PROPERTY AND CASUALTY INSURANCE (C) COMMITTEE

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Property and Casualty Insurance (C) Committee
Denver, Colorado
November 19, 2024

The Property and Casualty Insurance (C) Committee met in Denver, CO, Nov. 19, 2024. The following Task Force members participated: Alan McClain, Chair (AR); Michael Conway, Co-Vice Chair (CO); Michael Yaworsky, Co-Vice Chair (FL); Mark Fowler (AL); Andrew N. Mais and George Bradner (CT); Holly W. Lepresented by Alex Peck (IN); Vicki Schmidt (KS); Mike Chaney (MS); D.J. Bettencourt and Christian Citarella (NH); Alice T. Kane represented by Melissa Robertson (NM); Scott Kipper (NV); Andrew R. Stolfi (OR); Larry D. Deiter (SD); Tregenza A. Roach (VI); and Kevin Gaffney and Rosemary Raszka (VT). Also participating were: Ken Allen (CA); Travis Grassel (IA); Phil Vigliaturo (MN); Cynthia Amann (MO); Gennady Stolyarov (NV); Tom Botsko (OH); TK Keen (OK); and Allen L. McVey (WV).

1. Adopted its Summer National Meeting Minutes

Commissioner Mais made a motion, seconded by Commissioner Conway, to adopt the Committee's Aug. 15 minutes (see NAIC Proceedings – Summer

Insurance (C) Task Force; Workers' Compensation (C) Task Force; Cannabis Insurance (C) Working Grou (Attachment One); Catastrophe Insurance (C) Working Group (Attachment Two); and Transparency and Readability of Consumer Information (C) Working Group (Attachment Three). The motion passed unanimously.

3. Adopted the Premium Increase Transparency Guidance

Commissioner McClain noted that the Premium Increase Transparency Guidance is a voluntary document that, if adopted by the Comm C

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Instructions on how this should be done are included in the guidance. If and when Phase 2 begins is up to each state based on its review of Phase 1 and implementation of Phase 2 considerations. Phase 2 only applies to insurance policies with annual premium increases of $100 or more. In Phase 2, a notice is triggered when the renewal premium increases by 10% or more or upon the policyholder's written request for any increase. Insurers must send disclosure notices at least 30 days before the renewal date. Notices must have reasonable explanations and include primary factors of the premium increase. Primary factors are defined in the guidance. A suggested template for auto and homeowners disclosure notices is included in the guidance. For both phases, insurers must respond to a policyholder's written request for explanation no later than 30 days for the first request and 20 days for subsequent requests.

Dave Snyder (American Property Casualty Insurance Association—APCIA) said he appreciated that the guidance is a voluntary document that could be modified or not adopted by a state. He said the document is labeled as guidance, and that should be emphasized. He said he appreciates the footnote that clarifies that Phase 2 may or may not occur and that the individual state would set the timetable.

Tony Cotto (National Association of Mutual Insurance Companies—NAMIC) said the process has been exemplary over the past several years in terms of responsiveness and dialogue. He said NAMIC still does not support the adoption of the guidance and recommends that Phase 2 should be deleted as it would increase compliance costs and could expose proprietary trade secrets.

Commissioner Chaney made a motion, seconded by Commissioner Yaworsky, to adopt the Premium Increase Transparency Guidance (see the Transparency and Readability of Consumer Information (C) Working Group's Nov. 12, 2024, minutes, Attachment Three). The motion passed, with Indiana abstaining.

Petitt said QuantivRisk works with insurance companies in this space. Claims adjusters are often unaware that this data exists, so they do not ask for it. He said auto OEMs fund their research and development (R&D) through insurer claim payments. OEMs are not paying for damage when they are responsible.

Nelson said the law should develop so that a neutral platform would leverage VRD to serve as an objective clearing house between insurers, consumers, auto OEMs, law enforcement, lawyers, and state insurance regulators. He said consumers should have the right to decide who uses the data. VRD can improve claim settlement accuracy and efficiency, reduce frictional cost in claim settlement, potentially lower automobile insurance rates, and enhance consumer experience with claim adjusters who understand advanced vehicle systems.

Banking, Housing, and Urban Affairs; 3) less activity on risk retention groups (RRGs); 4) less interest in climate-related data; 5)

"isomers" (delta-8, delta-9, delta-10). Delta-8 and delta-10 are present in smaller quantities than delta-9. The World Health Organization (WHO) estimates delta-8 is about 50%–75% as potent as delta-9 (but not widely studied or understood). Hemp is federally legal and regulated by the U.S. Department of Agriculture (USDA) as an agricultural plant. The legalization of hemp was done with a focus on hemp as a commodity crop (i.e., textile). Post legalization, CBD could be chemically converted into delta

Cannabis and hemp-derived cannabinoid products are highly technical subjects. This makes it difficult to educate others, including legislatures. Additionally, legislators are focused on a range of issues, resulting in an education gap. There is disagreement regarding how to define "impairing" and how to treat non-natural products (synthetics). There is no or limited regulatory authority over cannabinoid hemp products. The lack of research hinders regulators' ability to make decisions on many of these molecules. There is limited federal engagement, increased challenges in understanding data on safety and adverse events, and increased consumer confusion about what is legal, safe, tested, and intoxicating.

The approaches states are taking include banning, regulating like marijuana, regulating like hemp, or using a hybrid approach. Some states, like California, have banned intoxicating hemp cannabinoid products. Other states, including Maryland, Nevada, and Oregon, regulate all or some cannabinoid hemp products through state cannabis regulators. Oregon [illegible]

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includes liability arising from 1) third parties (e.g., an already impaired customer), 2) collateral exposures, such as the potential increased crime risk for a landlord renting to a cannabis business, 3) products used outside of the intended purpose, such as a prepackaged brownie mixed used for edibles, and 4) exposure of reimbursing for legal growing, such as a homeowners policy in the event of a fire. Without an objective impairment standard and a reliable method to measure impairment, insurers continued to have concerns about roadway and workplace safety. Carriers are also concerned about coverage mandates and previously approved exclusions being rejected. While no state has mandated that admitted insurers provide coverage, going as far back as 2018 in California, admitted insurers were publicly encouraged to write for the legal cannabis industry. Some states have attempted to pass legislation "allowing" admitted carriers to write in their state without fear of prosecution, but these measures cannot provide protection from federal prosecution. The largest barrier is still the continued federal illegality of cannabis and the fear of federal prosecution.

The Secure and Fair Enforcement Regulation (SAFER) Banking Act would provide a safe harbor for the financial industry, including insurance, to do business with the legal cannabis industry. It would provide the insurance industry the certainty it needs to provide services to the legal cannabis industry. It would also address the collateral risks for companies not directly involved with the cannabis industry but still doing business (grow light and irrigation manufacturers, etc.). While the SAFER Banking Act is not expected to pass this year, there will likely be movement in the next Congress.

Rescheduling cannabis to Schedule III does not solve the federal illegality problem. Many of the same laws and uncertainty will still apply. It will open the door to more research, which is necessary to develop an objective impairment standard and reliable test for impairment. This is key to keeping roadways and workplaces safe as legalization continues.

Having no other business, the Cannabis Insurance (C) Working Group adjourned.

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