ISSUE
6
2013

NCOILETTER

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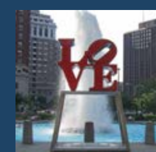
NCOIL SUMMER MEETING
July 11 - 14
Philadelphia, PA
www.ncoil.org



Fact Findings: What a Common Procedure Says about U.S. Health-care Expenditures

A June 1 New York Times article entitled "The $2.7 Trillion Medical Bill: Colonoscopies Explain Why U.S. Leads the World in Health Expenditures" shed light on the alarming state of U.S. healthcare costs—specifically, on what commonly performed U.S. colonoscopies cost and why—compared to similar figures around the globe. Below are findings from key studies cited in the article:

A 2012 comparison of average prices for common drugs, scans, and procedures amongst developed nations by the International Federation of Health Plans found that the U.S. retained the highest costs in every category.

A study from the Commonwealth Fund found that the cost of a hospital stay in the U.S. is about three times larger *(cont. sidebar page 2)*

FIO RELEASES ANNUAL REPORT, LOOKS AHEAD TO MODERNIZATION STUDY

On June 12, the Federal Insurance Office (FIO) released the first of two much anticipated reports on the insurance industry, both mandated by Dodd-Frank. As people await the potentially controversial report on insurance modernization, due in January 2012 and frequently postponed, the report released in June describes the financial health of the industry in the wake of the 2008 financial crisis. Interested parties are poring over the June report looking for clues as to what FIO plans to address in its next release.

Along with various financial details, the June 12 report signals four areas of concern for the industry. For life insurers, the current low-interest rate environment could shift the balance between risk and returns. At the same time, an aging population is driving the need for more lifetime income protection, as well as driving up the initial cost estimates of policies sold years ago. Property-casualty insurers, meanwhile, have taken hard hits from natural catastrophes, including $44.2B in 2011, the second-costliest year on record. Still, the report optimistically notes that both sectors have opportunities for growth in emerging markets *(cont. on page 4)*

U.S. AND EU TAKE FIRST STEPS TOWARD MAJOR TRADE PACT, INSURERS AND FINANCIAL FIRMS EXPRESS CONCERNS

As the United States and the European Union prepare to begin talks on an historic trade agreement in Washington, D.C., on July 8, insurers and financial firms are concerned over their ability to compete under a new trade regime. One of the primary goals of the Trans-Atlantic Trade and Investment Partnership (TTIP), which will establish the world's largest free trade zone if ratified, is to harmonize regulations between the U.S. and EU.

While the business sector is generally optimistic about improved regulation, property-casualty insurers remain wary of the U.S. adopting European-style rules. The Property-Casualty Insurers Association of America (PCI) has warned against taking on stringent European requirements that consumer information be stored locally, claiming that such data storage could prove very costly for U.S. companies in Europe.

In a letter sent to Congress on behalf of the Business Roundtable, an association of company executives, financial firms argue that domestic proposals to raise capital *(cont. on page 4)*

Fact Findings…
(cont. from p. 1)

than those in other developed countries, even though the average length of stay is roughly the same.

According to the **Workers Compensation Research Institute**, once gastroenterologists bought into an ambulatory surgery center, the number of procedures they performed rose 27 percent.

Although the U.S. Preventive Services Task Force recommends **use of lower-cost tests** for colon cancer—such as sigmoidoscopies, which do not require anesthesia—colonoscopies remain the most used.

A University of Texas study by Dr. James Goodwin estimates that **roughly a quarter of Medicare patients** undergo colonoscopies more often than needed.

A RAND Corporation study found that between 2003 and 2009, the use of anesthesiologists in colonoscopies doubled, and **payments per patient quadrupled**. The RAND authors also said that by dropping the use of anesthesiologists in colonoscopies, which are generally not needed, the United States could save $1.1 billion a year. ■

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POINT-COUNTERPOINT: FORCE-PLACED INSURANCE

Challenging the Mortgage Safety Net

By J. Kevin A. McKechnie

Throughout the economic crisis, the state that often led the nation in foreclosures and underwater mortgages was New York.

Consequently, it was among the states with the greatest number of borrowers who were no longer able to insure their homes and had hazard or flood coverage – or both – placed, as required, by their mortgage contracts.

And then came Sandy.

Thousands of homeowners relied on lender-placed insurance to repair their homes, even if they were about to be foreclosed upon. Without insurance, many would have been forced to pay back the lender for their house's value instead of rebuilding it with insurance proceeds.

This safety net exists to protect consumers.

Homebuyers pledge their homes as collateral in exchange for mortgages. Lenders agree to accept the home as collateral so long as the homebuyer agrees to insure it. And, if a homeowner is unable to keep his end of the bargain, irrespective of the reason, the lender will obtain coverage at the homeowner's expense.

> *...the landscape of regulation is changing and the industry has made amends for perceived misdeeds; however, the requirement for lender-placed coverage remains an absolute necessity...*

For decades, this carefully calibrated arrangement of responsibilities protected lenders and borrowers alike from loss should the collateral be damaged. It's a basic part of the mortgage agreement.

Well, things change. The safety net, and the industry that administers it, has fallen under criticism.

Agency comissions are standard in insurance but have been discouraged here. Accusations of "kick-backs", which would be illegal, and "outrageous pricing" lace the rhetoric. Lender-placed insurers cover properties sight unseen, regardless of risk, which of course necessitates a higher price – rates which are approved by state regulators.

