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Insurance Industry Turns to Lobbyists

As its practices come under increasing scrutiny and challenge, companies are reaching out for assistance.

BY MARC LIFSHER
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SACRAMENTO — Autumn is supposed to be a quiet time for lobbyists in the state Capitol, with the Legislature in recess and most politicians safely home in their districts.

Try telling that to veteran insurance lobbyist John Norwood. The lawsuit New York Atty. Gen. Eliot Spitzer filed last month challenging insurance industry practices sparked a wildfire that spread to California, as regulators here rushed to grab a share of Spitzer's headlines.

Norwood was besieged by anxious clients — from Wall Street insurance giants to Main Street brokers — after California Insurance Commissioner John Garamendi proposed rules that would obligate brokers to find the “best available” coverage for clients and to fully disclose insurer commissions.

“I spent yesterday in five conference calls on this,” Norwood



ROBERT DURELL *Los Angeles Times*
BUSY TIMES: Lobbyist John Norwood at his office in Sacramento.

said. “From 8 a.m. to 5 p.m., I talked to a national insurance company with a hookup to all its governmental affairs people ... then I made three calls to trade associations and a consulting call with a research group.”

Insurers have cause for concern. Garamendi has the authority, after a public comment period, to put the rules into force, so long as the state's Office of Administrative Law finds no legal objections.

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It's Norwood's job to find ways to head off Garamendi, and he's well prepared. For three decades, he has been in the middle of the scrum in most major insurance struggles in California, from the fallout over 1988's Proposition 103 auto insurance initiative to last spring's massive overhaul of the workers' compensation system.

"He's no slouch about representing his industry if it wants him to kill a bill," said Brian Perkins, the top staffer at the Senate Insurance Committee. "But he's a creative thinker and does try to solve problems."



VETERAN LOBBYIST: John Norwood says the proposed insurance rules "are so broad that they're almost impossible to follow."

Although he's considered the dean of the Sacramento insurance lobbying corps, the 54-year-old Norwood is just one of many players. There are about two dozen lobbyists working on behalf of insurance interests in the Capitol; they include salaried employees of insurance firms and trade associations as well as independent advocates, like Norwood, who are hired on retainer.

Insurance companies spent about \$21 million for lobbyists and related expenses in the 2003-04 legislative session, according to records kept by the secretary of State's office. That's about twice the amount spent on lobbying by banks and other financial institutions and about a quarter of the lobbying bill racked up by the state's much larger manufacturing sector.

On top of that, insurance interests kicked in \$6.5 million in political contributions for state candidates and ballot measures during the same period.

"In the Legislature, their power is staggering," consumer advocate Amy Bach of United Policyholders said of the insurance industry. "They blanket the Capitol with sheer numbers of lobbyists."

Senate Insurance Committee Chairwoman Jackie Speier (D-Hillsborough), known as a consumer advocate, has been a frequent adversary. She said insurance companies "are persuasive because they are big campaign contributors ... and they can use intimidation."

Last year, industry lobbying helped kill a Speier bill that would have spared homeowners the expense of buying new title insurance when they refinanced. Speier succeeded in winning passage of an industry-opposed privacy bill to limit the sharing of personal information that year, but only after three years of defeats.

Perkins, the insurance committee staffer, said the industry spent more than \$20 million fighting the privacy bill, recalling "rooms full of lobbyists during marathon sessions" of committee meetings.

Garamendi is hoping to sidestep a dust-up in the Legislature by amending his department's own regulations under the state Insurance Code.

The rules he has proposed would require insurance brokers and agents to take "reasonable measures" to ensure that clients get the best available coverage that meets their needs. Brokers and agents would also have to disclose all commissions and other perquisites they receive from insurance companies.

The measures are designed to address consumer complaints — bolstered by Spitzer's lawsuit against brokerage Marsh & McLennan Cos. — that brokers steered clients to insurance companies who pay hidden, backdoor commissions. Brokers who violate the rules could lose their licenses and be fined up to \$10,000 for each incident.

"There's an ethical and legal obligation to represent the interests of the consumer," Garamendi said. "They have to present the best available deal to the consumer."

Norwood said Garamendi's proposals would pose an unfair burden to agents and brokers, especially those who sell auto and homeowners coverage.

"In our view the regulations are so broad that they're almost impossible to follow," Norwood said. "A perfectly legitimate compensation system is being defamed by a few [brokers] and the illegal conduct they are engaging in.

" Brokers who get most of their income from client fees could probably live with the added disclosure requirements, Norwood said. But agents who get paid primarily by insurance company commissions will fight having to tell buyers about every commission, bonus and free trip they get, he said.

Norwood and other insurance industry leaders and lobbyists are plotting their tactical response. Their first defense will be filing objections to Garamendi's proposals. The industry may seek to narrow the disclosure and conflict-of-interest requirements to sellers of commercial insurance, several industry experts said, and also will argue that requiring brokers to find the "best available" insurance is impractical.

"We don't know how far this goes for the requirement to get other quotes and get the best price," said Scott Hauge, a San Francisco broker. "If we miss a market, are we violating the spirit of the law?"

The best available policy rule would "increase litigation in the state tremendously," added Robert Hogeboom of Los Angeles, a lawyer for the American Agents alliance, an agents and brokers trade association.

If Garamendi isn't swayed by these arguments, insurers would then take their case — and assertions that the commissioner is exceeding his authority — to the Office of Administrative Law, which is responsible for making sure that all government regulations are legally drafted.

There, insurers will find someone who is at the least familiar with their viewpoint. The office is headed by William Gausewitz, a former assistant vice president of the American Insurance Assn., who was recently named by Gov. Arnold Schwarzenegger to the post. And Gausewitz is hardly the court of last resort. If he doesn't block the regulations, the insurers could challenge the rules in court. They also could press friendly lawmakers for legislation to override Garamendi's regulations.

"I guarantee you that come January ... you will see a stampede of insurance companies or insurance producers running to the Legislature like a child to his mama, saying protect me, protect me, protect me," said Norman Goldman, a Los Angeles lawyer who specializes in lawsuits against insurers.

Garamendi said he didn't fear such an end-run: "I am very sure that the Legislature is not going to, in any way, make it easier for consumers to be ripped off, whatever the power of the industry."

And Norwood? Ever the cautious advocate, he is simply advising his clients to keep all their options open.

"We don't know where this thing is going," he said. *

Ready to fight

California insurance industry lobbyists are girding for battle over proposed rules that would force brokers to:

- Disclose third-party income and potential third-party income, such as commissions from insurance companies.
- Put the financial interests of clients above that of their own financial interests.
- Provide clients quotes from the "best available" insurer, and to "take reasonable measures to obtain a quote from an insurer that might be a best available insurer." Los Angeles Times