



Southwest Region News

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Southwest Chapter: Arizona, California, Colorado, Hawaii, Nevada, New Mexico, Utah

CA Enacts Law to Protect Seniors on Reverse Mortgages

California has a new law to protect seniors from being persuaded to use the proceeds of a reverse mortgage to buy unsuitable insurance products. Assembly Bill 793 prohibits insurance agents and brokers from participating with, employing or making referrals to an individual involved in the sale of reverse mortgages with the purpose of cross-selling inappropriate and unsuitable non-casualty insurance products such as annuities. The bill also prohibits, with certain exceptions, individuals transacting insurance from being compensated, earning a commission, or giving a direct incentive for providing reverse mortgage borrowers with a non-casualty insurance product that is connected to or a result of the reverse mortgage.

Assembly Bill 793 may be found online at

http://leginfo.ca.gov/pub/11-12/bill/asm/ab_0751-0800/ab_793_bill_20110906_chaptered.pdf

Kathryn H. Rowan, Esq

CA Enacts Law to Protect Life Insurance Beneficiaries

California SB 599 protects consumers' rights to choose how they want their life insurance proceeds paid by requiring life insurers to obtain a beneficiary's written declaration as to how the beneficiary wants to receive benefit payment. Under current law, insurers are allowed to place life insurance benefits into a Retained Asset Account (RAA). If the beneficiary does not make a designation, an insurer may issue an RAA only if the form clearly discloses this default option in the section where payment is selected. RAAs have certain features that can make it difficult for a beneficiary to access funds, and they are not protected by federal deposit insurance. The bill goes into effect on January 1, 2012.

Senate Bill 599 may be found online at

<http://e-lobbyist.com/gaits/text/353616>

Kathryn H. Rowan, Esq.

CA Implements Federal Medical Loss Ratio

California SB 51 incorporates the federal medical loss ratios (MLR), provided in the Patient Protection and Affordable Care Act (PPACA) into state law. PPACA requires health plans and insurers to have an MLR of 85 percent in the large group market and 80 percent in the small group and individual markets and also requires rebates to consumers if these MLR requirements are not met. The new state law proposes to strengthen health insurance rate regulation in California by applying federal MLR requirements to individual and group policies.

Senate Bill 51 may be found online at

<http://e-lobbyist.com/gaits/text/74801>

Kathryn H. Rowan, Esq.

CA Bars Discretionary Clauses in Disability Policies

California Department of Insurance-sponsored bill SB 621 passed the California legislature unanimously. The bill would prohibit insurers from overriding a doctor's opinion in denying coverage on a disability claim. Additionally, the bill prohibits disability insurance policies from containing a discretionary clause and prohibits the insurance commissioner from approving disability insurance policies that contain a discretionary clause.

Senate Bill 621 may be found online at

<http://e-lobbyist.com/gaits/text/353912>

Kathryn H. Rowan, Esq.

CA Governor Signs Annuities Protection Bill

California Gov. Jerry Brown signed Assembly Bill 689, which requires insurers to verify that an annuity purchase, exchange, or replacement is reasonably suitable for the consumer, based on the consumer's age, income, financial objectives, liquidity needs and other measures. The new law also gives the state insurance commissioner the authority to revoke an insurance agent's license, impose fines and/or provide restoration of lost money to the consumer when these standards are violated. The new law takes effect January 1, 2012.

Assembly Bill 689 may be found online at

<http://e-lobbyist.com/gaits/text/353257>

Kathryn H. Rowan, Esq.

CO Raises WC Loss Cost Rates in 2012

The Colorado Division of Insurance has announced that the loss costs component of workers' compensation premiums will go up 3.7 percent in 2012. The 2012 increase follows an increase of 3.4 percent in 2011 after nearly a decade of decreases in loss cost rates. According to the division, while the number of claims has remained flat over the last year, medical costs continue to increase. The National Council on Compensation Insurance (NCCI) presented the projected loss cost figures for 2012 at a hearing at the Division of Insurance offices. The commissioner uses the NCCI filing, the actuarial analysis, and public comments to establish the loss costs used for premium rates for the following year.

