2011, no separate “independent producer” authority will be required. The bulletin also outlines the standards that will apply to all producers as of the date of enactment.

The bulletin may be found online at
<http://www.maine.gov/pfr/insurance/bulletins/380.htm>

Peggy Schwartz, FLMI, CCP, AIRC

MA updates Continuing Ed Requirements for Resident Producers

The Massachusetts Division of Insurance issued Bulletin 2011-12 on June 3, 2011, outlining its Continuing Education Compliance Program for Resident Insurance Producers. The text reviews the current requirements and gives specific examples of how to meet the requirements. It also states that the division will not take any action against a non-compliant licensee until after December 31, 2011, and that no non-compliant licensee will be required to complete more than 105 CE credits by that date, regardless of the total number of CE credits owed. On or after January 1, 2012, the division intends to review the CE compliance state of all licensed resident producers and take any action required.

To find the bulletin online, use the link below and click on DOI Regulatory Information under Insurance, then click on DOI Regulatory Bulletins and 2011 DOI Bulletins.
<http://www.mass.gov/?pageID=ocaconstituent&L=2&L0=Home&L1=Business&sid=Eoca>

Peggy Schwartz, FLMI, CCP, AIRC

NY Implements Online Premium Tax

New York Insurance Department Circular Letter No. 7 (2011) dated April 7, 2011 advises insurers of the implementation of an online insurance premium tax, which took place on June 1, 2011. The product was developed to expedite submission of required premium tax filings that are due in periodic installments—monthly, quarterly, and annually. Insureds will be able to submit required fees through OPTins for Fire, Motor Vehicle Enforcement Fee and Workers Compensation and Public Motor Vehicle Security Funds. Instructions can be found at <http://www.optins.org>.

The circular letter may be found on line at http://www.ins.state.ny.us/circltr/2011/cl2011_07.htm

Questions or comments can be directed to the Bureau of Taxes and Accounts by email at billing@ins.state.ny.us

Gregory A. Popolizio, ACP, AIS

NY Requires Reports on Unpaid Death Benefits

In a news release dated July 05, 2011, the New York State Insurance Department said it has directed all life insurers licensed to do business in New York to report on how many death benefits they have not paid because they did not use the official government list of deaths.

The department has issued to life insurers a 308 letter, which is a request for information that they are legally obligated to provide. The first stage of the request is due on September 30, 2011, with additional stages due at subsequent dates.

A copy of the news release and text of the 308 letter may be found online at <http://www.ins.state.ny.us/press/2011/p1107051.htm>

Gregory A. Popolizio, ACP, AIS

RI Adds Sales Tax to Total Loss Calculations

A change to Rhode Island General Laws 44-18-30(23) that takes effect October 1, 2011, requires insurers to include sales tax in their calculations of settlement value in a total loss claim. The change is explained in Bulletin 2011-4, issued by the Insurance Division August 4, 2011.

The bulletin may be found online at <http://www.dbr.state.ri.us/documents/news/insurance/InsuranceBulletin2011-4.pdf>

Darrell Turner, AIS, ARC, ACP

RI Revises Producer Training Requirements

Effective June 1, 2011, Rhode Island has revised the substantive training required for producers before the sale, solicitation, or negotiation of long-term care insurance or annuity products.

In Bulletin 2011-2, issued April 2, 2011, the Insurance Division announced that the Department of Business Regulation has established a one-time, eight-hour training course for long-term care and a four-hour training course for annuity suitability. A list of approved courses for these requirements is available on the department's website. Producers are required to maintain records of their completion of the approved courses. Insurers are required to monitor compliance and assure that all persons selling, soliciting or negotiating these products are in compliance.

<http://www.dbr.state.ri.us/documents/news/insurance/InsuranceBulletin2011-2.pdf>

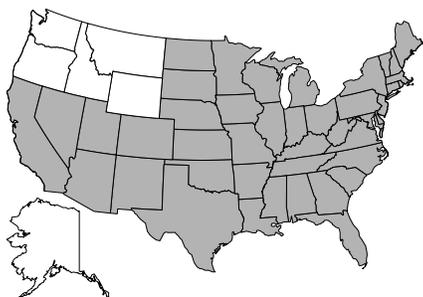
Peggy Schwartz, FLMI, CCP, AIRC

VT Sets Standards for Adjusting Total Loss Claims

Bulletin #162, issued August 10, 2011, by the Vermont Insurance Division, explains insurers' responsibilities for settling total loss claims under Vermont Regulation 79-2. It describes the three methods that may be used to settle a total loss and stresses that the use of a vendor does not relieve an insurer or adjuster from the responsibility to satisfy the regulation in adjusting total loss claims.

The bulletin may be found online at http://www.bishca.state.vt.us/sites/default/files/Bulletin_162.pdf

Darrell Turner, AIS, ARC, ACP



Northwest Region News

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AK Establishes New Surplus Lines Requirements

Alaska recently established extensive new eligibility, filing, and premium tax requirements for surplus lines business written in their state. These changes, which arose out of changes to Alaska's surplus lines laws that were enacted in the previous legislative session, became effective on July 21, 2011.

Changes include:

- Eligibility requirements for surplus lines insurers, including an alien (non-U.S.) insurer
- Filing requirement changes for those policies written by an insured domiciled in Alaska
- Tax and fee reporting on a quarterly basis instead of a monthly basis
- A new formula for the calculation of premium tax and filing fees

Full details regarding these changes are included in Bulletin B 11-08, which may be found online at <http://www.dced.state.ak.us/insurance/Insurance/programs/Consumers/Bulletins/2011/B11-08.pdf>

Doug Geraci, CPCU, ACP

AK Changes Insurance Law

A summary of the 2011 changes to Alaska insurance laws may be found in Bulletin B 11-07. These changes were approved in the 2011 legislative session and signed into law by the governor in June 2011, with an effective date of July 1, 2011 or later. The list of changes is quite extensive, with both insurers and producers affected.

The bulletin may be found online at http://www.dced.state.ak.us/ins/pub/l__WPC_INSWP_Bulletins_B11-07.pdf

Doug Geraci, CPCU, ACP

ID Announces New Deputy Director

The Idaho Department of Insurance announced on July 19, 2011 that Tom Donovan has been appointed deputy director. Donovan assumed his new responsibilities August 15.

Department Director Bill Deal said, "Tom is well-qualified and brings a wealth of knowledge to this position. He has been a valuable part of the department for nearly 14 years, and we are pleased that he has accepted this new assignment."

Donovan fills the position vacated by Shad Priest, who has been hired to handle legislative and regulatory affairs for Regence Blue Shield of Idaho.

A news release of this announcement may be viewed at: <http://www.doi.idaho.gov/Press/DeputyDirectorAppointed.pdf>

Jan Vitus, CIC, MHP, HIA, CRM, CCP

ID Defines Value-Added Services

On June 8, 2011, the Idaho Department of Insurance issued Bulletin 11-03. This bulletin defines what are considered value-added services with respect to rebates and Inducements. The bulletin replaces 09-14.

This bulletin can be viewed at:

http://www.doi.idaho.gov/opendoc.aspx?DOC=/laws/11_03.pdf

ID Amends Idaho Health Carrier External Review Act

House Bills 131 and 299 were issued effective July 1, 2011. These bills amended certain sections of the act for health benefit plans in Idaho. Bulletin 11-04 was issued on June 13, 2011 alerting health insurance carriers, independent review organizations, and administrators for single-employer self-funded ERISA benefit plans of the important changes made to the Idaho Health Carrier External Review Act.