Given the abundance of accusations and the preference for monetary compensation instead of civil penalty, it's clear the effort was more about making lenders and insurers pay restitution for doing nothing more than adhering to their contracts and engaging in practices about which regulators had full knowledge than about helping consumers. Everything was fine, right up until it wasn't.

As a result, the landscape of regulation is changing and the industry has made amends for perceived misdeeds; however, the requirement for lender-placed coverage remains an absolute necessity to the successful operation of mortgage markets.

This episode is now behind us. When next a long established complex system comes under scrutiny, perhaps the industry and its regulators can approach reform with more grace. Consumers have a right to expect it.

J. Kevin A. McKechnie is Senior Vice President & Director of ABA's Office of Insurance Advocacy, representing the American Bankers Insurance Association, an ABA subsidiary.

Kicking the Kickbacks out of the Force-Placed Insurance Market

By Joy Feigenbaum

A legitimate business can't be built on a foundation of kickbacks.

Unfortunately, however, a New York State Department of Financial Services ("DFS") investigation revealed that the force-placed insurance industry relied on a kickback culture that placed far too many families at risk of falling over the foreclosure cliff.

While force-placed insurance is a legitimate product within the mortgage market, the problem we uncovered was that numerous banks were receiving incentives from insurers to purchase high-priced policies...

While force-placed insurance is a legitimate product within the mortgage market, the problem we uncovered was that numerous banks were receiving incentives from insurers to purchase high-priced policies that placed a heavy burden on homeowners.

After DFS's investigation, 100 percent of the New York force-placed insurance market entered into agreements with DFS to end these unfair practices in our state. But until other states across the country follow suit, millions of other homeowners will remain at risk.

Insurers in other parts of the country continue to drive up premiums through "reverse-competition." Rather than competing for business by offering lower prices, insurers are offering banks and servicers a cut of the profits, which has pushed homeowner premiums sky-high.

These incentives can take several forms. Many servicers have affiliated insurance producers that receive commissions and other compensation from insurers for services the producers purportedly provide. However, insurers do most of the work involved in placing force-placed insurance, including tracking insurance coverage and communicating with homeowners. Consequently, this arrangement incentivizes servicers to purchase costly policies and place homeowners in force-placed insurance.

Force-placed insurers have also entered into quota share reinsurance arrangements with servicers' captive reinsurers. These arrangements foster higher premium rates and low loss ratios. Indeed, these arrangements have been highly profitable for servicers because of the consistently low loss ratios for force-placed hazard insurance. Force-placed insurers receive a ceding fee as a part of the reinsurance transaction, so that the higher the premium rate, the more the insurer receives. The arrangement also incentivized servicers to refrain from submitting claims and to delay or inhibit the claims process because their affiliates earn more when claims are not paid.

DFS has implemented groundbreaking reforms in New York that protect against these serious force-placed insurance abuses. It is now time for state and federal officials to adopt these measures nationwide in order to protect our country's homeowners.

Joy Feigenbaum is Executive Deputy Superintendent, Financial Frauds & Consumer Protection Division of the New York State Department of Financial Services (DFS).

FIO Report: A Few Key Findings

The June 12 FIO report entitled *Annual Report on the Insurance Industry* is 53 pages of charts, graphs, and other ways of detailing insurers' financial performance, legal and regulatory developments, and current issues and emerging trends, among other items. Included in the report is the following info:

Aggregate **L/H premiums reached record levels** in 2012—with life insurance generating 20 percent, annuities 53 percent, and the rest generated by products such as disability and LTC.

The ten largest P/C insurance **groups wrote nearly half of the P/C premium** in 2012—though there are more than 2,700 P/C insurers.

Before the financial crisis, the **securities lending program of AIG** alone was $76 billion. In 2011, however, the aggregate volume of the lending programs of more than 200 insurers was $56 billion.

In 1997, U.S. reinsurers wrote more than 60 percent of the premium ceded to U.S. insurers. As of 2011, **that number was 42 percent**.

Aging of the Baby Boomer generation and declining fertility rates mean than insurers may be faced with **liabilities on lifetime annuity contracts** that exceed what was assumed when the produced were priced/sold.

While total **global premium volume grew 90 percent** in 2001, U.S. premium in that time grew only 33 percent. ■

NCOILetter

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FIO REPORT...

(cont. from page 1)

like Asia and Latin America.

The report makes clear that although the life and property-casualty sectors have largely recovered from the financial crisis, long-term solvency remains a priority for FIO. FIO has been active in international efforts to shore up insurer solvency, working with the IAIS on group supervision and ComFrame, as well as participating in the EU-U.S. Insurance Dialogue Project. In Congressional testimony delivered the day after the release of the report, FIO Director Michael McRaith made clear that his department's primary focus is on preventing a systemic crisis. ■

U.S. AND EU...

(cont. from page 1)

requirements, such as Brown-Vitter legislation, will put U.S. companies at a competitive disadvantage under TTIP. The letter also calls for financial firms to be included in TTIP negotiations. This has alarmed Senators Sherrod Brown and Elizabeth Warren, as well as certain consumer groups like Americans for Trade Reform, who fear that firms will use TTIP to trump current laws and to weaken existing Dodd-Frank regulations.

The NCOIL International Insurance Issues Committee will address what lies ahead in the U.S.-EU negotiations when it meets on Friday, July 12, in conjunction with the July 11 to 14 NCOIL Summer Meeting in Philadelphia, Pennsylvania. ■

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