



ARRC's Argument to NAIC

A good summary of the arguments by the newly formed American Risk Retention Coalition in support of federal preemption for risk retention groups is stated by an open letter from ARRC Steering Committee Chairman Dick Goff to leaders of the National Association of Insurance Commissioners.

ARRC, of course, was formed this year as a stand-alone unit of SIIA to speak for the risk retention community. More information about ARRC is available at www.rrcoalition.org.

Goff's letter was directed to Nebraska Insurance Commissioner Tim Wagner, chair of NAIC's Risk Retention Working Group, and to Texas Associate Insurance Commissioner Betty Paterson, who chairs the NAIC Risk Retention Group Task Force.

The letter, printed below, will provide some talking points for any SIIA members who wish to communicate in support of RRGs to the NAIC leaders or to their state insurance commissioners. When Congress considers any changes in how RRGs operate, SIIA members will be alerted to contact their representative to support RRGs.

More than the specific issue of RRG regulation, this issue broadly affects the entire self-insurance and alternative risk transfer industry.

Hon. L. Tim Wagner, Chair –
NAIC Risk Retention Working Group
Director of Insurance – State of Nebraska
Terminal Building
9410 O Street, Suite 400
Lincoln, NE 68580-3639

Hon. Betty Paterson, Chair –
NAIC Risk Retention Group Task Force
Associate Commissioner – Texas Department of Insurance
511-Financial/General Management – 305-2A
P.O. Box 149104
Austin, TX 78714-9104

RE: Regulation of Risk Retention Groups

Dear Director Wagner and Associate Commissioner Patterson:

This is to directly introduce to you the newly formed American Risk Retention Coalition and to express our appreciation to both of you for your leadership and energetic volunteer service on this important issue. We hope to contribute to your work on a positive note, and serve as a resource to your panels. For many organizations, self-insurance via an RRG drives risk management and loss prevention in a more powerful and efficient manner than any other insurance structure.

The ARRC was launched just last month to provide a unified voice on behalf of the risk retention community in dealing with the challenges and opportunities that face the industry. We are a true coalition in the sense that, unlike a trade association, we do not anticipate a long-term role for our organization. We welcome associations, RRG owners and all other interested parties to our membership.

ARRC hopes to preserve the current state-based regulatory structure of RRGs under the format established by the federal Liability Risk Retention Act of 1986. It is not on our agenda to pursue full federal regulation of RRGs by a new federal bureaucracy. State regulation with a single point of entry provides the most efficient licensing and oversight system, we believe, for governance of RRGs.

If we had one wish to be granted relative to your panels' deliberations, it would be to keep uppermost in your minds the fundamental differences between RRGs and commercial insurance companies. Coverage that is underwritten by RRGs is provided only to their owners, and not offered to the general public. The RRG model has provided financial salvation to professions and trades, most notably in the medical malpractice arena where the availability of insurance was most problematic. But RRGs do not have the financial resources of commercial insurance companies that can afford the costs attendant to regulation in each state of operation. Any change in preemption or accounting standards would be disastrous for most RRGs.

We would like to bring to your attention two comments from RRG owners on the value of the current Liability Risk Retention Act:

Larry Smith, vice president of risk management for MedStar Health, a \$2.7 billion network of seven hospitals in the Baltimore-Washington region: "The risk retention group we established for private specialist physicians helps us to provide the medical services that support our mission of saving lives."

Dr. Michael Gerardi, president of Superior Insurance Company of Livingston, NJ, which covers the 250-provider Emergency Medical Associates, Inc.: "Prior to the liability coverage of our RRG the ability of our physicians to obtain insurance to provide emergency medical care was in jeopardy, and thus the survival of our physician-owned group was at stake."

Mr. Smith and Dr. Gerardi would be available to testify on their successful use of the RRG mechanism, as would any number of other RRG owners. Such testimonies about real world challenges that are being solved by RRGs are important to any consideration of the matter by your groups.

You have already received written testimony about the success rate of RRGs formed as captive insurance companies. Perhaps you have read the article in Risk Retention Reporter of October 2003 that reports that RRGs regulated as captives have a much better success rate than those regulated as traditional companies. It would seem that the road to improved standards would lead toward the practices of RRGs regulated as captives rather than toward the practices of traditional insurance companies.

It is not our purpose here to repeat the effectively stated arguments about preserving established operating standards of RRGs that relate to accounting, capitalization and reinsurance. State and national

industry associations, including ARRC members, have very well communicated those points.

Our purpose in this introduction of ARRC is to request your attention to the real-world potential for negative impact of considered changes in RRG governance. People are receiving medical care today because an RRG insures doctors against medical malpractice liability. Elsewhere, homes are being built and products are moving to market because companies' third party liabilities are insured by RRGs.

Deliberations about the future of RRGs is more than a matter of regulatory philosophy, and much more important than a debate between insurance industry members and regulators. At one level, continuation of the RRG structure is a matter of economic importance to many professions and trades. At the most important level, it can be described as a matter of preserving health and life.

Thank you for your attention to this communication, and for assuring a fair regulatory environment for the continued success of RRGs and the alternative risk transfer industry.

*Sincerely,
Richard C. Goff
Chairman, Steering Committee*