Bulletin 11-04 may be viewed online at:

http://www.doi.idaho.gov/opendoc.aspx?DOC=/laws/11_04.pdf

ID Sets Rules on Cash Surrender Benefits

Bulletin 11-06 was issued by the Idaho Department of Insurance setting the rate of interest and outlining the rules regarding the deferred payment of Cash Surrender Benefits. The rate was effective July 1, 2011.

The bulletin and the rule may be found online at

http://www.doi.idaho.gov/opendoc.aspx?DOC=/laws/11_06.pdf

Jan Vitus, CIC, MHP, HIA, CRM, CCP

OR Modifies Regence BC/BS Rate Increase

The Oregon Department of Consumer and Business Services (DCBS) rejected a 22.1 percent health insurance rate increase request from Regence BlueCross BlueShield of Oregon on July 19, 2011 and instead approved a 12.8 percent increase.

A news release about the rate increase may be found online at

http://www.insurance.oregon.gov/news_releases/2011/071911-regence-decision.pdf

Jan Vitus, CIC, MHP, HIA, CRM, CCP

OR Issues Summer Newsletter

The summer newsletter issued by the Oregon Department of Insurance includes an article on the types of advertising requiring review and/or prior approval. Health, long-term care, travel, pre-need funeral insurance, and Medicare supplements are some of the product areas mentioned.

This publication may be found online at http://www.oregoninsurance.org/publications/regulator/regulator_summer2011.pdf

Jan Vitus, CIC, MHP, HIA, CRM, CCP

OR Insurance Administrator Named to NIPR Board

Oregon Insurance Division Administrator Teresa Miller is now on the board of directors of the National Insurance Producer Registry (NIPR). She will represent the National Association of Insurance Commissioners on the board, which is working to simplify the producer licensing process nationwide.

An announcement of her appointment may be found online on page four of the division's newsletter: http://www.cbs.state.or.us/external/ins/publications/regulator/regulator_summer2011.pdf

Jan Vitus, CIC, MHP, HIA, CRM, CCP

WA Issues Insurance Title Insurance Rate Changes

On and after January 1, 2013, all title insurance rates (required under RCW 48.29.147) used in Washington State must be filed and approved. Title insurers must submit rate filings to the commissioner by September 1, 2012 for rates to be effective on January 1, 2013.

The rule that created the prior approval process may be found online at http://www.insurance.wa.gov/laws_regs/documents/2011-07103P.pdf

Doug Geraci, CPCU, ACP

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WA Adopts 2001 CSO Mortality Tables

Washington State has adopted the 2001 CSO mortality tables, which permit the recognition of preferred mortality tables for use in determining minimum reserve liabilities for life insurance written in the state.

The new rules, WAC 284-74-470 through 284-74-510, added to the Washington Administrative Code recognize, permit and prescribe the use of these mortality tables. This change is effective September 1, 2011.

The rules may be found online at

http://www.insurance.wa.gov/laws_regs/documents/2011-03103P.pdf

Doug Geraci, CPCU, ACP

WY Requires Fingerprints for New Resident Licenses

Initial resident licensees and nonresident adjusters designating Wyoming as their home state are subject to fingerprinting requirements and a criminal history check effective July 1, 2011. A license will not be issued until the Insurance Department has determined that the individual applying for the license meets all licensing requirements.

Specific licensing requirements and procedures may be found online at

<http://insurance.state.wy.us/licensing/fingerprints.html>

Doug Geraci, CPCU, ACP

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South Central Region News

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South Central Chapter: Arkansas, Louisiana, Oklahoma, Texas

AR to Raise Maximum Benefit for Funeral Expense Insurance

The Arkansas Department of Insurance has proposed Regulatory Activity Rule and Regulation 30 to amend Regulation 30, Funeral Expense Insurance. The proposed amendment increases the maximum benefit for funeral expense insurance from \$10,000 to \$15,000. The proposed effective date of the amendment is December 30, 2011.

The proposed regulation may be found online at
<http://www.insurance.arkansas.gov/Legal%20Dataseservices/PropRules/Rule30.pdf>

Hazel Delane

AR Proposes Amendment to External Review Regulation

The Arkansas Department of Insurance has proposed an amendment to Rule 76, External Review Regulation that includes the following changes: (1) expands the type of claims which are subject to external review by removing the prerequisite that an adverse claim determination relate to a denial over medical necessity or experimental treatment; (2) removes the current rule's threshold amounts for claims qualifying for external review; (3) establishes a larger role for the commissioner or department in the external review process by making it the entity to whom the insured makes the request for external review; (4) requires the department to refer and select an independent review organization to review the matter; and (5) to comply with the Patient Protection and Affordable Health Care Act of 2010, which requires that all state laws give consumers at least the external review rights contained in the NAIC Uniform Model External Review Act.

The proposed amended regulation may be found online at
<http://www.insurance.arkansas.gov/Legal%20Dataseservices/PropRules/Rule76.pdf>

Hazel Delane

LA Allows Electronic Policy Delivery

Louisiana enacted House Bill 275 (Act 373) to amend R.S. 22:867(C) and R.S. 22:873 to provide methods of policy delivery or evidence of insurance as follows: (1) R.S. 22:867(C) has been amended to provide electronic transactions in accordance with the Louisiana Uniform Electronic Transactions Act, R.S. 9:2601 et seq, as evidence of insurance; and (2) R.S. 22:873 has been amended to include the following methods of policy delivery: (a) United States Postal Service; (b) personal delivery; (c) private courier; or (d) electronic transaction in accordance with the Louisiana Uniform Electronic Transactions Act, R.S. 9:2601 et seq. House Bill 275 is effective August 15, 2011.

House Bill 275 (Act 373) may be found online at
<http://www.legis.state.la.us/billdata/streamdocument.asp?did=759598>

Hazel Delane

LA Requires Disclosures for Prescription Drug Coverage

Louisiana has enacted House Bill 345 (Act 350), which requires an insurer that issues a health benefit plan covering prescriptions drug coverage and uses one or more drug formularies to specify the prescription drugs covered under the health benefit plan and:

1. provide, in plain language in the coverage documentation provided to each enrollee each of the following: notice that the plan uses one or more drug formularies;
 - a. an explanation of what a drug formulary is; and
 - b. a statement regarding the method the insurer uses to determine the prescription drugs to be included in or excluded from a drug formulary;
 - c. a statement of how often the insurer reviews the contents of each drug formulary;
2. a notice (approved by the Department) must be provided to the enrollee stating that the enrollee may contact the insurer to determine whether a specific drug is included in a particular drug formulary;
3. disclose to an individual upon request, within three business days, whether a specific drug is included in a particular drug formulary; and
4. notify the enrollee or other individual who requests drug formulary information that the inclusion of a drug in a drug formulary does not guarantee that the enrollee's physician or other authorized prescriber will prescribe the drug for a particular medical condition or mental illness.

The bill further provides that insurers of large and small group health plans and individual health plans may modify health insurance coverage if (1) the modification is done at time of renewal; (2) the modification is approved by the Insurance Department; and (3) the insurer notifies each employer and enrollee with regard to group coverage, and each affected policy owner of an individual policy of the modification, including the modification of a particular product or modification of drug coverage, no later than the sixtieth day before the effective date of the modification.

