

# **INSURANCE ADVISORY COMMITTEE MEETING MINUTES**

## **October 26, 2004**

**Committee Members Present:** Justin Baxter, Ellen Lowe, Richard Kingsley, Krista Fisher, Dean Kortge, Catherine McCann, John Powell, Justin Delaney, Lisa Trussell

**Committee Members Absent:** Laura Cooper, Jim Davis

**Insurance Division Staff Present:** Joel Ario, Shelley Bain, Nancy Boysen, Lewis Littlehales, Carmen Mendiola, Michael Morter, Carol Simila, John Piper

**Others Present:** Lana Butterfield, Toni Chodrick, Muriel Dittler, Waltraut Lehmann, Diane Lund, Brian Miller, Nancy Nevin, Jack Munro

### **I. Division Update**

A. Organizational update and Insurance Division initiatives: Joel Ario

- 1) Customer service
- 2) Transition to Oracle system for our computers
- 3) Rates & Forms SERFF filing system
- 4) Market Analysis and Market Conduct on-site exams
- 5) Jann Goodpaster, Manager, Market Regulation Unit, has accepted a position with American Express as Director of Market Regulation. Her last day with the Division is November 5, 2004.

B. NAIC Report: Joel Ario

- 1) Joel is currently serving as NAIC Vice President.
- 2) New York Attorney General Eliot Spitzer's investigation into insurance brokerage firms, suspected of soliciting rigged bids for insurance contracts has led other states to conduct investigations into possible misconduct in insurance brokering. Insurance companies currently under investigation are Marsh & McLennan Companies, AON, ACE, AIG, The Hartford and Munich American Risk Partners. Some smaller national insurance brokers are also under investigation. Accordingly, the NAIC is reviewing California's disclosure regulations as a possible model for new disclosure requirements designed to ensure consumers are provided the information necessary to understand the manner in which brokers are compensated for the sale of insurance products. OID will meet with stakeholders on December 7, 2004 to discuss Oregon's proposed rules and to determine if more disclosure is needed.

The SMART Act: A Proposal to Streamline the State Regulatory Framework: In August 2004 Congress, Rep. Michael Oxley, chairman of the House Financial Services Committee, and Rep. Richard Baker, chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, released a draft of the State Modernization and Regulatory Transparency (SMART) Act. The proposal includes input from the National Association of Insurance

Commissioners (NAIC), which made public its “Framework for a National System of State-Based Regulation” in June. The report is a roadmap intended to guide the Committee by creating a set of national standards in key regulatory areas. The roadmap addresses 15 areas, including market conduct, licensing, life and health insurance, commercial and personal lines property/casualty insurance, reinsurance and antifraud data exchanges, among other things.

- 3) The SMART bill (State Modernization and Regulatory Transparency (SMART) Act or “Federal Tools Approach”, would replace the existing state-based insurance regulatory system with a uniform set of federal standards for insurance regulation. The proposed legislation would effectively preempt existing state laws regulating most lines of insurance, deregulate insurance rate structures and policy forms, and provide incentives to states that adopt a series of model laws developed by the National Association of Insurance Commissioners. The bill would also create an interstate compact with a single point of approval for new life products and further reform of producer licensing laws. However, three major problems have been identified:
    - a) The State-National Insurance Coordination Partnership – although the partnership would have no formal rule-making powers, it would have the power to arbitrate disputes between the state insurance departments and federal agencies as well as the power to bring lawsuits in federal court in the District of Columbia challenging state actions as impermissible under the terms of the Act. The partnership would have seven members – three insurance commissioners ( one each from a “small”, “medium” and “large” state), one designee each from the Securities and Exchange Commission, the Department of the Treasury and the Board of Governors of the Federal Reserve; and a seventh member nominated by the state insurance commissioners and appointed by the U.S. President to act as its chair.
    - b) Aggressive timetables on preemption, with deregulation of property and casualty rates for both personal and commercial lines within two or three years.
    - c) Residual Market Mechanism requires the capture of losses within one year so the losses as a result of the Florida hurricanes would have to be recouped the following year.
- C. Rules and Legislation – Lewis Littlehales
- 1) The Division has adopted the following rules:
    - a) Market assistance plan (temporary rule)
    - b) Credit scoring
    - c) Suitability
  - 2) Rules the Division is proposing to adopt the following rules:
    - a) Long-term care insurance reform
    - b) Insurance producers regulation
    - c) Permanent market assistance plan
    - d) Privacy & personal information in health insurance
    - e) Worker's compensation insurance reporting requirements

- 3) The Division's Legislative concepts include:
  - a) Homeowners insurance
  - b) Technical clean-up
  - c) Charitable annuity deregulation
  - d) Changes in procedures for establishing market assistance plans and joint underwriting associations.
  - e) Health care service contractor financial standards

D. Publications – John Piper

The consumer complaint report and the *Regulator* should be out sometime in November.

## II. Property & Casualty Insurance Issues

A. Ballot Measure 35

- 1) Joel Ario: The medical malpractice market is improving rather than declining.
- 2) Michael Morter: The "Pinnacle Report" has not been posted on the Legislature's website but drafts are available via e-mail.

B. Multi-state credit scoring study – Joel Ario

The FTC is determined to answer constituency questions regarding the impact of credit scoring. However, this study will not be completed until next fall.

C. Homeowners' bill – Michael Morter

- 1) The Division held two public meetings in the Spring. These meetings followed by several stakeholder meetings. A final stakeholder meeting is scheduled prior to Thanksgiving.
- 2) The homeowners' bill proposes rating and underwriting practices in the following area:
  - a) Three year look-back
  - b) Not counting inquiries and "zero paid" claims
  - c) Natural disaster-caused claims
  - d) Disclosure of how loss history is reported
  - e) Not cancelling or denying homeowner insurance because of adult foster care in the home

D. Rate trends in P&C – Joel Ario

The Oregon market is stable. See Handout identifying the top 10 personal auto and homeowner insurance companies showing improvements in the hard market.

## III. Health & Life Insurance Issues

A. Consumer Driven Health Care (CDHC) – Shelley Bain

Market Analysis is conducting a survey to determine what types of CDHC policies companies are issuing and who is purchasing these policies. Cost transparency is key issue in CDHC. The Division is in the process of developing a page on our website

with consumer information on Health Savings Accounts and high deductible health plans.

**B. Long-term care insurance (LTC) reform – Lewis Littlehales**

- 1) A LTC insurance reform rulemaking hearing is scheduled for December 9, 2004.
- 2) The proposed rule include:
  - a) Activities of daily living standards
  - b) Protections against policy lapse
  - c) Inflation protection
  - d) Requirements for non-forfeiture of benefits
  - e) Disclosure of tax consequences and benefits

**C. Rate trends in Health and Life – Joel Ario**

The Small Employer Health Insurance (SEHI) and portability market rates are under review. Additionally information regarding this review is available on the OID website.

**IV. Insurance issues for next agenda on January 25, 2005**

- Bid-rigging
- Effects of Measure 35 on medical malpractice rates
- 2005 Legislative agenda
- SMART bill and variations

**V. Meeting Adjourned at 11 AM**