The NCCI loss cost filing may be found online at

<http://www.dora.state.co.us/insurance/workcomp/2011/wrkrNCCI2011LossCostsOrderFINAL101311.pdf>.

Kathryn H. Rowan, Esq.

CO Launches Health Insurance Website

The Colorado Division of Insurance has set up a new health insurance website designed to assist consumers with understanding the cost of health insurance premiums and how to shop for health insurance. The website will also include information on rate review and other important topics.

The website may be found online at

<http://doraapps.state.co.us/Insurance/Consumer/pages/main.aspx>

Kathryn H. Rowan, Esq.

HI Implements Federal Nonadmitted and Reinsurance Reform Act

Hawaii adopted legislation, Act 68, Session Laws of Hawaii 2011, in conformance with the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRRA). Memorandum 2011-4E, issued on October 8, 2011, provides additional information for nonadmitted insurers submitting business placed on or after July 21, 2011 for compliance with the NRRRA provision.

The memorandum may be found online at

http://www.hawaii.gov/dcca/ins/commissioners_memo

Kathryn H. Rowan, Esq.

HI Issues Annuity Training Requirements

The Insurance Division of Hawaii issued Memorandum 2011-2LIC REVISED on October 18, 2011 to address inquiries regarding annuity training requirements for insurance producers. Hawaii has adopted the NAIC Suitability in Annuity Transactions Model Regulation, and insurers will be responsible for ensuring that insurance producers comply with the annuity training requirement.

Effective January 1, 2012, an insurance producer authorized to sell life insurance in Hawaii 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 conducted by an approved continuing education course provider. Nonresident insurance producers are also required to complete the annuity training requirement if they are going to sell annuity products in the state. The division will recognize the completion of annuity training courses by Hawaii resident and nonresident insurance producers if the courses are approved by another state with annuity training requirements that are substantially similar to the act.

The memorandum may be found online at

http://www.hawaii.gov/dcca/ins/commissioners_memo

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NV Launches Health Rate Review

On September 1, 2011, the Nevada Division of Insurance launched a new section of its website: Nevada Health Rate Review, which is a component of the Patient Protection and Affordable Care Act's requirements for an effective health care rate review program. This website will give consumers the opportunity to view and comment on new health insurance rate filings.

Insurers' rate change applications will be posted to the website for public comment. These consumer comments will be considered as the division reviews rate change applications.

The website may be found online at

<http://rates.doi.nv.gov/>

Kathryn H. Rowan, Esq.

NV Publishes Consumer Resource for Home, Auto Insurance

On November 7, 2011, the Nevada Division of Insurance announced that it has published on its website the policy forms provided by the top 10 insurance groups in Nevada for both home and private passenger automobile insurance. This will give consumers the opportunity to review the policy language prior to purchasing a policy. These policy forms represent the products that the majority of Nevada consumers buy.

The forms may be found online at

<http://doi.state.nv.us/scs/Homeowners.aspx> and <http://doi.state.nv.us/scs/autoform.aspx>

Kathryn H. Rowan, Esq.

NV Offers Exception to Use of Credit Information

On October 31, 2011, the Nevada Division of Insurance announced that consumers who have suffered an “extraordinary life event” may now ask their insurance company to provide an exception to the use of their credit information for underwriting and rating purposes that might otherwise result in an increase in their premium rate. State law typically applies to purchasers of personal auto, home and personal umbrella insurance. It requires all Nevada personal lines insurers to offer consumers an exception to the insurer’s use of credit information, if the consumer provides adequate documentation of an “extraordinary life event.”

These events include a catastrophe, a serious illness or injury, death of a family member, divorce or involuntary interruption of legal alimony or support payments, identity theft, involuntary unemployment for a period of three months or more, military deployment overseas, or other events as determined by the insurer.

More information about Nevada’s regulations on credit-based insurance scores may be found online at

<http://doi.nv.gov/scs/doc/FAQCreditBasedInsuranceScoresB.pdf>

Kathryn H. Rowan, Esq.