The bill also provides requirements for continuation of coverage.

This legislation is effective January 1, 2012, and applies to group and individual health benefit plans that provide prescription drug coverage and use drug formularies.

The bill may be found online at

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=760725>

Hazel Delane

LA Amends Unearned Premium Refund Requirements

The Louisiana Department of Insurance issued SB 84, effective August 15, 2011, amending Section 22:885(B) by allowing insurers, upon cancellation by the insured, to calculate unearned premium based on a short-rate provision contained in a policy that has been filed and approved by the commissioner.

The bill may be found online at

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=760295>

Lori Chambers, AIRC

LA Exempts Some Policies From Premium Refunds

Effective August 15, 2011, Louisiana H-446 exempts credit property and casualty insurance policies from Section 22:885(B) of the unearned premium refund requirement governing policies cancelled by the insured. Credit property and casualty insurance is defined in Section 22:47(16)(b) as "insurance generally sold in connection with a credit transaction and limited to partially or wholly extinguishing the credit obligation, including but not limited to agreements, contracts, or policies of insurance containing any of the following: involuntary unemployment, vendors single interest, vendors dual interest, and credit fire, or GAP. The credit obligation is the total sum payable, including all loan finance charges and credit service charges, pursuant to the credit transaction."

The bill may be found online at

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=753809>

Lori Chambers, AIRC

LA Revises Financial Responsibility Law

Louisiana House Bill H-259, effective August 15, 2011, was issued revising Section 32:900(B)(2)(c) of the Financial Responsibility Law by deleting reference to "bodily injury" and adding the word damage. It now refers to "(c) Twenty-five thousand dollars because of damage to or destruction of property of others in any one accident."

The bill may be found online at

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=753805>

Lori Chambers, AIRC

LA Amends Workers' Compensation Second Injury Fund

HB 502 has been issued in Louisiana authorizing the Workers' Compensation Second Injury Board to provide funds to the Louisiana Rehabilitation Services to help potential employers and qualified employees with permanent partial disabilities under the Vocational Rehabilitation Program. The bill enacts Section 22:1377 of Louisiana Revised Statutes authorizing the Workers' Compensation Second Injury Board to set aside an annual lump-sum amount of up to 1 percent of its annual budget for the benefit of the Louisiana Rehabilitation Service.

Services may include work evaluation and job readiness services, assessment for and provision of assistive technology, and workstation modification directly related to the employment, reemployment, or retention of such employees. The law also sets forth the quarterly reporting requirements for Louisiana Rehabilitation Services to the Second Injury Board. The bill was effective August 15, 2011.

The bill may be found online at

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=760480>

Lori Chambers, AIRC

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LA Restricts Medical Payment Reimbursements

Effective August 15, 2011, Louisiana SB 169 enacts Section 22:1811 of the Health Care Consumer Billing and Disclosure Protection Act which, unless provided by law, an agreement between the parties, or by coordination of benefit regulations, prohibits a health insurer from seeking reimbursement from an insurer that provides automobile medical payment coverage to the health insurer's policyholder without obtaining the prior written consent of the policyholder or his legal representative. Nine months after the date of an automobile accident with medical claims, the health insurer may seek reimbursement from the medical payments insurer for only the outstanding balance remaining under the automobile policy for medical coverage. This rule does not apply to Medicare Advantage plans or self-insured plans.

The bill may be found online at

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=761841>

Lori Chambers, AIRC

OK Limits Recovery for Uninsured Accident Victims

Effective November 1, 2011, Oklahoma SB 272 amends the Oklahoma Statutes to add Section 7-116 to Title 47. The new chapter relates to the Compulsory Insurance Law and limits damage recovery in civil actions arising from a motor vehicle accident or for any claim against the liability insurance of another party. The maximum amount an uninsured accident victim may recover shall be limited to the amount of medical costs, property damage, and lost income and shall not include any award for pain and suffering.

The bill may be found online at

<http://webserver1.lsb.state.ok.us/cf/2011-12%20ENR/SB/SB272%20ENR.DOC>

Lori Chambers, AIRC

OK Revises Workers' Compensation Code

Effective August 18, 2011, SB 878, enacts changes to Title 85 of the Oklahoma Statutes impacting workers' compensation.

To find the bill online, use the following link under the tabs "Versions" and "Enrolled Version":

<http://oklegislature.gov/BillInfo.aspx?Bill=SB%20878>

Lori Chambers, AIRC

TX Sets New Rules for UM/UIM Coverage

Texas Bulletin B-0032-11 advises insurers that bodily injury and property damage are separate coverages, and an insurer cannot require the purchase of one coverage in order to obtain the other. Insureds must be given the option to purchase one or both. Insurers are encouraged to review their compliance with Chapter 1952, Subchapter C.

The bulletin may be found online at

<http://www.tdi.texas.gov/bulletins/2011/cc32.html>

Lori Chambers, AIRC

TX Amends Windstorm Insurance Association (TWIA) Code Provisions

Texas HB 3, effective September 28, 2011, amends the insurance code with regard to the oversight and funding provisions under TWIA. The bill focuses on the areas of consumer protection, claims solvency, transparency, agency oversight, and lawsuit abuse prevention.

Some of the amendments include:

1. streamlining of claims processing, including deadlines for filing of claims, completing investigation of claims, and filing lawsuits after TWIA's decision on a claim;
2. elimination of treble damages and 18 percent penalty for failure to abide by claims processing timelines;
3. recovery of double damages (aggregate of "covered loss" as defined and consequential damages) upon proof of clear and convincing evidence of intentional acts by TWIA;
4. transparency of TWIA operations regarding open meetings, publishing high-level salary information, allowing the Division of Insurance into closed sessions of the TWIA board, and setting forth standards of conduct for the board and employees;
5. auditing and oversight of TWIA by the division and
6. establishing a dispute resolution process that includes mediation and appraisal determinations and also allows TWIA to offer a premium discount for including a policy provision for binding arbitration.

The bill may be found online at

<http://www.capitol.state.tx.us/tlodocs/821/billtext/pdf/HB000031.pdf#navpanes=0>

Lori Chambers, AIRC

TX Amends Windstorm Insurance Association (TWIA) Code

Section 551.105 of the Texas Insurance Code has been amended by HB 2382, effective September 1, 2011. The amendments add a provision to the 30-day non-renewal notice requirements requiring the termination of an existing policy on the effective date of any replacement or succeeding policy with another carrier for certain specified types of property. The bill states: "Notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any replacement or succeeding insurance policy with another carrier with respect to the insured (a) personal automobile, (b) home, farm, ranch, dwelling, duplex, or apartment, or (c) other real or personal property."

The bill may be found online at

<http://www.capitol.state.tx.us/tlodocs/82R/billtext/pdf/HB02382I.pdf#navpanes=0>

Lori Chambers, AIRC

TX Adds Rules for Certificates of Insurance

Texas SB 425 adds Chapter 1811 to the insurance code requiring approval by the Texas Division of Insurance of certificate of insurance forms that are provided as proof of P & C insurance coverage. The bill prohibits P & C insurers and agents from issuing certificates of insurance or any other type of document if the certificate or document alters, amends, or extends the coverage or terms and conditions provided by the insurance policy referenced on the certificate or document. The bill provides for filing fees and contains fines and enforcement action for violation. The new requirements apply to certificates of insurance issued on or after January 1, 2012.

