

L&A Legislative and Regulatory Tracking, Research, and Implementation Tips



Legislative & Regulatory Sources

- Locating and maintaining data
- State-based system of regulation creates a unique and sizable challenge for the US insurance industry
- Federal impact
- More than 2,000 titles of state and federal law currently contain insurance-relevant content
- There are approximately 1,100 state and federal agencies currently issuing regulations and guidance documents directly affecting insurance industry

Regulatory Sources

- State agencies - many use websites to communicate regulatory information
- Email Alerts - agency supplementary services that can notify recipients of new or amended bulletins and rules, and summaries of insurance-sponsored legislation ... extremely limited in its availability

Regulatory Sources

Registers

- Publication schedules vary widely. While 16 state registers are published weekly, most of the remaining states publish either biweekly or monthly
- Likewise, the scope of registers is inconsistent. Some of these registers are “Notice Only,” requiring the individual to contact the agency directly for the actual regulation text
- Not all registers are in electronic format. One of the weekly registers is “paper only,” presenting the possibility of mail delays
- Not comprehensive...very few registers publish bulletins and other guidance documents

Legislative Activity Sources

- State and federal legislative web sites are acknowledged as the primary public sources for information about insurance-relevant lawmaking activity

Legislative & Regulatory Sources

- Complexity of the content - needs monitoring at the chapter and citation level in order to truly ensure understanding of and compliance with the changes or new requirements
- “All the time” - at any point in time in each year’s regular and special legislative sessions, requirements subject to change, repeal, or additions
- Variations in legislative timing: state legislatures publish introduced bills, as well as the final enacted text, according to different and inconsistent timeframes
- Enacted-interim text is sometimes available in advance of chaptered versions

Legislative & Regulatory Sources

- Implementing all those changes is key
- Non-implementation or de-implementation can lead to unacceptable levels of exposure to noncompliance risks and increased costs
- Fines, penalties, restitution, negative publicity,

“Change” Management

- Over 22,000 individual statutes, regulations and bulletins impacting the insurance industry were created, revised, repealed or issued in 2010
- At this level, technology can play a significant and efficient role
- Manual systems cannot keep up with the volume

The Road to Analysis and Implementation

Timing & Communication

- Time is “of the essence” for regulatory compliance professionals
 1. Business concerned about identifying the requirement
 2. Does it apply to us?
 3. If so, how?
 4. What needs to be done (high level)?
 5. Who will do it?

Roadmap to Implementation

- Electronic delivery of accurate and timely regulatory source documents
- Business impact analysis
- Routing to the appropriate functional areas
- Tracking and monitoring of change implementation
- Validation that the regulatory changes were correctly implemented
- Ongoing reporting to assure continued compliance and immediate corrective action in the event of de-implementation

Challenges?

Regulatory Change Management Challenges

- Universe of requirements
- Not static
- Manual systems
- Business unit silos
- Risk awareness

Policies & Procedures

Policies and Procedures & Regulatory Change

- Go “hand in hand” with a change management program
- Not currently mandated
- Expectations include a growing number of mandates
- Increasing trend toward procedural review as a key component of regulatory examinations
- Executive commitments and best practices
- Coordination across the organization
- Employees understand responsibilities
- Documentation/attestation

Policies and Procedures Review

Just like our dynamic regulatory environment

- Policies & procedures need constant review
- Cannot remain static
- Require regular review even if no changes result
- Routine roll-out to affected staff

Policies and Procedures - Triggers for Change

- Regulatory compliance
- Evaluate company-specific track record in market conduct examinations/enforcement actions
- What are recurring issues?
- What were corrective action plans?
- Prioritize these areas for attention

Policies and Procedures

- Shared system improves compliance
- Partners with regulatory change management
- Allows standardization across business units
 1. Underwriting, claims, product development, and licensing departments may have different formats/terms
 2. Ease of access to credible and current set for internal auditors or insurance regulators
 3. Here's what we do and how we do it
 4. So, when a revised regulation/law routs through, efficiencies can be gained and transparency enhanced
 5. Mitigates failure opportunities

Policies and Procedures Systems

- Overall quality of policies and procedures documents should improve
- Staff can locate relevant documents in far less time
- Elimination of inconsistencies
- Elimination of redundancies
- Easier for compliance managers to determine gaps (i.e. what is missing?)

Policies and Procedures

- Centralized shared system gives visibility to those in compliance
 1. Who has read/attested to
 2. Employees and third parties would only see policies and procedures that affect them
- Goal = Should be able to go “back in time” 1 year out, 2 years out...and know the exact P&P in place and who attested
- Always know what regulatory change occurred and how it was accounted for
- Documentation and retention

Current L&H Issues

A Look at Some Recent Activity

A Look at Some Annuities Suitability (or what needs to be tracked, assessed, implemented)

- Colorado - 3 CCR 702 4-1-11 - Effective April 1 (but has new proposed revisions effective 8/1/11)
- District of Columbia - 26 DCMR 8400 to 8407 - Effective Dec. 24, 2010
- New York - "Emergency Regulation No. 187"
- North Dakota - HB 1160

A Look at Some Recent Activity

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- Rhode Island - Regulation 12 - Effective June 1, 2011
- Ohio - Rule 3901-6-13 Effective July 1, 2011
- Oregon - 836-080-0170 to 0193 Effective July 1, 2011
- Wisconsin - 628.347 - Effective May 1, 2011

