



Session Dispatch

(Weekly Insurance News from the Florida Legislature)

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We had an active week in Tallahassee, with the Legislature beginning to narrow down its choices on what major issues have a chance of passage this year, and which may have to wait another year. Next week will not see much action, as the House will only meet for two days, and the Senate will be in adjournment all week, due to Easter and Passover. When they return for their seventh week, they will only have three weeks, or fifteen business days, to complete all of their work. Following are important issues facing our membership considered this week:

FOREIGN TRAVEL BILL CONTINUES TO ADVANCE

The Senate Commerce and Consumer Services Committee adopted the "Freedom to Travel Act" which disallows insurers from refusing to insure, reduce coverage, or cancel, life insurance based upon past travel of consumers. An insurer may limit, reduce coverage, or cancel life insurance based upon future travel if they can prove to the Office of Insurance Regulation (OIR) that such insureds are in a separate actuarial supportable class. Insurers all believe that based upon past interaction with the OIR on this issue that it will be difficult to offer limit losses based upon travel in Florida.

FAIFA is concerned that life insurers will reduce writings in Florida based upon this legislation. FAIFA continues to work with life insurers and the sponsors to add language which will assure that once actuarial support is sufficiently provided, insurers will have the opportunity to limit their losses on individuals who choose to travel to dangerous locations like Afghanistan.

LONG TERM CARE PARTNERSHIP PROGRAM LEGISLATION ADVANCING

Important Florida-enabling legislation to assure that the provisions of the Federal Social Security Act authorizing states to implement long term care partnership programs continues to gain momentum in Tallahassee. HB 947 by Representative Legg was adopted by the House Health and Families Council and sent to the Floor of the House, where we are pushing for adoption in the next four weeks.

This legislation mandates that seniors attempting to enter the Medicaid program to receive nursing home benefits need not first spend down all of their assets to reach the poverty level; instead, assets equaling the amount of the benefit paid by a private long term care insurance policy may be shielded from the mandatory "spend down" requirements. Successful in other States, Florida was not authorized to implement this program until Congress enacted enabling legislation for states beyond the pilot program. The House Committee adopted language sought by

long term care insurers, and supported by FAIFA, to assure that Florida has no additional authority relative to this program other than that granted in last year's Federal legislation. The bill provides rulemaking authority to the Agency for Health Care Administration (AHCA), the Office of Insurance Regulation, and the Department of Children and Family Services in Tallahassee to coordinate and implement this program. The language also requires rules governing the provision of uniform information about the program (probably in the form of a brochure) be distributed by insurers to consumers. FAIFA will continue to push this important legislation.

TAX REVENUES MAY SUPPORT CITIZENS (CPIC)

SB 1012 by Senator Geller was adopted by the Senate Banking and Insurance Committee this week and would direct sales tax revenues generated by repairs after hurricanes to be directed to assist in assuring the solvency of Citizens Property Insurance Corporation (CPIC) and the Florida Hurricane Catastrophe Fund. If a deficit occurs in Citizens from a prior year, 40% of the sales tax funds attributable to expenditures made due to a hurricane would be transferred to Citizens to partially fund the claims deficit, 40% to the CAT Fund to assist in rapid cash buildup, and 20% would be spent by the governor for mitigation and retrofit programs.

House legislation implementing a similar program is also moving. Top state leaders including Governor Bush, CFO Gallagher, and Senate President Tom Lee have been debating whether the use of such funds for what is being termed a Citizens Property Insurance Corporation "bail out" is a wise expenditure. The debate amongst leadership has drifted towards making such an expenditure, if reforms of Citizens are put into place to lessen any such deficit in the future. This is a hotly-contested issue, and it's not clear if this legislation, or some form of it, will be enacted.

LYME DISEASE PANEL LEGISLATION MOVING

HB 1013 by Representative Homan creates a Lyme Disease Panel to study the disease, and make recommendations to the 2007 Legislature regarding treatment, medical research, and insurance coverage. While this is not a direct mandate of additional coverage, it's clearly an attempt to get a panel of experts to make a formal recommendation that could lead to legislation including additional mandatory coverages. This legislation has been enacted by the House Insurance Committee, and is going to be heard by the House Health Care General Committee during week 6 of the Legislative Session.

SENATE ADOPTS FLORIDA TRUST CODE

The Florida Senate has approved a complete rewrite of Florida laws governing the creation and operation of trusts. Deemed the "Florida Trust Code" this new act will impact financial advisory recommendations to clients who choose to form trusts for disposition of assets and family planning for the future. I have not endeavored to report on the lengthy provisions in this act, but FAIFA members involved in the formation and implementation of trusts for clients must get a copy of this legislation and review it to determine the impact of its provisions on your practice.

This act has moved down to the House, where it is expected to obtain approval in the next few weeks.

SMALL EMPLOYER STOP LOSS FUND

HB 1391 by Representative Farkas, establishes the Small Employer Stop Loss Fund within the Office of Insurance Regulation. This bill directs the CFO to invest funds of the program, and the legislation does not provide clear guidance as to the operation of the program. A tied bill, HB 1391, establishes the Florida Small Employer Health Insurance Program, which will provide a new standardized health insurance subsidy plan for small employers. The plan is a state-subsidized reinsurance plan or stop loss program that reimburses health plans for 90% of claims between \$5,000 and \$75,000 on behalf of a member in a calendar year. The plan is designed to make health insurance

more affordable for small employers, and will be inserted into the small group statute in Section 627.6699 Florida Statutes. In effect, the state assumes the role of reinsurer. It is not clear whether this legislation will pass, or if it will be funded, however, FAIFA supports this and other incentives to get insurers writing health insurance in Florida.

LONG TERM CARE RATE AND FORM REFORM CONTINUES TO MOVE

SB 2290 by Senator Fasano, was adopted this past week by the Senate Banking and Insurance Committee. This controversial legislation requires a two-year incontestability provision in long term care policy forms, would require new and existing policies to be charged identical rates, require pooling of experience amongst related insurers and forms, implement the NAIC contingent benefit upon lapse requirements, and require the OIR to adopt a core standardized form for use by all long term care insurers. Long term care insurers vehemently oppose many provisions in this legislation, and are working to get a compromise acceptable to the industry. The Senate did adopt one FAIFA-supported amendment to eliminate the standardized core benefit plan requirement; we were fearful that the standardized plan would eliminate creativity between insurers on what coverages they wish to offer in an open marketplace.

Overall, this legislation is problematic to FAIFA because, if adopted, it would likely move the long term care marketplace closer to the health insurance marketplace by creating additional roadblocks to insurers desiring to write in Florida, and reduce the number of programs available to our agents and ultimately to consumers.

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