The bill may be found online at

<http://www.capitol.state.tx.us/tlodocs/82R/billtext/pdf/SB00425I.pdf#navpanes=0>

Lori Chambers, AIRC

TX Revises Insurance Division Duties

HB 1951, effective September 1, 2011, continues the operations and functions of the Texas Division of Insurance to September 1, 2023. The bill provides numerous updates to the duties and purpose of the division to ensure fair treatment of consumers and fair competition in the insurance industry. It abolishes certain advisory boards and committees and also establishes an adjuster advisory board.

The bill may be found online at

<http://www.capitol.state.tx.us/tlodocs/82R/billtext/pdf/HB019511.pdf#navpanes=0>

Lori Chambers, AIRC

TX Extends Workers' Compensation Division Operations

Texas HB 2605 continues the operations and functions of the Workers' Compensation Division to September 1, 2017. The bill refines numerous processes under Chapter 1305 of the insurance code. Some of the areas revised include unresolved medical disputes and judicial review, contested case hearings, complaints, administrative endorsement actions, medical examinations, and alternate doctor selections.

The bill provides that the commissioner shall develop a process for the certification of a designated doctor and develop guidelines for certification training programs for certification of a designated doctor. The bill is primarily applicable to events occurring on or after the effective date of September 1, 2011, except as otherwise specified.

The bill may be found online at

<http://www.capitol.state.tx.us/tlodocs/82R/billtext/pdf/HB019511.pdf#navpanes=0>

Lori Chambers, AIRC

TX Amends Automobile Burglary and Theft Prevention Provisions

Texas HB-1542, effective September 1, 2011, amends and adds provisions relating to the prevention of automobile burglary and theft. The new revisions increase the insurer's fee payable to the Automobile and Theft Prevention Authority (ABTPA) from \$1 to \$2. Under the new law the ABTPA is required to develop and implement performance measures for each grant provided by the ABTPA and ensure that the grants are used as set forth in the law.

The bill may be found online at

<http://www.capitol.state.tx.us/tlodocs/82R/billtext/pdf/HB015411.pdf#navpanes=0>

Lori Chambers, AIRC

TX Amends WC Act on Judicial Review

SB 809, effective September 1, 2011, amends the Texas Workers Compensation Act with regard to judicial review in district court of certain workers compensation disputes. The amended law provides the same 45-day judicial review deadline for appealing a medical dispute contested case hearing as the current judicial review deadline for appealing income benefit decisions. The law also amends the Insurance Code to provide that disputes over whether an insurer or employer properly notified an employee of the requirements to select a network treating doctor may be resolved through the dispute resolution process used by the Workers' Compensation Division.

The bill may be found online at

<http://www.capitol.state.tx.us/tlodocs/82R/billtext/pdf/SB008091.pdf#navpanes=0>

Lori Chambers, AIRC

TX Sets Deadline for WC Claims Information

Effective September 1, 2011, Texas HB-625 amends the Labor Code to require a license holder to provide workers compensation claims information to a company within 60 days of a written request. A license holder that fails to comply with the requirements is in violation and commits a Class D administrative violation.

The bill may be found online at

<http://www.capitol.state.tx.us/tlodocs/82R/billtext/pdf/HB00625I.pdf#navpanes=0>

Lori Chambers, AIRC

TX to Establish Procedure for WC Income Benefits Payments

Texas H-2089, effective September 1, 2011, enacts Section 408.0815 of the Labor Code, relating to the resolution of overpayment or underpayment of income benefits under the workers' compensation program. Section 408.0815 requires the commissioner of workers' compensation to establish a procedure for a workers' compensation insurer to recoup an overpayment of income benefits or pay an underpayment of income benefits in a future income benefit payment. The procedure must include the following elements:

- a process by which an insurer must notify a claimant of an overpayment of income benefits;
- the time frame and methodology by which an insurer may recoup an overpayment through the reduction of a future income benefit payment;
- a process by which a claimant may notify an insurer of an underpayment of income benefits;
- the time frame and methodology by which an insurer must pay an underpayment to a claimant; and a method for coordinating overpayments.

The procedure for recouping overpayments must take into consideration the cause of the overpayment and minimize the financial hardship to the claimant.

The bill may be found online at

<http://www.capitol.state.tx.us/tlodocs/82R/billtext/pdf/HB02089I.pdf#navpanes=0>

Lori Chambers, AIRC

TX Revises Requirement for a Coverage Reduction Notice

Texas H-2655, which became effective September 1, 2011, amends Section 2002.001 of the Insurance Code, relating to notice of coverage reduction on renewal of a property/casualty insurance policy. An insurer is allowed to reduce coverage on renewal without providing a nonrenewal notice if the insurer provides a written explanation of the reduction in coverage to the insured at least 30 days before the policy's renewal date.

The bill may be found online at

<http://www.capitol.state.tx.us/tlodocs/82R/billtext/pdf/HB02655I.pdf#navpanes=0>

Lori Chambers, AIRC



Southwest Region News

Editor: Kathryn H. Rowan, Esq., Christian & Small, LLP
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Southwest Chapter: Arizona, California, Colorado, Hawaii, Nevada, New Mexico, Utah

AZ Provides Guidance on Health Insurer's External Review Process

Regulatory Bulletin 2011-07 was issued on July 21, 2011, to provide guidance to health insurance issuers in Arizona of the impact of the Department of Health and Human Services (HHS) Technical Release 2011-02 on external review processes. The technical release establishes a set of temporary consumer protection standards for NAIC-similar external review processes that apply until January 1, 2014. The bulletin encourages all health plans and health insurance issuers offering individual and group health insurance to voluntarily comply with the regulatory bulletin so that HHS will find that Arizona's external review process complies with the temporary standards.

The state-administered external review process has 13 temporary standards, and states must meet all of the standards to be considered to have an NAIC-similar process. Arizona's existing external review process meets the temporary standards with one exception. Standard #7 requires that the claimant must have at least 60 days to file for an external review after the receipt of the notice of adverse benefit determination or final internal adverse benefit determination. Under A.R.S. §20-2537(B), the claimant only has 30 days after receiving written notice of an adverse decision to initiate an external independent review. The department is strongly encouraging all health plans and health insurance issuers to accept claimants' requests for external independent review at 60, rather than 30, days after an adverse benefit decision.

Please direct any questions related to this Regulatory Bulletin to Mary Butterfield or Susana Lesmeister at (602) 364-2399.

The bulletin may be found online at
<http://www.id.state.az.us/bulletin/2011-07.pdf>

Kathryn H. Rowan, Esq.

AZ Reminds Professionals to Avoid Late License Renewal Fees

Bulletin 2011-03 was issued by the Arizona Department of Insurance reminding Arizona insurance professionals that they can renew their licenses up to 90 days prior to expiration and that licenses must be renewed by or before midnight of the license expiration date. There are no extensions or any grace period for licenses that expire on Saturday, Sunday or a holiday.

Questions should be directed to Steven Fromholtz, Licensing Supervisor, at (602) 364-4455 or sfromholtz@azin-surance.gov.

The bulletin may be found online at
<http://www.id.state.az.us/bulletin/2011-03.pdf>

Kathryn H. Rowan, Esq.

