NORWOOD & ASSOCIATES
This Week in Sacramento

October 14, 2016 Sacramento, California

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State Senate

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Speaker Rendon Names Assemblymember Ken Cooley as Next Rules Committee Chair

Assembly Speaker Anthony Rendon (D-Paramount) today announced that Assemblymember Ken Cooley (D-Rancho Cordova) will become the chair of the Assembly Rules Committee on November 1, 2016.

"I believe Assemblymember Cooley's long experience in the Capitol, both as an Assemblymember and staff, makes him the ideal choice for this important role," Rendon said. "Assemblymember Rich Gordon has been an outstanding Rules Committee Chair and I am grateful he is staying on until November to help ensure a smooth transition as we prepare to launch the upcoming legislative session."

The official letter announcing the appointment is here.

The Future of Insurance

Over the next decade, the insurance and third party administrator landscape will continue to evolve. Here is a look at the top risk trends and challenges facing insurers and their stakeholders.

With a third of the U.S. population consisting of millennials (adults from ages 18 to 34), it has come to the realization of many industries that their products need to fit into the millennial world to survive.

One of the differences between the millennial generation and those that came before is that their households look different. According to the Pew Research Center, only about a quarter of millennials are married, as opposed to the Baby Boomer generation, in which half were already married by 34.

One way this affects insurance is that it is hard to sell life insurance to millennials. Less than a quarter of millennials have term or whole life insurance compared with over half of baby boomers and less than a fifth of millennials say they are likely to buy life insurance.

Another instance of the change in the millennial generation is the use of the sharing economy. While 85% of the older generations never use rideshare companies (Uber, Lyft, AirBNB), approximately a third of millennials use them frequently. Furthermore, Goldman Sachs reports that 60% of millennials would prefer to rent things like homes and cars instead of owning them. Because they would rather rent homes, millennials aren't purchasing homeowner's insurance. As a result, insurers will have to shift their focus to offering more renter's insurance, and create innovative insurance options for the sharing economy that fill potential coverage gaps.

According to Towers Watson, 88% of millennials prefer usage-based insurance to coverage based on conventional determinants, such as age and gender. Also, 84% of millennials state that they would change their driving behavior in order to obtain cheaper car insurance (compared to only about half of the older generations).

While 50% of baby boomers bought home insurance policies from local insurance agents, only a quarter of millennials did. Millennials overwhelmingly don't trust insurance companies. An IBM Institute for Business Value survey reports that, "89% of millennial consumers believe friends' comments more than company claims" and "93% of millennial consumers usually read reviews before making a purchase."

Along with the use of agents slowing with the millennial generation, the use of technology to research, purchase and manage insurance policies is rising. The traditional, large insurers like Progressive, Geico and State Farm are already playing in the digital arena but may have competition from other typically non-insurance retailers.

Google had a failed attempt at selling insurance with Google Compare. Many believe that Google failed because it does not understand the insurance business while some experts in online insurance shopping believe that Google realized it could make more money with its AdWords pay-per-click business than it could selling insurance and other financial products online. Others are advising independent agents not to read too much into the demise of what is just one of numerous online insurance competitors.

Amazon already offers Amazon Protect which is their own-brand insurance product to protect against damage and theft. They clearly see opportunities to create efficiencies and make a profit through offering insurance on products they already sell. Small steps into the insurance world such as this opens the door to offering other products without diving in as Google did. Because life insurance isn't as attractive to the millennial generation as it was to the older generations, there have been speculations that this would be the best product to enter into the digital age, in order to try and capture interest.

From catering to this new generation, becoming involved in the sharing economy, understanding and switching to a new digital age, and re-evaluating standard products and ways of reaching the consumer, insurers have a lot to keep up with as the millennial generation continues to grow older.

Cybersecurity Regulations for Insurers

As insurance companies have increasingly moved to electronic storage media and as the vulnerability of that media has become more apparent, Congress and state legislatures have enacted numerous laws to help protect the privacy and security of confidential and personal consumer information. While the state laws are largely based upon the National Association of Insurance Commissioners' (“NAIC”) Model Acts, states' insurance-specific laws vary in their treatment of consumer information and insurance companies often find themselves bound by other generally applicable state and federal laws as well.

The NAIC has been working toward a comprehensive list of obligations for insurance companies to ensure the privacy and security of consumer information since at least 2014, when the NAIC Executive Committee appointed a Cybersecurity Task Force: “to serve as the central focus for insurance regulatory activities related to cyber security.” In April 2015, the Task Force adopted the Principles for Effective Cybersecurity Insurance Regulatory Guidance (the “Cybersecurity Principles”) in order to set forth the expectations for how to effectively protect the insurance sector's data security and infrastructure. In December 2015, the Task Force presented a Roadmap for Cybersecurity Consumer Protections which established a proposed “Consumer Bill of Rights” with respect to how insurance companies will secure and ensure the privacy of non-public consumer information. Neither the Cybersecurity Principles nor the Cybersecurity Roadmap, however, impose enforceable obligations on companies in the insurance sector.

