



## **Legislative & Regulatory Update**

**January 2012**

### **Legislative & Regulatory Overview for 2012**

The 2011-2012 Legislative Session is its second year and hundreds of bills are being considered and hundreds more will be introduced by the February 25 deadline. NAIFA-California's Government Relations team has been busy dealing with bills held over from 2011 and preparing to go through all of the newly introduced bills to identify those that are of interest to our members. Below is a brief overview of a few of the issues NAIFA-California will be working on this year and in the years to come.

### **Health Insurance & Federal Healthcare Reform Implementation**

NAIFA-California is continuing to work very closely with CAHU and IBA West on all of the bills that deal with health insurance and the ever-changing marketplace. In addition to working with the Health Benefits Exchange board on building the Exchange and trying to protect the role of the agent inside and outside of the Exchange, the three associations will be dealing with bills that could create a single-payer system, create a "Prop 103" rate approval process for health insurance and help to further implement Federal Health Care Reform at the State level.

We are expecting health insurance issues to dominate the NAIFA-California's legislative agenda in 2012.

### **Suitability**

Last year, Insurance Commissioner Dave Jones and the insurance industry trade associations were successful in negotiating an agreement on legislation that placed suitability requirements on insurance companies and agents selling annuities. This agreement was ten years in the making and we are all hopeful that we will only see clean-up legislation, if anything, revolving around this issue area in 2012.

### **Long Term Care**

Last year, AB 999 was introduced by Assemblywoman Yamada and would have imposed a five-year ban on increasing rates on policies that were sold prior to 2002 and a ten year ban on increasing rates for rate stabilized policies that were sold after 2002. NAIFA-California strongly opposed the bill because the bans would have undoubtedly resulted in higher premiums and/or larger increases after five or ten years, which would have meant that more individuals would have needed to "spend down" so that they could have their long term care costs transferred to Medi-Cal. NAIFA-California and the other opponents were successful in stopping the bill in the Senate but we are all expecting the author to try to move the bill again later this year.

## **Commissioner Jones Reflects on First Year in Office**

Below is a press release that the Commissioner sent out on Tuesday, January 17, the highlighting the important achievements he has made over the past year:

### **INSURANCE COMMISSIONER DAVE JONES REFLECTS ON FIRST YEAR IN NEW POST, HIGHLIGHTS IMPORTANT ACHIEVEMENTS**

Insurance Commissioner Dave Jones marked his first full year in office today by looking back on the California Department of Insurance's (CDI) major accomplishments during 2011.

"A little over a year ago, I took my oath as Insurance Commissioner and pledged to make my Administration one of action," Commissioner Jones said. "I can confidently and proudly say that the Department has fully lived up to that pledge. We have achieved a number of critical successes on behalf of California's consumers consistent with our vision to be the most effective consumer protection agency in the nation."

Major Accomplishments of 2011:

#### **Implementing Health Care Reform**

The Patient Protection and Affordable Care Act (PPACA) signaled a new day for health care in America. Commissioner Jones has made it a priority of his Administration to implement health care reform.

Literally, minutes after being sworn in, Commissioner Jones issued new regulations that require health insurers in the individual market to use a larger percentage of the premiums they collect from Californians to deliver actual medical care, instead of overhead and profit. Then Commissioner Jones successfully sponsored Senate Bill 51 (Alquist), holding health insurers selling to small and large businesses to a similar standard.

Commissioner Jones also issued regulations requiring health insurers to cover children with pre-existing conditions. These regulations will help thousands of California children get the care they deserve without sending their families into financial ruin.

Jones issued regulations preventing "medical rescissions" and establishing a notice and hearing process for consumers. He also oversaw CDI's review of health insurance policies for conformance with health care reforms such as the elimination of lifetime limits on benefits and eliminating co-payments and co-insurance requirements for preventative services.

#### **Fighting Excessive Health Insurance Premium Increases**

The battle to prevent excessive health insurance rates escalated early in 2011 when health insurers proposed new rates that would have saddled consumers with annual cumulative premium increases of up to 87 percent. Although the Insurance Commissioner does not have the authority to reject excessive rate increases, Commissioner Jones was able to reduce health insurance premiums by \$107 million this year by using existing, though limited, review authority.

Commissioner Jones continued the fight to obtain legal authority to protect consumers from excessive health insurance rate increases. He sponsored AB 52 (Feuer) which would give the Insurance Commissioner real authority to reject excessive health insurance rate increases. This authority currently exists for other lines of insurance including auto, homeowners, property, and casualty, and it is imperative to secure the same authority over health insurance. The bill cleared the Assembly and has made it through all Senate committees and is now eligible for a vote on the Senate floor in January.