CA Announces Year-End Review Procedures

On August 5, 2011, the California Department of Insurance released a notice regarding corporate applications and similar filings. Corporate applications must be completed by year end 2011 and must have been submitted no later September 6, 2011. Only "perfected" applications will be considered. A perfected application includes:

1. An application form, if a form is required for the filing;
2. Payment of the required fee;
3. All supporting documents in proposed final form;
4. A cover letter explaining the transaction, requesting year-end treatment, and indicating that completion by year end is necessary to remedy a financial urgency, address a California market need or to coordinate approval with other state regulators.

Filings must be submitted in duplicate to the Corporate Affairs Bureau at 45 Fremont Street, 24th Floor, San Francisco, CA 94105. In most cases, applications for a certificate of authority or an organizational permit will not be eligible for year-end completion. Material deficiencies, identified during the review, must be cured no later than November 4, 2011, and those for a holding company application must be cured no later than November 23, 2011, to remain eligible for year-end consent.

Questions regarding the notice should be directed to the Corporate Affairs Bureau at 415-538-4442 or (415) 538-4130.

The notice may be found online at

<http://www.insurance.ca.gov/0250-insurers/0300-insurers/0200-bulletins/bulletin-notices-commiss-opinion/upload/YearEndNotice2011.pdf>

Kathryn H. Rowan, Esq.

CA Passes Long-Term Care Legislation

California Assembly Bill 999, which was sponsored by the California Department of Insurance, protects consumers from excessive premium rate volatility by modifying the long-term care insurance premium rate development process. The bill will now go to the Senate for consideration. AB 999 provides for the following:

- Mandating a waiting period of 5-10 years between rate applications;
- preventing insurers from passing poor investment returns through to taxpayers;
- eliminating the practice of insurers selecting a small group of policies to justify large rate increase;
- prohibiting insurers from using a loss ratio that is a "moving target" to justify raising rates merely to make a profit; and
- requiring insurers to allow consumers to view policy language prior to purchasing the policy.

A news release about the bill may be found online at

<http://www.insurance.ca.gov/0400-news/0100-press-releases/2011/release077-11.cfm>

Kathryn H. Rowan, Esq.

CO Names New Insurance Commissioner

On June 27, 2011, Colorado Governor John Hickenlooper named Rep. Jim Riesberg as the state's new commissioner of insurance. Commissioner Riesberg replaced John J. Postolowski, who was appointed as interim insurance commissioner on December 1, 2010.

Commissioner Riesberg is a Colorado native and has worked for 24 years at various insurance and human resource companies, including Allstate Insurance Co. and Hearth Company Real Estate and Insurance. He was first elected in 2004 to represent House District 50 (Greeley, Garden City, and Evans) in the Colorado General Assembly. At the time of his appointment, he was the current ranking member of the Health and Environment Committee and a member of the Appropriations Committee.

A news release about his appointment may be found online at <http://www.colorado.gov/cs/Satellite?c=Page&childpagename=GovHickenlooper/CBONLayout&cid=1251594822900&pagename=CBONWrapper>

Kathryn H. Rowan, Esq.

CO Addresses Workers' Compensation Premium Audit Assessments

Colorado Bulletin No. B-5.30, issued July 26, 2011, provides guidelines for insurers regarding the fees they charge when an employer fails to participate or cooperate in a workers' compensation audit.

Existing Colorado law requires workers' compensation insurers and Pinnacle Assurance to file rating data with the Insurance Division pursuant to §§10-4-401(3)(b) and 10-4-403, C.R.S, and Colorado Insurance Regulation 5-1-10. This bulletin clarifies that insurers must file with the division any charges, surcharges, or fees associated with the employer not participating in or failing to cooperate with a workers' compensation premium audit. For more information contact the Colorado Division of Insurance at 303-894-7499.

Bulletin 5-5.30 may be found online at <http://www.dora.state.co.us/insurance/regs/B-5%2030%207-26-11.pdf>

Kathryn H. Rowan, Esq.

HI Requires Homeowner Insurers to Submit New Rate Filings

Hawaii Memorandum 2011-1R, issued June 8, 2011, has advised that all homeowner insurers must submit new rate filings by October 6, 2011 or risk the possibility of sanctions. This action was taken after a review found that insurance rates were being charged at excessive levels, specifically losses are at levels that may indicate that returns on equity for the insurance industry are excessive. According to the review, the losses are far below the losses necessary for insurers to earn reasonable rates of return on equity for the homeowner's line of business. The memorandum does not apply to hurricane rates, which are a separate line of insurance.

The memo may be found online at http://hawaii.gov/dcca/ins/commissioners_memo/Commissioner_Memorandum_2011-1R.pdf.

Kathryn H. Rowan, Esq.

HI Calls for Annual Vehicle Premiums

The Hawaii Insurance Division released Memorandum 2011-3R on August 12, 2011, reminding insurers that the Insurance Commissioner must publish annually a notice of availability of a list of all motor vehicle insurers with representative annual premiums for motor vehicle insurance. The division intends to make the listing available on the division's website based on insurers' rates in effect November 1, 2011. Each insurer must furnish representative annual premium quotations to the commissioner no later than September 15, 2011.

Memorandums will no longer be sent to insurers regarding compliance with §431:10C-210, HRS. Updated information will be posted on the division's website annually, placing responsibility of compliance with insurers.

Memorandum 2011-3R may be found online at

http://hawaii.gov/dcca/ins/commissioners_memo/Commissioner_Memorandum_2011-3R.pdf?searchterm=Memorandum+2011+3R

Kathryn H. Rowan, Esq.

HI Issues Training Requirements for Annuity Producers

Hawaii Memorandum 2011-2LIC, issued July 29, 2011, provides answers to inquiries received regarding annuity training requirements for insurance producers. Hawaii has adopted the Suitability in Annuity Transactions Model Regulation, Act 108, which is the NAIC Model. Effective January 12, 2012, an insurance producer authorized to sell life insurance and who is engaged in the sale of annuity products must complete a one-time, four-hour training course on annuity products by January 31, 2012.

The training course must be approved by the Hawaii Insurance Commissioner and must be offered through an approved continuing education provider. Currently, the division is not authorized to recognize annuity training completed in another jurisdiction. Amendments to the Insurance Code are being considered for reciprocity provisions in 2012.

The memorandum may be found online at

http://hawaii.gov/dcca/ins/commissioners_memo/MEMORANDUM_2011-2LIC.pdf

Kathryn H. Rowan, Esq.

NV Issues Medical Professional Liability Reporting Requirements

Nevada Bulletin 11-004, issued June 30, 2011, outlines new reporting requirements for insurers writing medical malpractice. Effective October 1, 2011, insurers must report any malpractice action, claim, settlement, award, judgment or other disposition against an osteopathic physician assistant within 45 days.

Currently, NRS 630.3067 and NRS 633.526 require insurers to report to the Board of Medical Examiners or the Board of Osteopathic Medicine any action filed or claim submitted to arbitration or mediation for malpractice or negligence against a physician. Senate Bill 273 added the requirement that insurers also report to the Board of Osteopathic Medicine any action filed or claim submitted to arbitration or mediation for malpractice or negligence against a physician's assistant.

Bulletin 11-004 may be found online at

<http://doi.state.nv.us/sinfo/bulletin/11-004.pdf>

Kathryn H. Rowan, Esq.

