NATIONAL COUNCIL OF INSURANCE LEGISLATORS
FINANCIAL SERVICES COMMITTEE
ATLANTA, GEORGIA
MARCH 3, 2018
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Financial Services Committee met at The Whitley Hotel in Atlanta, Georgia on Saturday, March 3, 2018 at 1:15 p.m.

Senator Bob Hackett of Ohio, Chair of the Committee, presided.

Other members of the Committees present were:

Rep. Sam Kito (AK)
Sen. Jason Rapert (AR)
Asm. Ken Cooley (CA)
Rep. Joe Hoppe (MN)
Rep. George Keiser (ND)
Sen. Jerry Klein (ND)
Asm. Andrew Garbarino (NY)
Rep. Bill Botzow (VT)

Other legislators present were:

Rep. Charisse Millett (AK)
Rep. Paul Mosley (AZ)
Rep. Bryon Short (DE)
Rep. Darlene Taylor (GA)
Sen. Thomas Middleton (MD)
Sen. Paul Wieland (MO)
Sen. Ed Buttrey (MT)
Rep. Glen Mulready (OK)

Also in attendance were:

Commissioner Tom Considine, NCOL CEO
Paul Penna, Executive Director, NCOIL Support Services, LLC
Will Melofchik, Legislative Director, NCOIL Support Services, LLC

MINUTES

Upon a motion made and seconded the Committee unanimously approved the minutes of its November 16, 2017 meeting in Phoenix, Arizona.

PRESENTATION ON PROMOTING FINANCIAL EDUCATION FOR INSURANCE CONSUMERS

Professor Brenda Cude, Ph.D., of The University of Georgia, stated that insurance is often taught in schools but typically only as part of a personal finance course, which itself is typically part of another course. In 2015, 45 states included personal finance in their K-12 standards. In 2018, the number is still 45. Many state that personal finance should be taught at home, but Prof. Cude noted that some parents are uncomfortable talking about money, and often when she hears from her students what their parents told them, the parents are wrong. Prof. Cude stated that every state includes economic education in their K-12 standards, and while that is important, she thinks that teaching personal finance is much more important. Prof. Cude further stated that it is actually surprising that personal finance is taught as much as it is across the country given the number of different topics that are lobbied to be put in curriculum. A lot of the focus now is on “soft skills” such as social engagement and showing up on time. Prof. Cude stated that of those 45 States that include personal finance in their K-12 standards, there is not always a requirement that it be taught. In 22 states there is a requirement that a high-school course be offered that includes personal finance education; in 17 of those states there is a requirement that students must take that course; and there are 7 states that require a standardized test on personal finance. In Georgia, every school district has to teach economics and personal finance must be included therein. Every student must take and pass the economics class which includes a separate test on personal finance.

Prof. Cude stated that The Council for Economic Education (CEE) issues a report every two years wherein they identify state progress in teaching personal finance. The most recent report identified 5 states as having done an exceptional job in promoting economic and personal finance education: Georgia, Michigan, Missouri, Texas, and Utah. Utah is the only one of that group that requires separate personal finance and economic courses to be taken. Prof. Cude urged the legislators to look at the report to see what their states are doing in these areas and noted that States such as Montana and California are not recognized in the report because there are no State-level requirements – there may schools in those States that are teaching economics and personal finance voluntarily.

Prof. Cude stated that at a conceptual level, it is clearly important to teach personal finance, and there is research that shows high-school personal finance education corresponding to increased personal savings and investing. Research also shows that individuals from states that require personal finance education have higher credit scores. The research, however, can be difficult to analyze because students come from different economic backgrounds so passing a personal finance class may represent a different level of significance among different students. Prof. Cude noted that two organizations have written proposed standards for personal finance: the CEE, and the Jump$tart Coalition for Personal Finance Literacy (Coalition). Among the topics included in the standards are: earning income; buying goods and services; using credit; saving; financial investing; protecting and insuring. However, those standards are different from state standards. In Georgia, standards were added such as government taxing and spending, consumer protection, and identity theft. Prof. Cude noted that in Georgia, the personal finance portion of the economics class is about 3 weeks, so it is difficult for students to learn a significant amount of insurance in that timeframe. Michigan is an interesting contrast because while two of its six required standards in the personal finance course are arguably not related to personal finance (scarcity and opportunity costs; marginal benefit and cost), one of the requirements is risk management.