## **Protecting seniors**

Seniors, among the most vulnerable members of communities, often fall victim to predatory scams. Commissioner Jones succeeded in establishing some new protections for them. The Governor signed two important CDI-sponsored consumer protection bills that became law in January. AB 793 (Eng) is designed to stop insurance agents and brokers from exploiting those seniors who recently acquired a reverse mortgage, by inappropriately inducing them to tie up those same funds in unsuitable annuities or other products.

The second law, AB 689 (Blumenfeld), more broadly protects seniors and others from the sale of unsuitable annuities.

## **Premium Rate Savings for Consumers**

CDI received more than 7,000 rate, rule, and form filings for property and casualty lines of insurance through December 31, 2011. CDI rejected \$50 million in rate increases sought by property and casualty insurers and on top of this obtained close to \$398 million in rate decreases using the authority of Proposition 103, for a total annual savings going forward of \$448 million for California ratepayers.

## **New Workers' Compensation Pure Premium Benchmark**

Recognizing the importance of providing timely and meaningful information to employers about workers' compensation insurance cost trends, Commissioner Jones directed a revamping of the "pure premium" benchmark process. Pure premium is the portion of the workers' compensation premium needed to cover the cost of claims. While the Commissioner does not set workers' compensation insurance rates, each year the Commissioner is asked to recommend a pure premium benchmark which helps employers and insurers better understand cost trends in the market. Thanks to the new process established by Commissioner Jones, a pure premium benchmark was approved for the first time in three years, one which is tied to what is actually happening in the market.

## **Protecting Homeowners from Underinsurance**

With natural disasters like wildfires an unfortunate fact of life in California, Commissioner Jones issued new regulations to protect homeowners from being underinsured. The regulations include setting appropriate disclosure standards for agents and brokers who sell homeowners' insurance and estimate replacement costs.

## **Rooting Out Fraud**

From January through December 2011, CDI's Enforcement Branch racked up more than 784 arrests for crimes that included auto insurance fraud, fiduciary theft, embezzlement and workers' compensation fraud. As a result, the courts ordered \$13.2 million in restitution due to the investigative actions we took against brokers, agents and producers.

CDI also filed lawsuits against pharmaceutical company Bristol-Myers Squibb for showering doctors with illegal kickbacks to get them to write more prescriptions and against Sutter Hospitals for bogus anesthesia billings. Both of these proceedings show CDI's deep commitment to go after fraud that causes undue financial strain on California's health care delivery system.

## **Making Sure Life Insurance Benefits Are Paid to Beneficiaries**

Commissioner Jones held a joint investigative hearing with Controller John Chiang into life insurer death benefit payment practices. The hearing revealed that life insurers with access to the Social Security Administration's "Death Master File" are not using information about deaths to trigger payments to life insurance beneficiaries. Jones has opened, with other insurance regulators, an investigation of the 10 largest life insurance companies to determine whether they engaged in unfair practices in the payment of death benefits under life insurance policies and annuities.

## Other Notable Achievements

- Nine CDI-sponsored consumer protection bills were enacted, including bills to protect consumers from being unwittingly enrolled in life insurance “retained asset accounts” and to protect California businesses from being dragged at their cost to other states to resolve disputes with insurers;
- The Commissioner approved a 12 percent average decrease in residential earthquake insurance rates; and a new component of earthquake insurance that allows homeowners to insure their personal property up to \$2,500 without having to first meet the larger deductible requirements of the structure itself;
- Jones initiated an enforcement action against Blue Shield of California for failing to comply with the California Mental Health Parity Act, and supported legislation, signed by the Governor, to require health insurers and HMOs to cover a proven form of treatment for Autism;
- CDI issued guidance requiring health insurers to provide all financial documentation related to health insurance rate increases for review by CDI;
- Commissioner Jones initiated review of medical malpractice rates paid by doctors, nurses, hospitals and clinics;
- The Commissioner hosted two consumer summit meetings to solicit input from leading consumer organizations;
- CDI initiated a pilot project in cooperation with the California Department of Child Services, encouraging California insurers to help make a significant difference in the lives of children by voluntarily agreeing to offset insurance benefit payments against delinquent child support payments;
- The Commissioner initiated actions that can make progress on improving the environment by approving an auto insurer’s application for Pay-As-You-Drive auto insurance; conducting a Green Insurance Summit; and leading efforts at the National Association of Insurance Commissioners (NAIC) to measure the extent to which insurance companies are responding to climate change and global warming;
- Commissioner Jones also sponsored legislation signed into law to extend the sunset date on the California Organized Investment Network’s (COIN) Tax Credit Program to January 1, 2015. This program encourages investment in underserved communities;
- CDI successfully took over a troubled workers’ compensation company (Majestic Insurance), developed a rehabilitation plan, and transferred the financially troubled company and its business to a healthy insurance company, with no interruptions in coverage for policyholders.

“We have made significant progress for consumers this year,” Jones said. “I look forward to another successful year in protecting consumers and making sure that we have healthy insurance markets.”