NV Sets Eligibility for Consolidated Insurance Programs

The 1999 Nevada Legislature set the initial minimum estimated total cost, or base amount, needed for a construction project to qualify for administration as a consolidated insurance program at \$150 million. On June 30 of each year, the commissioner is required to adjust the minimum estimated total cost of a construction project to reflect the present value of that amount with respect to the construction cost index. Bulletin 11-003, issued June 30, 2011, sets forth that effective July 1, 2011, to be eligible for a consolidated program, the estimated total cost of a construction project must be at least \$223 million.

The bulletin may be found online at <http://doi.state.nv.us/sinfo/bulletin/11-003.pdf>

Kathryn H. Rowan, Esq.

NV Defines Rules for Industrial Insurance Appeals Panel

An employer in Nevada may request a hearing by the Appeals Panel for policyholder grievances involving premium disputes for industrial insurance that involve:

- employers experience rating modification;
- classification of risk assigned to the employer's business; or
- application of the supplementary rate information assigned to the employer.

However, the Appeals Panel may not consider the effects of the classifications of risks or rules that are applied by all insurers to all similarly classified businesses within Nevada or grievances concerning contested cases for compensation. To request a hearing, the employer must submit a written grievance to the Appeals Panel. These requests should be directed to:

Nevada Division of Insurance
Property & Casualty Section
1818 College Parkway, Suite 103
Carson City, NV 89706-7986

A party to the hearing that wishes to appeal a decision by the Appeals Panel may do so by written application to the commissioner of insurance requesting a hearing within 60 days of receiving the written decision from the Appeals Panel.

Information on the Appeals Panel is contained in NRS 616B.760 through 616B.790 and may be found online at <http://www.leg.state.nv.us/NRS/NRS-616B.html#NRS616BSec027>

Kathryn H. Rowan, Esq.

NM Reduces Credit Life Insurance Premiums

New Mexico Public Regulation Commission released Insurance Division Bulletin No. 2011-010 on August 17, 2011. The bulletin provides for a 10 percent reduction in credit life insurance premiums effective January 1, 2012. Credit accident and health insurance premiums will now be reduced by ten percent and contain the same prima facie rates that are now in effect. These determinations are based on the 2010 statistical statements that established the combined loss ratios of all insurers writing credit life insurance, individual or group, to determine whether they are equal to or if they exceed ninety percent of the loss ratio stated in Paragraph 1 of Sub-section B of 13.18.2.17 NMAC.

Bulletin 2011-010 may be found online at <http://www.nmprc.state.nm.us/insurance/insurance-bulletins/docs/Bulletin2011-010.pdf>

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FDIC Coverage Limited for Aggregated Bank Accounts

The 10th Circuit Court of Appeals has upheld an order by the U.S. District Court for the District of Kansas finding for the Federal Deposit Insurance Corporation (FDIC) in its aggregation of corporate bank accounts in calculating coverage for deposits of Aviva Life and Annuity Co. and American Investors Life Insurance Co. in a failed bank.

District Court Memorandum and Order (Case 09-4025-SAC) said, "On Friday, August 22, 2008, the Kansas Bank Commissioner closed the Columbian Bank & Trust Co. in Topeka, Kansas, and named the Federal Deposit Insurance Corporation (FDIC) as receiver. At closing, plaintiffs had approximately \$11.3 million in twelve deposit accounts at the failed institution. The majority of the funds were held in two accounts, *****668 (containing \$4,242,854.60 and labeled 'Aviva Life & Annuity Operating Account'), and *****794 (containing \$7,098,344.56 and labeled 'American Investors Life Ins Co Inc. Operating Account') (hereinafter referred to as the 'operating accounts'). The other accounts held either \$1,000 or \$10,000 each and bore a variety of titles indicating association with one of a number of subsidiary companies, with account designations such as 'operating account,' 'benefit account,' 'commission account,' and 'accounts payable.' The FDIC determined that all of the plaintiffs' accounts designated as 'operating,' 'commission,' and 'accounts payable' would be aggregated as corporate accounts and entitled to \$100,000 total insurance coverage, pursuant to 12 C.F.R § 330.11, but that their accounts designated as 'benefits' accounts would be separately covered."

Aviva and American Investors contended that the two large "operating accounts" were fiduciary in nature, containing funds intended for annuity contract payments and entitled to the \$100,000 limit per customer in those accounts.

The 10th Circuit Court of Appeals (No. 10-3163) concluded that the FDIC had followed its rules and process in limiting coverage of the "operating accounts" based upon the account naming and signature cards. The FDIC didn't consider the insurers' records to determine whether the per-account limit of coverage (then \$100,000) should instead apply to each contract for which funds were purportedly held in the "operating" account. As a result, Aviva and American Investors received only \$200,000 in coverage through the FDIC for the two multi-million-dollar "operating accounts".

The Kansas District Court Order and Memorandum may be found online at https://ecf.ksd.uscourts.gov/cgi-bin/show_public_doc?2009cv4025-22.

The 10th District decision may be found online at <http://www.ca10.uscourts.gov/opinions/10/10-3163.pdf>.

GAO Summarizes Oversight Capability for Health Insurance

The Government Accountability Office summarizes the oversight capability for health insurance in report GAO-11-701 (July 29, 2011).

With premiums increasing for private health insurance, questions have been raised about the extent to which increases are justified. Oversight of the private health insurance industry is primarily the responsibility of states. In 2010, the Patient Protection and Affordable Care Act required the Department of Health and Human Services (HHS) to award grants to assist states in their oversight of premium rates. The GAO was asked to provide information on state oversight of premium rates.

In this report, the GAO describes states' practices for overseeing health insurance premium rates in 2010, including the outcomes of premium rate reviews, and changes that states that received HHS rate review grants have begun making to enhance their oversight of premium rates.

The GAO surveyed officials from insurance departments in 50 states and the District of Columbia about their practices for overseeing premium rates in 2010 and changes they have begun making to enhance their oversight. The agency received responses from all but one state. The GAO also interviewed officials from California, Illinois, Maine, Michigan, and Texas to gather additional information on state practices. It selected these states based on differences in their authority to oversee premium rates and proposed changes to their oversight, their size, and their geographic location. The GAO also interviewed officials from advocacy groups and two large carriers to obtain contextual information.

The GAO found that oversight of health insurance premium rates—primarily reviewing and approving or disapproving rate filings submitted by carriers—varied across states in 2010.

While nearly all—48 out of 50—of the state officials who responded to the survey reported that they had reviewed rate filings in 2010, the practices reported by state insurance officials varied in terms of the timing of rate filing reviews, the information considered in reviews, and opportunities for consumer involvement in rate reviews. Specifically, respondents from 38 states reported that all rate filings reviewed were reviewed before the rates took effect, while other respondents reported reviewing at least some rate filings after they went into effect.

Survey respondents also varied in the types of information they reported reviewing.

While nearly all survey respondents reported reviewing information such as trends in medical costs and services, fewer than half of respondents reported reviewing carrier capital levels compared with state minimums. Some survey respondents also reported conducting comprehensive reviews of rate filings, while others reported reviewing little information or conducting cursory reviews.

In addition, while 14 survey respondents reported providing consumers with opportunities to be involved in premium rate oversight, such as participation in rate review hearings or public comment periods, most did not.

Finally, the outcomes of states' reviews of rate filings varied across states in 2010. Specifically, survey respondents from five states reported that over 50 percent of the rate filings they reviewed in 2010 were disapproved, withdrawn, or resulted in rates lower than originally proposed, while survey respondents from 19 states reported that these outcomes occurred from their rate reviews less than 10 percent of the time.