NV Appoints Kipper as Insurance Commissioner

Scott Kipper has been appointed insurance commissioner of Nevada, effective October 24, 2011. He had previously served as insurance commissioner from December 2008 to June 2010. After leaving the Nevada Department, he served as the deputy commissioner in charge of the Office of Health Insurance for the Louisiana Department of Insurance.

A news release about his new appointment may be found online at

http://doi.state.nv.us/sinfo/news/Press_10.24.11.pdf

Kathryn H. Rowan, Esq.

NM Issues Requirements for Renewal of Safety Bonus Programs

On October 5, 2011, the New Mexico Insurance Division issued Bulletin No. 2011-011, advising all agents and carriers of the requirements for renewal of Workers’ Compensation Safety Bonus Programs contained in 52-1-6.2 NMAC. Workers’ compensation policyholders who hold a Certificate for a Safety Bonus Program were required to submit a current copy of their program to the Department of Insurance by November 30, 2011. If a copy has not been submitted, the certificate will expire on December 31, 2011.

Bulletin 2011-011 may be found online at

<http://www.nmprc.state.nm.us/insurance/insurance-bulletins/docs/Bulletin2011-011.pdf>

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UT Appoints Deputy Assistant Commissioners

On October 17, 2011, the Utah Insurance Department announced that Insurance Commissioner Neal Gooch has appointed Brett J. Barratt as deputy commissioner and Tanji A. Northrup as assistant commissioner.

The news release announcing the appointments may be found online at <http://www.insurance.utah.gov/docs/PressReleases/PR-Brett-DepCom10-17-11.pdf>

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UT Clarifies Definition of Inducements for Insurance Sales

On November 9, 2011, the Utah Insurance Department issued Bulletin 2011-6 to clarify its interpretation of Utah Code Annotated (U.C.A.) §31A-23a-402.5 and Utah Administrative Code (U.A.C.) R590-154-11 U.C.A. §31A-23a-402.5(6) involving inducements in insurance sales.

U.C.A. §31A-23a-402.5(6), which was added in the 2011 Legislative Session, states: "A de minimis gift or meal not to exceed \$25 for each individual receiving the gift or meal is presumed to be a social courtesy not conditioned on the purchase of a particular insurance product..." That law superceded U.A.C. R590-154-11 which limited the value of promotional items or gifts to \$3. Therefore, the market value of a promotional item, gift, or social courtesy, which includes a meal, may not exceed \$25 per person.

It is unlawful for any insurer, agency, producer, consultant or other licensee under the Insurance Code to condition the receipt of such a promotional item, gift, or social courtesy on the purchase or retention of a particular insurance product. The bulletin does not apply to title producers, title agencies, or title insurance companies.

Bulletin 2011-6 may be found online at <http://www.insurance.utah.gov/docs/bulletins/2011-6Signed2.pdf>

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UT Enacts Laws on Certificates of Insurance, Taxation of Surplus Lines

Insurance laws enacted in Utah in recent months include the following:

- Property and Casualty Certificate of Insurance Act (H.B. 79) modified the Insurance Code to address issues related to certificates of insurance for property and casualty insurance.
- Taxation of Surplus Lines of Insurance (H.B. 316) modified the Code to address the taxation of surplus lines of insurance including prohibiting local taxation and authorizing the commissioner to enter into certain agreements.
- Motor Vehicle Insurance Coverage Amendments (S.B. 174) amended provisions relating to arbitration for motor vehicle insurance coverage.
- Motor Vehicle Insurance – Named Driver Exclusion Amendments (S.B. 99) amended provisions relating to named driver exclusions. Specifically clarifies that if the driver license of a person excluded from coverage has been denied, suspended, revoked or disqualified and the person excluded from coverage subsequently operates a motor vehicle, the exclusion shall proportionately reduce any benefits to any named insured for benefits payable under uninsured motorist coverage, underinsured motorist coverage, personal injury protection coverage, and first party medical coverage to the extent the person excluded from coverage was comparatively at fault.
- Health Reform Amendments (H.B. 128) amended provisions related to state health system reform.

These bills may be found online at <http://le.utah.gov/~2011/bills.htm>

Kathryn H. Rowan, Esq.