Prof. Cude then noted that even in states that are recognized as "exemplary" by the CEE, a large proportion of high school graduates don't experience personal finance education because some attend private schools, take advanced placement courses, or are home-schooled. Accordingly, Prof. Cude stated that, while she believes it is much better to teach personal finance than not, it is difficult to determine whether the requirements are making a difference. Prof. Cude also stated that specifically teaching insurance literacy is difficult. Teachers often lack confidence in teaching personal finance, let along insurance fundamentals, and many of the speakers that are invited to classes are biased in trying to sell their products. It also seems to be difficult to motivate students into wanting to learn about insurance. Additionally, some of the basics concepts in insurance are not easily transferable, such as deductibles in the P&C and health industries. Prof. Cude closed by urging the committee members to: learn what their state's requirements are on personal finance and insurance education and work to improve them; find out who provides leadership in their states and join them; support state insurance departments and others to provide unbiased education; support existing personal finance curricula; support programs that provide teacher in-service education; and support good research to evaluate personal finance education.

Sen. Bob Hackett (OH) asked Prof. Cude how Georgia worked to require standardized testing on personal finance. Prof. Cude stated that it took several years, and that the standardized test is part of the larger test for the economics class. Prof. Cude also stated that there is a growing emphasis on requiring personal finance education in colleges, particularly because many want "just in time" education. Sen. Hackett stated that teaching simple concepts at an early age such as "cash flow" and "living within your means" can go a long way in promoting financial health and independence in the long run.

Sen. Thomas "Mac" Middleton (MD) stated that in the Maryland Senate Finance Committee, they are currently working on issues related to the GED program in their correctional systems. However, Sen. Middleton stated that the Committee has noticed that there is nothing in the GED program about personal finance and asked Prof. Cude if there are any model GED programs that include personal finance requirements. Prof. Cude stated that she was unable to name any specific programs but that she is confident they exist and offered to discuss the issue with Sen. Middleton further.

DISCUSSION ON THE ELIMINATION OF THE PRODUCER APPOINTMENT PROCESS

Michael O'Malley of the American Insurance Association (AIA) began by stating that a producer appointment is a legally required registration/filing notifying an insurance department that a licensed producer is authorized to represent an insurer. States typically charge a fee for appointments, and the National Insurance Producer Registry (NIPR) charges a processing fee. States typically require notification to the insurance department within a set time after first transacting business or entering into a contract with a producer. Appointments may apply to individual producers, agencies, or both. The NAIC has adopted a Producer Licensing Model Act (PLMA) which includes the appointment process as an optional provision. Nine (9) states do not have an appointment requirement – AK, AZ, CO, IL, IN, MD, MO, OR, and RI.

In addition to processing appointment transactions, insurers also must notify the insurance department of appointment terminations. Many states also require annual appointment renewals. Mr. O'Malley stated that producer appointments are no small matter – they cause millions of transactions generating hundreds of millions in fees. According to NIPR, the 2,427,382 licensed producers across the U.S. generated more than 18.6 million appointment transactions over the last two years. In just the 27 states where NIPR collects appointment fees, it has remitted more than $650 million in appointment fees to states over the past two years. Looking to specific examples: the Connecticut Insurance Department reports processing more than 490,000 company appointments annually, and the Virginia Bureau of Insurance collected more than $15.7 million in 2016, which equals more than $1.86 for every man, woman and child living in Virginia that year.

AIA believes that there are inefficiencies associated with producer appointments. The process is redundant since both the agent and insurance company are licensed which means both have already been fully vetted by the insurance department during the licensing process. There is a lack of uniformity in the process as each state has its own set of rules for addressing appointments of individuals and/or business entities or appointment per each line of authority or sub-agent appointments. The process also adds costs to any company that uses agents. AIA also believes that the process does not add any material consumer protections to the regulatory system. Eliminating appointments would not affect a regulator's authority to address issues in the marketplace, including the authority to deny, revoke, suspend or refuse to renew a provider's license and/or levy civil penalties. That lack of material consumer protections raises cost-benefit issues.

Mr. O'Malley stated that the biggest issue when discussing appointments is state revenue as the process is clearly a big revenue raiser. AIA believes that even if insurers continued to pay fees to the states, insurers using agents and the independent agency system would benefit from greater efficiencies in the distribution system by eliminating the work of submitting appointments. Accordingly, AIA would like to open a dialogue with NCOIL regarding the possibility of eliminating producer appointments in a manner that would be revenue-neutral to the States.

Ray Farmer, Director of the South Carolina Department of Insurance, stated that there are good policies behind the producer appointment process. The formal appointment process helps to clearly establish the principal-agent relationship between an insurance company and a producer. By tracking appointments, a state that takes regulatory action against a producer will readily know what other companies have appointed that producer. The appointment process places a duty upon an insurer to notify insurance departments of producer terminations. Dir. Farmer stated that his department's investigative staff takes their job seriously and the appointment process helps them. Other companies also benefit from the appointment process as well since the insurance department can promptly notify them of any producer wrongdoings. Dir. Farmer stated that all it takes is for one consumer to be helped by the appointment process to justify any cost-benefit analysis. Dir. Farmer stated that the NAIC is open to dialogue on this issue but that they believe elimination of the producer appointment process will not benefit consumers.