The GAO's survey of state insurance department officials found that 41 respondents from states that were awarded HHS rate review grants reported that they have begun making changes in order to enhance their states' abilities to oversee health insurance premium rates. For example, about half of these respondents reported taking steps to either review their existing rate review processes or develop new processes. In addition, over two-thirds reported that they have begun to make changes to increase their capacity to oversee premium rates, including hiring staff or outside actuaries, and improving the information technology systems used to collect and analyze rate filing data. Finally, more than a third reported that their states have taken steps—such as introducing or passing legislation—in order to obtain additional legislative authority for overseeing health insurance premium rates.

HHS and the National Association of Insurance Commissioners (NAIC) reviewed a draft of this report. In its written comments, HHS highlighted the steps it is taking to improve transparency, help states improve their health insurance rate review, and assure consumers that any premium increases are being spent on medical care. HHS and NAIC provided technical comments, which were incorporated as appropriate.

The full report is available on the GAO website at <http://www.gao.gov/new.items/d11701.pdf>.

GAO Reviews Mutual Fund Advertising

As required by the Dodd-Frank Act, the Government Accountability Office has conducted a review of mutual fund advertising. Its findings and recommendation are reported in GAO-11-697 (July 26, 2011).

Mutual funds are one of the most widely held investment products by Americans, and advertising is one method by which investors may obtain information on funds. The Dodd-Frank Wall Street Reform and Consumer Protection Act requires the GAO to conduct a review of mutual fund advertising, focusing on the advertising of past performance information. The report examines what is known about the impact of fund advertisements on investors, the extent to which performance information is included in advertisements, and the regulatory requirements for fund advertisements and how they are administered and enforced.

To address these objectives, the GAO reviewed existing and proposed Securities and Exchange Commission (SEC) and Financial Industry Regulatory Authority (FINRA) rules, conducted a literature review of studies related to the effect of mutual fund advertising on investors, and reviewed a random sample of 300 fund advertisements. The GAO also met with regulators, fund companies, academics, and industry and investor protection groups.

While some academic studies and others have suggested that advertisements that emphasize a fund's past performance can influence investors to make inappropriate investments, the evidence that investors are harmed by these advertisements is mixed.

Some academics believe that because research has shown that past performance generally does not persist and is not predictive of future performance, performance advertisements are inherently misleading. However, some studies illustrate that investors who are influenced by performance advertising may still achieve returns that exceed market indexes or other funds.

In addition, the extent to which investors rely on performance advertisements is unclear. Industry surveys show that investors are increasingly relying on information from financial advisors and other sources and use a variety of information—beyond performance information—when making investment decisions.

The GAO's review of a random sample of mutual fund advertisements also revealed that advertising focusing on performance is generally not common. Of the six different advertising methods included in the review—brochures, press releases, print media, the Internet, radio, and television—the GAO estimated that nine percent emphasized a fund's performance, and 35 percent contained some type of performance information.

For example, many of these included the standardized presentation of the fund's performance over a one-year, five-year, and 10-year period, and others presented information on a fund's performance ranking relative to other funds. Fund company staff noted that although performance information is not the focus of most advertisements investors can still seek it out from required disclosure documents or public websites.

Another factor that helps limit the potential for investors to be misled by fund advertising is an established regulatory review process of fund advertisements used by broker-dealers intended to be seen by the public at the time of first use.

FINRA reviews all advertisements intended to be seen by the public and provides comment letters to fund companies that can require changes that must be made to advertisements or can prohibit advertisements from being used entirely. FINRA, which is overseen by the SEC, also conducts special reviews on emerging industry issues at firms selling mutual funds that can help to identify potentially misleading advertisements.

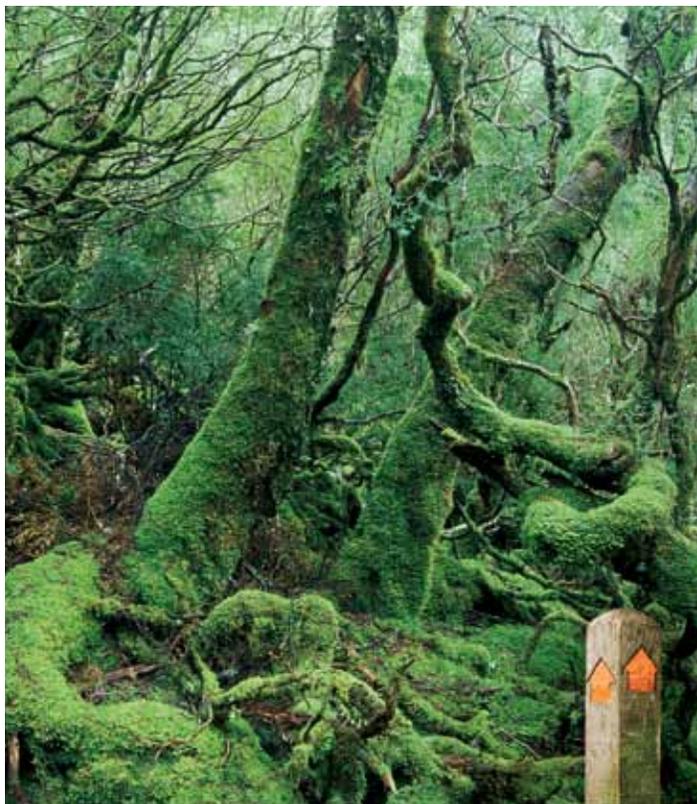
However, fund company representatives expressed concerns that FINRA does not always effectively communicate changes in advertising rule interpretations that arise when the regulatory staff identifies concerns about new material being advertised by fund companies.

Because FINRA communicates some new interpretative positions initially by making comments on advertisements submitted for its review, only those firms that submit new advertisements learn of new interpretations of existing rules. As a result, they may be competitively disadvantaged if other firms attract additional investments by continuing to use previously approved advertisements that do not comply with the new position.

In addition, this uneven method of communicating changes in rule interpretations can result in investors being exposed to advertising that does meet current standards and may be considered misleading.

To help ensure the investors are better protected from misleading advertisements, the report recommends that the SEC take steps to ensure that FINRA develops sufficient mechanisms to notify all fund companies about changes in rule interpretations for fund advertising. Both the SEC and FINRA agreed with the recommendation.

The GAO report is available online at <http://www.gao.gov/new.items/d11697.pdf>.



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CCIR Issues Paper on Credit Scores

On June 17, 2011 the Canadian Council of Insurance Regulators (CCIR) published for comment from stakeholders an issues paper, *Use of Credit Scores By Insurers*. Comments were due August 14, 2011.

The issues paper summarizes findings from a survey of insurers and the status of restrictions on the use of credit scores in Canada. Many of the footnotes point to studies about credit scores done in the United States.

Among the issues identified for comment:

- Inadequate consent
- Unreliable credit data
- Availability and affordability of insurance
- Insufficient disclosure
- Undue impact on certain groups
- Privacy breaches
- Lack of understanding

The CCIR requested comments on the potential risks identified in this report. The CCIR plans to make public comments received on the issue paper. The Stakeholder Letter, Issues Paper and Report on Credit-Based Insurance Questionnaire are on the Credit Scoring Working Group webpage at http://www.ccir-ccra.org/en/init/Credit_scor/Credit_Scoring.asp.