Earlier this year, the Task Force followed the Cybersecurity Principles and Cybersecurity Roadmap with a proposed “Insurance Data Security Model Law.” Unlike the Cybersecurity Principles and Cybersecurity Roadmap, the 2016 Model Act provides a template for uniform, enforceable obligations for insurance companies with respect to cybersecurity. State insurance regulators are able to adopt the 2016 Model Act or, at a minimum, use it to modify their existing regulatory frameworks.

California's Attorney General set a standard earlier this year for pre-breach security measures for most national insurers since, as a practical matter, the composition of a national insurer's customer base is likely to expose the insurer to California's privacy laws. The Attorney General issued a series of recommendations as part of its latest Data Breach Report that, among other things, caution all organizations subject to California law that a failure to implement all the Center for Internet Security's Critical Security Controls that apply to an organization's environment constitutes a lack of reasonable security under California's personal information security statute. As California's Attorney General has explained, the CIS Controls “define a minimum level of information security that all organizations that collect or maintain personal information should meet.”

This week, the New York State Department of Financial Services (DFS) took it a step further and proposed cybersecurity regulation for financial services companies that aims to protect New York State’s financial services industry from an increasing risk of cyber-attacks, Governor Andrew Cuomo announced.

The proposed regulation is the first of its kind in the U.S. It requires banks, insurance companies and other financial services institutions that are regulated by the Department of Financial Services (DFS) to establish and maintain a cybersecurity program designed to protect consumers and ensure safety within New York’s financial services industry.

The proposal, which allows firms to create and enforce their own programs as long as they meet minimum certification standards, also requires employee training in cybersecurity to prevent human errors. It requires each company to assess its risk profile and design a program that uniquely addresses its needs. It also calls on senior management to oversee company cybersecurity programs and file annual certification confirming compliance with the regulations.

This move toward heightened cybersecurity regulation comes as the DFS has closely monitored increasing cyber risk as criminals seek to gain sensitive electronic data by capitalizing on advances in technology. The state sees its financial services industry as a significant target for cyber threats, and while many firms have proactively increased cybersecurity programs, regulators believe more rigorous standards must be set.

Lawmaker Proposes Limits to Campaign Contributions

This week, Assembly Member Marc Levine introduced a proposal that would limit the amount of money that could be given to candidates for state and local offices by political parties. Currently, political parties can give an unlimited amount of money to candidates, unlike the strict limits that are placed on donations from individuals and corporations. This was a result of the passage of Proposition 34 in 2000, which placed caps on the contributions from individuals while leaving political parties free to give as much as they wanted.

Levine has stated that he will introduce a bill addressing this in December when the Legislature reconvenes, saying that California needed to take charge of the issue instead of waiting for Congress to address it. “Sacramento needs to stop finger pointing at Washington to reverse Citizen’s United and start taking steps here in California to stop unlimited campaign contributions that lack disclosure. We need to look ourselves in the mirror and stop waiting for Congress, where we know nothing will get done.”

Levine and others have said that wealthy groups and individuals use political parties as a means of circumventing the limits placed on them, and that undisclosed donations have been rising steadily in recent years. He cited the Republican billionaire Charles Munger Jr., who is one of the major donors to the California Republican Party, and others have pointed to the large amounts of money given to the California Democratic Party by labor unions.

While some are optimistic about this measure and hope that it will work to get big money out of politics, others are doubtful that it will make it through the Legislature to be signed into law. Robert Stern of the Center for Government Studies has said that he does not have high hopes for the Legislature passing a bill that will limit party spending, and stated that “It will take a ballot initiative to get this through.”

Bigger Dueling Rate Cuts

Insurance Commissioner Dave Jones is now officially considering competing recommendations for a 2017 pure premium rate cut. The recommended decrease is between 4.3% and 8.2% for new and renewal workers' compensation policies. Jones heard presentations this week from the Workers' Compensation Insurance Rating Bureau (WCIRB), as well as from the actuary representing employers and organized labor on the key cost drivers behind the proposals. Following testimony on Tuesday, Jones ordered the record closed, starting the 30-day clock ticking for the Commissioner to issue a decision.

The key cost difference between the two recommendations largely centers on the projection for medical costs moving forward. Declining medical costs are the main driver of the rate cut in both rate proposals, but the public members and WCIRB differ on methodologies for estimating the total impact.

The public members are supporting a rate decrease that is nearly double what the WCIRB is proposing. The public members stated that the difference in the recommendations is based on long-standing differences in methodology linked to trending and a difference in what years are impacted by the reforms.

Overall, the public members' recommendation expects medical losses to account for $0.81 of this recommended rate of $2.12 per $100 of payroll. In comparison, the WCIRB recommended rate of $2.22 allocates $0.95 for medical losses. The current average approved pure premium advisory rate is $2.32 per $100 of payroll based on the mid-year rate cut.

Included in both recommendations are expected savings from the just signed legislation to cut down on medical provider fraud and to get fraudulent medical liens out of the system. Both stated that the measures added at least a penny of savings in their rate recommendations, but the overall savings are likely to be higher in the end. At this point, however, there is not enough information to include additional savings in the rate recommendation. Similarly, the public members noted that the upcoming workers' compensation prescription drug formulary will also be a cost saver, but until the regulations are finalized neither side is making a formal estimate of the projected savings at this time.

Under the schedule outlined by Commissioner Jones, a rate decision should be out in early November if not before the end of this month.