



Gallagher, Callahan & Gartrell PC

*Shaping Success<sup>SM</sup>*

# AVOIDING THE REGULATOR'S WRATH THROUGH CONSUMER – FOCUSED PRACTICES

Presented by

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to

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# Agenda

- I. Insurance Regulation Purposes & Goals
- II. Consumer – Focused Adjustment Practices
- III. Question/Answer

# Insurance Regulation Purposes & Goals

- A. History and Evolution
- B. Solvency & Financial Regulation
- C. Market Regulation & Consumer Protection
- D. Modernization
- E. NH DOL Regulatory Interplay (Worker Compensation)
- F. Federal Insurance Oversight
- G. National Association of Insurance Commissioners (NAIC) Commissioner Sevigny

# Insurance Regulation Purposes & Goals

## A. History and Evolution

- 1600s
- 1800s local community
- 1851 First Insurance Commissioner in US appointed
- 1871 NAIC established
- 1879 Uniform Financial Statements
- 1945 McCarran-Ferguson Act
- 1973 IRIS
- 1989 NAIC Accreditation Program
- 1990s – Present NAIC Modernization Initiatives

Source: Professor Robert W. Klein, “A Regulator’s Introduction to the Insurance Industry”, prepared for NAIC Education & Research Foundation

# Insurance Regulation Purposes & Goals

## B. Solvency & Financial Regulation

- Minimum Capital & Surplus
- What regulator wants is all that matters; statutes are meaningless on this point
- Risk-Based Capital (action levels tied to ratios)
- Reserves & Investments
- Financial Reporting & DOI review
- Examinations
- NAIC Accreditation

# Insurance Regulation Purposes & Goals

## c. Market Regulation & Consumer Protection

- Market Conduct Examinations: complaint, market or compliance issues DOI MCE Unit
- NAIC Market Regulation Handbook 2011 (900 pages!) RSA 400-B
- Purpose: assess how well marketplace and individual companies are in compliance with laws
- Specific exams, market reports & other company filings are primary tools
- Continuum of regulatory responses: contact, examination, enforcement & closure

# Insurance Regulation Purposes & Goals

## c. Market Regulation & Consumer Protection (cont.)

- i.e. contact: correspondence, interrogatories, interviews, other stakeholders, policy, procedure & self audit reviews
- Exams: desk or on- site (targeted or comprehensive)
- Underwriting/rating: marketing; claims handling, etc. are the focus of exam (Handbook)
- Length of Time & Expense

# Insurance Regulation Purposes & Goals

## D. Regulation Modernization

- Globalization of insurance/financial services
- OFC
- Regulator & Constituency Relevancy
- NAIC initiatives: consumer information, producer licensing nationwide, “speed to market” product developments, electronic filings, UCA procedures, etc.
- Continuous process

# Insurance Regulation Purposes & Goals

## E. NH DOL Regulatory Interplay (Worker Compensation)

In addition to DOI:

- Claims adjudication process at DOL
- Managed Care Networks
- Advisory Council
- NCCI
- SIGs

# Insurance Regulation Purposes & Goals

## F. Federal Insurance Oversight

- Battling since Civil War (Klein)
- Interstate business/ Commerce Clause
- Most recently: Dodd Frank Law (July 2010)
- Federal Insurance Office
- Preempts state law to extent FIO determines state law inconsistent with international agreement
- Comments Dec 11, 2011; FIO Report January 2012 on how to modernize insurance regulatory system (Questions)

# Insurance Regulation Purposes & Goals

- G. National Association of Insurance Commissioners (NAIC)
  - States use NAIC very heavily to define, coordinate & carry out regulatory responsibilities
  - Consists of all of the state insurance regulators & territories and DC
  - Sophisticated, professional quasi-regulatory body with top notch staff; not just a trade association
  - Model laws, rules, SVO, Financial and Market resources

# Consumer – Focused Adjustment Practices

- A. Laws & Rules
- B. It's a Behavior
- C. Creating the Experience!
- D. Communication & Engagement
- E. Market Conduct Examination Case Study
- F. Practical Guidance for Keeping Your Company Out of Trouble & You Working!  
(DOI Checklist)

# Consumer – Focused Adjustment Practices

## A. Laws & Rules

- RSA 407-12-15
- RSA 407-D
- RSA 417:4 (XV) & (XX)
- INS 1002.01-20
  
- Bulletins
- MCE Reports & Orders

# Consumer – Focused Adjustment Practices

## B. It's a Behavior

It's really pretty simple..., but it must be a behavior, not simply a task, function, etc.

# Consumer – Focused Adjustment Practices

## c. Creating the Experience!

Everything today is about creating an exceptional experience for the customer. That's it. Nothing else really matters in the long run.

# Consumer – Focused Adjustment Practices

## D. Communication & Engagement

- The number one source of lawsuits against lawyers!
- The number one pet peeve of regulators about adjusters.

# Consumer – Focused Adjustment Practices

## E. Market Conduct Examination Case Study

How you get involved and what to do when you do! Better, how to avoid it!

# Consumer – Focused Adjustment Practices

- F. Practical Guidance for Keeping Your Company Out of Trouble & You Working! (DOI Checklist)

# Contact Information

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