



Advisor Newsletter

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LEGISLATIVE AND REGULATORY REPORT

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GOVERNOR VETOS PIP SUNSET EXTENSION

Setting up another year of fighting between automobile insurers, health insurers, plaintiffs trial lawyers, and the medical profession, the Governor vetoed SB 2114 which would have extended the “sunset” of the Personal Injury Protection (PIP) insurance law for another two years beyond the current October 1, 2007 sunset date.

Several years ago the legislature put the automatic sunset provision into law, which will terminate the existence of mandatory PIP coverage late next year. Sunsets are used as a way to force reform or change of a particular law. The legislature held extensive hearings during this past 2006 legislative session on whether to fix, eliminate, or replace PIP, and adjourned by merely extending the sunset date. The move by the Governor keeps the pressure on the legislature to take meaningful steps during the upcoming 2007 legislative session regarding this law. FAIFA joined the chorus of voices in recognizing PIP is broken, and worked to assure that any repeal or fix of the law would not result in an increase in voluntary market health insurance program costs.

CREDIT SCORING RULE IMPLEMENTED

The Office of Insurance Regulation (OIR) is moving forward with implementing proposed Rule 69O-125.005, which places restrictions on the use of credit reports and credit scores by insurers in underwriting. The rule details the information that insurers must submit to the OIR regarding the use of credit reports and scores, and requires insurers to demonstrate that their use of credit reports and scores does not unfairly discriminate against insureds because of their race, color religion, marital status, age, gender, income, national origin, or place of residence.

The rule is under legal challenge by various insurance company trade associations. Usually this means that a proposed rule is not implemented until the legal challenge is ended, however the Governor and Cabinet, sitting as agency head over the OIR, has directed Commissioner McCarty to move forward and implement the provisions of the rule, notwithstanding the pending challenge.

Beginning September 1, 2006, insurers must make amendments to their underwriting guidelines and make substantial submissions to the OIR in connection with rate filings to comply with this proposed rule. I anticipate

that this controversial rule will likely undergo more change before it is finally implemented, and could be partially stricken down by an administrative law judge.

HEALTH INSURANCE IDENTIFICATION CARD CONTROVERSY

HB 1361 included provisions requiring insurers and HMOs to provide all policyholders with identification cards outlining specific information regarding their health insurance or HMO coverage. The bill was sought by medical providers and hospitals in an effort to assist in the processing of patients seeking medical treatment.

The Florida Insurance Council (FIC) has requested that the Governor veto HB 1361 due to timing and other problems associated with getting this card issued. FAIFA will monitor and report any new developments on this legislation, which has not yet been presented to the Governor for his review.

AGENCY REGISTRATION OR LICENSURE DEADLINE LOOMS

In 2005, FAIFA worked hard to reduce the impact of legislation requiring licensure of insurance agencies. While insurance agents have long been required to obtain licensure, Florida is one of only a few states that do not mandate agency licensure.

FAIFA led and won the fight to avoid the license process, and instead offer a registration, for agencies owned solely by insurance agents. All insurance agencies must obtain a license or registration before October 1, 2006. Any agency not complying by this date is subject to substantial fines. There is no fee (again, FAIFA and other agents groups were successful in assuring no agency license fee applied) and you can complete the process online at www.fldfs.com, under the agents link. Any location that an individual uses to perform a function that requires an agent license must be licensed or registered as an insurance agency. This means that an agent that is based in his or her home must also comply.

To qualify for no license, but merely a registration, an agency must have been in business prior to January 1, 2003 and be solely owned by licensed and appointed agents. All other agencies must apply for the agency license. One registration or license does not cover multiple locations of affiliated agencies, each location must comply. Every location must have a licensed and appointed agent in full-time charge of that Agency, and one person may not accomplish that feat for two locations. This requirement is essentially an extension of the current law requiring appointment of a lead agent for each location. If you need reciprocity for your agency with another state, you should apply for a license, not a registration.

Agency licenses are renewed every three years, but registrations need not be renewed. Agencies are not appointed by insurance companies, and in turn need not appoint the sub-agents working at each agency location. Customer service reps still need to be appointed, however. Any agency owner who is not a licensed and appointed agent will need to submit fingerprints as part of the licensure process; obviously this doesn't apply if you qualify for registration.