AB Posts Insurance Document Updates

Alberta Finance and Enterprise has published two document updates that may be of interest to insurers:

- Insurance Companies Complaint Liaison Officers – Automobile Insurers Licensed in Alberta (http://www.finance.alberta.ca/publications/insurance/insurance_co_complaint_liaisons.pdf) includes the contact information (name, email, telephone, etc.) for all automobile insurers licensed in Alberta. Some of the information was first reported in 2004.
- Certified Examiners Register established under the Minor Injury Regulation of the Insurance Act (August 15, 2011) (http://www.finance.alberta.ca/publications/insurance/injury_management_certified_examiners.pdf) updates the list of examiners authorized for use under the Minor Injury Regulation.

Alberta Finance and Enterprise is the regulatory body for insurance companies operating in the province.

AB Auto Rate Board Won't Raise Premiums

Alberta's Automobile Insurance Rate Board (AIRB) has announced there will not be an increase in Mandatory Insurance premiums for 2011. Premiums will be kept at the 2010 levels on or after November 1, 2011.

Under Alberta law, the AIRB reviews annually premium levels for mandatory automobile insurance in the province. Mandatory coverage, which is required by law and includes third-party liability and accident benefits coverage, does not include optional collision or comprehensive coverage. Those premiums are set by individual insurance companies.

Additional information is available on the AIRB website (<http://www.airb.alberta.ca/>).

AB Revises Insurance Act

Alberta Finance and Enterprise has announced major changes to the Insurance Act and related regulations effective July 1, 2012.

The highlighted changes to the act include:

- The timeframe to initiate an action will be increased from the current one year timeframe to two years.
- Electronic transactions will be allowed permitting insurers and policyholders to use modern business practices and technology.

Changes to related regulations include:

- Fair Practices Amendment Regulation. This amendment regulation includes new consumer protection provisions that will require insurance companies, their agents, and adjusters to provide full and clear disclosure of dispute resolution processes and limitation periods to clients who have initiated insurance claims.
- Enforcement and Administration Amendment Regulation. This amendment regulation currently outlines the various classes of insurance covered by the insurance industry's Compensation Corporation when an insurance company is liquidated. An amendment is required as a result of changes to some of the classes of insurance in the Classes of Insurance Regulation.
- Classes of Insurance Regulation. The change harmonizes Alberta's Classes of Insurance regulation with other jurisdictions.
- Miscellaneous Provisions Amendment Regulation. This amendment regulation will name the additional insurance perils which, if written by an insurance company in Alberta, trigger a requirement that the company become a member of the General Insurance OmbudService. The regulation also outlines the kind of confidential or commercial information, within a group life and accident and sickness insurance policy, an insurance company may withhold when a person, insured by the policy, requests a copy of the policy wordings.

The landing page for an overview of the changes is available at <http://www.finance.alberta.ca/publications/insurance/alberta-insurance-act.html>. Questions regarding Alberta's New Insurance Act should be addressed to the Office of the Superintendent of Insurance, either by e-mail insurance@gov.ab.ca or by phone 780-427-8322.

BC Revises PIR Filing Procedures

The British Columbia Financial Institutions Commission has published Bulletin INS-11-006, Personal Information Return Filing Requirements (July 2011), requiring directors, senior officers, and significant shareholders of an insurance company or captive insurance company to provide a Personal Information Return (PIR) that includes a personal bankruptcy and criminal records check. This requirement became effective August 1, 2011.

Until this procedural change, the Financial Institutions Commission would accept a check with the completed PIR and order the required records check. Now, the individual must provide the completed records check at the time the PIR is filed.

Financial Institutions Commission Bulletin INS-11-006 is available at http://www.fic.gov.bc.ca/pdf/insurance_bulletins/ins-11-006.pdf.

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NB Surveys Insurers on Insurance Premium Finance Fees

The New Brunswick Insurance Board is surveying automobile insurance companies regarding the availability of financing options for automobile insurance.

Information Bulletin 2011-002, Call for Information - Insurance Premium Finance Fees, asks insurers to answer the following four questions not later than September 30, 2011:

1. Does your company provide a financing option to consumers that allows for premiums to be paid over an extended period (such as equalized billing or similar plans)?
2. Does your company charge a fee to consumers for this service? Or does your company utilize an outside source (premium financing company) to provide this service?
3. What is the fee and how is it determined?
4. How is the finance fee revenue considered within your company New Brunswick rate applications? How does this compare to rate applications in other jurisdictions?

The Informational Bulletin is available on the website of the New Brunswick Insurance Board (http://www.nbib-canb.org/en/uploads/file/pdfs/info_bulletins/2011-002%20NBIB%20Info%20Bulletin%20Insurance%20Premium%20Financing%20Fees%20E.pdf).

ON Revises Dispute Resolution Guide and Forms

The Financial Services Commission of Ontario (FSCO) has published Property Casualty – Auto Bulletin No. A-04/11, Revisions to the Fourth Edition of the Dispute Resolution Practice Code and Revised Forms.

The revised Code and forms are available as of August 2, 2011 and must be used for all submissions after October 1, 2011. Superseded forms received October 1 or later will be returned.

The Bulletin is available on the FSCO site at <http://www.fSCO.gov.on.ca/en/auto/autobulletins/2011/Pages/A-04-11.aspx>.

The revised Guide and forms are available at

<http://www.fSCO.gov.on.ca/en/forms/Pages/default.aspx> (click on Dispute Resolution Services Forms (and Guides)).

ON Newsletter Updates Automobile Insurance Changes

The Financial Services Commission of Ontario (FSCO) publishes periodically its Auto Insurance e-Newsletter (<http://www.fSCO.gov.on.ca/en/auto/newsletters/Pages/default.aspx>).

The Newsletter provides updates on automobile insurance changes, bulletins, improvements to the auto insurance filing system and filing statistics. Filing activity in the last three fiscal years (ending March 31) has increased from 501 (FY 08/09) to 560 (FY 09/10) to 922 (FY 10/11).

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A Section 501(c)(6) tax-exempt organization is classified as a business league. A business league, in general, is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. Trade associations and professional associations are considered to be business leagues. The business league must be devoted to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. It must be shown that the conditions of a particular trade or the interests of the community will be advanced. No part of its net earnings may inure to the benefit of any private shareholder or individual and it may not be organized for profit or organized to engage in an activity ordinarily carried on for profit (even if the business is operated on a cooperative basis or produces only sufficient income to be self-sustaining). The term "line of business" generally refers either to an entire industry or to all components of an industry within a geographic area.

Tax-exempt organizations must make their last three annual information returns and their approved application for recognition of exemption with all supporting documents available for public inspection. Pursuant to changes enacted as part of the Taxpayer Bill of Rights 2, the organization will be required to provide copies of these documents upon request without charge (other than a reasonable fee for reproduction and copying costs). Penalties are provided for failure to comply with these requirements.

If you need the information returns for AICP (IRS Form 990), please contact our Administrative Headquarters. Documents are available only in hard copy.

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The Association of Insurance Compliance Professionals serves over 1,400 members from approximately 500 different insurance companies. Our members are actively involved or have an interest in statutes and regulations on state filing methods and requirements. Association

membership includes personnel from property and casualty insurers, life and health insurers, insurance regulation and specialty operations.

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