



## **Legislative Update**

**February 2008**

### **Senate Insurance Committee to hold Life Settlement Hearing**

The Senate Banking, Finance and Insurance Committee will hold a hearing on life settlements Wednesday, February 20 in Sacramento. The hearing is entitled "The Growing Life Settlement Industry: Is Anyone Watching out for Consumers?" NAIFA-California Past President Mark Chandik will be providing testimony on behalf of NAIFA-California at the hearing.

NAIFA-California is supportive of life settlements. However, NAIFA-California is opposed to stranger originated life insurance policies (STOLI), a type of life settlement, as they are considered contrived arrangements that hurt the purpose for which life insurance is based – financial protection for families and businesses. Under STOLI schemes, investors entice seniors to purchase life insurance but agree to an arrangement where the investors, after the expiration of a two-year contestability period, stand to profit from the insured's death. Seniors usually receive an upfront payment and the investors agree to finance the premiums. The investors typically profit by collecting the death benefits after the seniors die – and the sooner they die, the greater the profit.

In effect, STOLI promotes wagering on human life and threatens to expose consumers to unexpected taxes, loss of privacy, and inability to obtain life insurance in the future.

NAIFA-California will keep its members updated on the Legislature's interest in life settlement and any movement to address the abuses associated with them as a result of this hearing.

### **Allianz Life Insurance settles California Annuities Complaint**

The Department of Insurance (DOI) has entered into a \$10 million settlement with Allianz for allegedly deceiving seniors into purchasing unsuitable annuities. As part of the settlement, Allianz has agreed to implement a first of its kind suitability review in an effort to avoid aggressive and deceptive marketing tactics geared towards seniors.

The settlement came about as a result of findings from a DOI market conduct examination that revealed that Allianz had deceptively replaced 126 existing annuities for seniors who were between 84 and 85 years of age. The DOI determined that more than 97% of the annuities replaced within this age group between January 2004 and July 2005 were unsuitable.

The examination also found that Allianz had been selling new annuities to seniors that were clearly unsuitable for the needs of the customers by using misleading marketing information that advertised "immediate" and "up-front" bonuses for consumers who purchased annuities, when in fact consumers would not receive the "immediate" bonuses in the form of cash unless they held on

to the annuity for five years and then received their money back in periodic payments for ten years or life.

The suitability review agreed to by Allianz will include:

- An elevated review on all applications submitted from specified individuals 65 years and older
- Follow-up by telephone with all applicants 75 years of age or older, and those living in assisted living facilities, to confirm their thorough understanding of the purchased product
- Amend annuity contracts to make them more understandable to consumers
- Clearly, plainly, and conspicuously disclose the terms of premium bonuses being offered
- Allow seniors impacted by Allianz's supposed unsuitable annuity sales, and named in the Order to Show Cause/Accusation and Notice of Hearing, to request the cancellation of their annuities

NAIFA-California will monitor any additional efforts by the Department to expand such suitability practices in the coming months and will keep its members apprised of any such developments.

A copy of the Allianz Order to Show Cause can be found at [http://www.insurance.ca.gov/0400-news/0100-press-releases/0070-2008/upload/Allianz\\_AR\\_M355N\\_20060213\\_100758.pdf](http://www.insurance.ca.gov/0400-news/0100-press-releases/0070-2008/upload/Allianz_AR_M355N_20060213_100758.pdf).

### **Leadership Posts in the Assembly and Senate Up for Grabs**

Within the class of 34 members that will be termed out this year there are three of the four key Legislative leaders. Senate President Pro Tem Don Perata, Senate Minority Leader Dick Ackerman and Assembly Speaker Fabian Nunez will all leave office at the end of the year as a result of term limits and the defeat of Proposition 93. Although the leaders will leave office later this year, they have indicated that they will not step down as leaders of their respective houses until just before their departure.

With their departure comes the mad dash for members vying to fill the vacant leadership posts. In the Assembly it appears as though there may be 10 members looking to fill the Speakership, although only two members – Assemblymembers Karen Bass (Los Angeles) and Anthony Portantino (Los Angeles) – have formally cited their intention to run for the position. Other members rumored to be interested in the position include Assemblymembers Hector De La Torre (Los Angeles), Kevin DeLeon (Los Angeles), Alberto Torrico (Fremont), Fiona Ma (San Francisco), Charles Calderon (Whittier), Mike Feuer (Los Angeles), Joe Coto (San Jose), and Ted Lieu (Torrance).

Although the Speaker has indicated he will not vacate his position until the end of the year, he has set March 11<sup>th</sup> as the date for a vote to determine who will replace him.

As tradition would have it, typically the houses are represented by members from opposite ends of the state. For example, Speaker Nunez is from Los Angeles; whereas Senate President Pro Tem Don Perata is from Oakland. Should this tradition hold, it is highly likely that the next Speaker will be chosen from the Southern California candidates – particularly in the wake of the Senate Democratic Caucus' decision to elect Senator Darrel Steinberg (Sacramento) as the next President Pro Tem of the Senate. Although the caucus made its decisions almost unanimously, an official vote will be delayed until August 21<sup>st</sup>.

Also up for grabs is the Senate Minority Leadership post. Candidates rumored to be vying for the top Senate Republican job include Senators Dennis Hollingsworth (Murrieta), Dave Cogdill (Fresno) and Bob Dutton (Inland Empire).

Congratulations to Senator Steinberg – NAIFA-California looks forward to working with you in the coming years!

### **Disparity in California Hospital Pricing**

According to a recent study commissioned by large health purchasers, 15 of the state's 20 least expensive and costliest hospitals are in Southern California. An analysis of publicly available data found that the costliest hospitals were charging insurance carriers five times as much as the least expensive ones. The study sponsors said they were troubled by the wide variations in hospital prices, based on 2005 data, and noted that the average charges of hospitals in the Sacramento region were 30% higher than the statewide average for the same mix of services.

The report reiterated what the sponsors of the study suspected: that some hospitals are basing their prices to private insurers and patients on what they can get away with.

The study also looked at the difference between hospitals' costs and what they billed. In all, it found that insurance carriers paid \$18 billion for care that cost the hospitals \$13 billion to deliver in 2005. According to the study, the difference helped pay for the hospitals' \$7.1 billion in losses on their care for uninsured patients and shortfalls in reimbursements from Medicare and Medi-Cal for their care of the elderly and the poor.

The study suggests that Southern California's hospital market is more competitive, allowing insurers to obtain better prices. Hospitals, however, disagree stating that prices vary by local market conditions – a dynamic they say has led to devastating consequences in Southern California where insurers enjoy considerable bargaining power. The Southern California Hospital Association argued that because hospitals tend to be independently owned and located in clusters in Southern California, insurers are able to drive charges lower – so low that some hospitals complain that they don't cover costs.

Seventeen Southern California hospitals have closed in the last 10 years and many more are in financial distress. About 42% of hospitals statewide are operating at a loss, but that figure is about 50% in Southern California.

The study found that Los Angeles has two of the five most expensive hospitals. However, they cost more than the average hospital for different reasons. One provides more care to indigent patients – much of it uncompensated – than any other large hospital in the state. The other provides a lower level of indigent care relative to other hospitals, the study found, but has relatively high underlying costs.

***If you have any questions regarding any of the topics mentioned in this report, or others not mentioned, please contact Shari McHugh, Legislative Advocate for NAIFA-California, at 916/440-0850. Thank you!***