Wes Bissett of the Independent Insurance Agents and Brokers of America (IIABA) stated that appointments affect agents in several ways. They affect the ability of agents to be responsive to clients, particularly for multistate agents. Companies are also sometimes reluctant to appointment new agents because of the associated costs. There are also some jurisdictions that require agents to pay the associated fees which IIABA believes is contrary to the law. IIABA wonders whether the appointment process would exist today if the insurance code was re-written as it is in some ways a vestige of a different time since agents used to be licensed by the companies. Mr. Bissett stated that a lack of uniformity in the appointment process is also problematic and inefficient. Some states also require appointments for different lines of insurance which IIABA believes is inefficient. Mr. Bissett stated that in the states that have eliminated the appointment process, there have been no adverse effects, and those insurance departments have been able to preserve resources and divert staff to other matters. Mr. Bissett closed by stating that at the very least, states could benefit from uniformity in the appointment process.

Sen. Hackett asked if it has been revenue-neutral for the states that have eliminated the process. Mr. Bissett stated that in an effort to avoid losing all of the revenue, one state eliminated the appointment process section of the insurance code but still required companies to internally maintain a register of agents and continued to require notice of terminations. That state also implemented an annual fee based on the number of agents that are in that registry.

Dir. Farmer stated that it would be very difficult for elimination of the process to be revenue-neutral. Mr. O'Malley stated that there is no question that elimination being revenue-neutral is the trickiest part of the proposal but there are ways to do it, such as through the process Mr. Bissett mentioned. Mr. O'Malley also noted that the issue of notifying the insurance department of terminating a producer for cause is independent of the appointment process, and the AIA supports that requirement being maintained.

DISCUSSION ON PREVENTING FINANCIAL EXPLOITATION OF THE ELDERLY IN THE BANKING AND FINANCIAL SERVICES INDUSTRIES

Diana Noel of the American Association of Retired Persons (AARP) stated that there are common issues across states when dealing with elder financial exploitation (EFE). One is caregiving: those trying to care for elders may not have experience with managing money along with doctors' appointments and medications. The issue of EFE is bi-partisan and stretches across all three branches of government, but it is unfortunately not a "hot" issue unless and until there is a crisis or tragedy. There is no one-size-fits-all solution to EFE and solutions will take time to implement. There is also a lack of data and research on EFE because there is no uniform system of gathering the data. The last study that the industry knows of and accepts was from 2011 by MetLife which stated that $2.9 billion was being exploited from elders, which itself was an underestimated amount. Further, there is a need for policy experts and those on the frontline to come together to better communicate these issues to legislators and regulators.

Ms. Noel stated that there has importantly been an increase in collaboration on EFE, such as specified task forces and multi-disciplinary teams studying the issue. State courts are also taking a more active approach by working on improvements to guardianships. Twenty-five states have established a group of Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS) which is a state court-community partnership to improve guardianships. One of the biggest improvements has been in the area of access to information so individuals know where to go when there is a problem. The Federal government has also started to take on a bigger role.

Ms. Noel then cited some important steps for state legislators to consider when combatting EFE: strengthening adult protective services; enhance criminal and civil penalties; implementing guardianship and power of attorney reforms; improved training; and better education. Ms. Noel stated that the Uniform Law Commissioner recently adopted an Adult Guardianship and Protective Proceedings Jurisdiction Model Act for states to consider. The Model focuses on alternatives to guardianship, provides for a person-centered approach, and sets standards for professional guardians. Ms. Noel closed by stating that the committee members can reach out to their state AARP office for further information.

Julie Gackenbach of Confrere Strategies stated that for the past few years, Congress has been trying to enact a bill called the Senior Safe Act which would provide liability protection for financial institutions and insurance companies/agencies, among others, that see or are concerned about EFE. There is a great concern in Congress about bank secrecy laws and other privacy protections preventing reporting of EFE. Financial institutions in this country want to be good partners in helping to prevent EFE. Ms. Gackenbach also noted that the Securities and Exchange Commission (SEC) has adopted recommendations from the Financial Industry Regulator Authority (FINRA), which became effective on February 8th. The rules allow financial institutions to: put temporary holds on accounts when they suspect EFE; make certain information available to law enforcement; and to permit financial institutions to require information at the time of opening an account regarding a "trusted contact person" that the institution can reach out to when suspicion of EFE arises.

Additionally, several states have adopted the North American Securities Administrators Association (NASAA) Model Legislation or Regulation to Protect Vulnerable Adults from Financial Exploitation (Model). Some trends common in these initiatives that are picking up steam include: trying to provide liability protection for financial professionals who see potential EFE; improving training among financial professionals so that they can quickly spot EFE; obtaining "trusted contact person" information; and improving the understanding of the different ways in which EFE can occur. Ms. Gackenabch stated that a lot of work on these issues will fall to the states despite Federal involvement.

ADJOURNMENT

There being no further business, the Committee adjourned at 2:15 p.m.