A Look at Some Recent Activity

- California:
 1. 2695.185 to 2695.192
 2. SB 715
- Connecticut: 38a-432a-1 to 38a-432a-7
- Hawaii: HB 1051
- Maryland: Proposed revised regulations
- Michigan: HB 4328
- Minnesota: HF 1134/SF 877
- New York: AB 563
- South Carolina: Regulation 69-29
- Texas: SB 2277; SB 2278; SB 1415

Colorado Readability effective 1/1/12

- Text of the policy form not to exceed the 10th-grade level, as measured by the Flesch-Kincaid grade level formula, or not less than 50 as measured by the Flesch reading ease formula
- Insurer to report the readability scores prior to the issuance/renewal of policy or the use of the form
- Policy form to contain an index or table of contents if the policy is more than 3 pages in length or if the text of the policy exceeds 3,000 words...not less than 10 pt
- Applies to health benefit plans, limited benefit health insurance, dental plans, and long-term care plans

RAA - Suggested Disclosures

- Payment of the full benefit amount by “draft book” / “check book.”
- One draft or check may be written to access the entire proceeds
- Preservation of options until the entire balance is withdrawn or the balance drops below the insurer’s minimum balance requirements
- A statement identifying the account as either a checking or draft account and an explanation of how the account’s features works
- Information about the account services provided and contact information where the beneficiary may request and obtain more details about such services
- A description of fees charged, if applicable
- The frequency of statements showing the current account balance, the interest credited, drafts/checks written and any other activity

Retained Asset Accounts - Suggested Disclosures

- The minimum interest rate to be credited to the account and how the interest rate credited will be determined
- The interest earned on the account will/may be taxable.
- Retained asset account funds are guaranteed by either FDIC or the state's guaranty fund association (SGA)
- Retained asset account funds held by insurance companies are not guaranteed by FDIC, but are guaranteed by the SGA's
- Beneficiary should be advised to contact the National Association of Life and Health Insurance Guaranty
- Information regarding retained asset accounts that may become inactive

Retained Asset Accounts Activity - 2011

Legislative

- California - SB 713/ SB 599 (P)
- Indiana - SB 360 (P)
- Kentucky - HB 309 (E)
- Maryland - SB 217 (P)
- Nevada - AB 274 (P)
- New York - AB 683/SB 504 (P)
- Oregon- HB 2480 (P)
- Pennsylvania - HB 718 (P)
- Texas - HB 2152 (P)
- Virginia - HB 1458/SB 1388 (E)

Regulatory

- Colorado - B-4.12
- Connecticut - Bulletin IC-27
- Iowa - Bulletin 11-01
- Maine - Bulletin 376
- Maryland - 31.09.14.05 (A)
- Nebraska - CB-125
- New Jersey - Order A 11-101
- Ohio - Bulletin 2011-01

Trusts & Associations - Rhode Island

Regulation 117 proposes:

- All individual or group insurance coverage and health benefit plan delivered, issued for delivery, or renewed in this state on or after June 1, 2011:
 1. Must meet all applicable requirements of the applicable insurance laws of the state where the individual resides, or group location
 2. All forms shall include a term providing that the insurance regulatory agency and courts of the jurisdiction in which the individual resides or the group is located shall have jurisdiction over the individual or group insurance coverage as if such coverage or plan were issued directly to the insured.

Health Rate Oversight

- Connecticut HB 5079: Proposes requirement that the Department hold a public hearing for proposed health insurance rate increases - **Pending**
- Washington HB 1220/SB 5120 - **Effective 7/22/11**
- South Dakota SB 43 58-17-4.1 Premium rates charged for any individual accident and health insurance policy issued pursuant to this chapter shall be filed with and are subject to the approval of the director - **Effective 7/1/11**
- California OAL approved request for an emergency regulation providing DOI authority to enforce Medical Loss Ratio - **Adopted**

REQUIRED INFORMATION FOR CARRIERS TO OBTAIN

Colorado E-11-04 - On All Full-length Applications for Individual Health Benefit Plans

- Immediately establishes the requirements for:
 1. employees and small group employers
 2. require carriers to request the information necessary to comply with the requirements of SB 11-019 in a consistent manner to avoid consumer and employer confusion

We know what can happen...

New York \$225,000

- Failing to provide a revised Disclosure Statement when the life insurance policy issued differed from the life insurance policy applied for and to correct deficiencies involving Disclosure Statement or Definition of Replacement forms or reject applications within ten days from the date of receipt of the application and
- Failing to furnish the existing insurer a copy of the sales material used in the sale of the proposed annuity contract and the completed Disclosure Statement within ten days of receipt of the application

January 2011

We know what can happen...

New York

- A single finding in a July 2010 exam “Respondent failed to process certain claims within the time limitations specified in Section 3224-a of the Insurance Law” resulted in a \$154,000 fine
- That same criticism was made in a February 2011 exam, resulting in a fine of \$160,500

Some E-Day Tips for Regulatory Change Management

- Consistent and comprehensive data
- Workload of reviewers
- Reviewers' prioritization
- Turn-around-time
- Quality of analysis on business impact
- Accuracy of business unit assignments
- Quality of implementation efforts
- Timeframes for implementation with documentation
- Verification of steps to completion with documentation
- Reporting (ongoing)
- Creation of consistent transparency

Questions?