GOVERNOR BUSH ENDORSES TOM LEE FOR CFO

The Chief Financial Officer (CFO) for the state of Florida is the cabinet level position responsible for primary oversight of insurance agent regulation. The job carries great responsibility, with treasury, comptroller, insurance company, banking and securities regulation all being housed within this agency. Governor Bush recently took a fairly unprecedented step of endorsing a candidate for CFO even though the party primaries have not occurred. Tom Lee is the current Florida Senate President, is Republican, and has been strongly endorsed by Jeb Bush, giving his campaign a strong boost as we head into the final months before the elections. Also running are Representative Randy Johnson (R), and Alex Sink (D). Other candidates may qualify before the July deadline.

NEW CAPITAL INCENTIVE PROGRAM FOR HOMEOWNERS MARKET

The Florida legislature, in SB 1980, created a new program designed to draw new capital into the Florida homeowners marketplace. Entitled the "Insurance Capital Build-Up Incentive Program," the State Board of Administration is moving to publish emergency rules to implement the concept. \$250 million was appropriated in this year's state budget, and insurers which qualify will be eligible, prior to June 30, 2006, for \$25 million in matching funds to be infused into an insurer willing to write at least \$100 million in direct written premium. The insurer would need to reach a total of \$50 million in surplus to qualify, and the funds infused from the State would be in the form of a surplus note, which is essentially a long term loan. After July 1, if any funds are left in the program, insurers can get a one dollar match for every two dollars they raise, as long as the insurer reach's \$50 million in surplus. The intent of the program is to bring more insurers and capital into Florida to write homeowners business, and to assure that such insurers are better capitalized to hopefully withstand years with storms.

DISCOUNT MEDICAL PLAN ORGANIZATION ORDERED TO CEASE BUSINESS

Florida Insurance Commissioner Kevin McCarty has ordered a discount medical plan to immediately cease operations in Florida. American Dental Care, Inc., of Houston, TX, was found to be operating a discount medical plan organization without a license which is required under Florida law and using forms which do not contain necessary disclosures.

The Immediate Final Order was issued to American Dental and its proprietor Michael Mazzini. The organization's website lists numerous dentists and optometrists throughout Southeast Florida with which it allegedly has agreements. "Last year Florida lawmakers determined that these unauthorized plans were a threat to the health, safety and welfare of Floridians and ordered them to submit to reasonable oversight by this office," said McCarty. "We will continue to aggressively pursue those who flaunt these requirements because we have seen too many of these plans mislead Floridians into thinking they were buying health insurance."

Under the order American Dental and Mazzini have five days in which to notify all brokers and salespersons to cease soliciting business in Florida and must notify all subscribers or beneficiaries that the plan will be ceasing business but that all contractual obligations and claims must be honored.

NAIFA Membership: The Valuable Proposition -- Northwestern Mutual Survey

(From a press release issued by NAIFA.)

So what's an insurance company to gain from encouraging its agents to be members of the National Association of Insurance and Financial Advisors (NAIFA)?

To the Northwestern Mutual Financial Network, the gains appear to be significant. It conducted a study of the productivity of its field representatives for calendar year 2005 and found that those who are members of NAIFA produce more than their non-member colleagues. In the comparison, representatives who belong to NAIFA had 62 percent more premium production than non-members, and wrote 40 percent more individual policies than non-members.

Northwestern Mutual also compared the two groups based on their years of service to the company and their age. It found that those who belong to NAIFA are more productive whether they are new to the business or established advisors. Representatives with less than five years of service who belong to NAIFA produced 37 percent more

premium and 40 percent more individual policies than non-members. Likewise, representatives with more than five years of service who belong to NAIFA produced 45 percent more premium and 37 percent more policies than non-members. In the age comparison, representatives under age 40 who are NAIFA members produced 64 percent more premium and 39 percent more policies than non-members, while those over 40 and in NAIFA's ranks produced 59 percent more premium and 55 percent more individual policies than those who are not.

"Our company has supported NAIFA because we recognize no agent association does a better job advocating on behalf of the life insurance industry. With the issues facing the industry, a strong voice in Washington and in the state houses is more critical than ever," said Edward J. Zore, President and Chief Executive Officer of Northwestern Mutual and current member of NAIFA.

"I suspected that NAIFA's many member benefits, including professional development and networking opportunities, would have some effect on this company's bottom line. To learn that NAIFA membership has such a dramatic impact, well, I can only say that clearly the investment our representatives make in NAIFA membership is worth every penny."

David F. Woods, CLU, ChFC, LUTCF, NAIFA's Chief Executive Officer commented, "We are delighted with the results of their (NMFN's) survey. They have looked at their agents' production and quantified the value of NAIFA membership on the company's bottom line. I doubt Northwestern Mutual is alone. I would bet agents throughout this industry are succeeding because they are members of NAIFA."

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