

Powerful Interests To Undermine All ART

By Dick Goff

Some wit once observed that just because you're paranoid doesn't mean others aren't out to get you. In the ART world, we're paranoid about powerful interests trying to put us out of business, and – guess what? – powerful interests are trying to put us out of business.

For example, SIIA and its allies are currently fighting campaigns on three different political fronts: protecting federal preemption for risk retention groups; defending against state tax assessments on stop-loss insurance for employers' benefit plans, and support in Congress for association health plans legislation.

These are three issues on which we face powerful opposition by interests whose goal extends beyond each specific matter to undermine the very existence of self-insurance and alternative risk transfer.

And who are those opponents? Well, don't take our word on this point. Look to a statement by Senator Jim Talent (R-Missouri) at last month's 20th annual

SIIA Legislative/Regulatory Conference in Washington DC. The context was association health plans (AHP) legislation that is currently tied up in the Senate after being passed by a large majority in the House.

Sen. Talent was asked by a member of the audience to list the opponents of AHP legislation. First on Senator Talent's list was Blue Cross & Blue Shield, and second was the roster of state governors. The mammoth traditional insurer stands to lose significant market share to ART structures, and the state governors stand to lose political power over a growing component of commercial insurance.

Let's take a look at ways both of these opposing interests attack ART on the three issues we named: risk retention groups, state assessments and AHP legislation.

Risk Retention Groups

Risk retention groups were established by Congress to enable professions and

trade groups to self-insure their third party liabilities. RRGs are owned by their policyholders and are never sold to the general public. Under the federal Liability Risk Retention Act of 1986 they are exempt from state-by-state regulation. Once licensed in any state, they are free to operate in all states.

It's not hard to understand why the National Association of Insurance Commissioners (NAIC) is now cooking up recommendations for "standardized" RRG regulations to take to Congress for consideration. So far, the results of two NAIC committees that are working on this project indicate that "standardized" will mean consistency with regulations of traditional commercial insurance companies.

If RRG federal preemption is gutted, the result will be increased power for state regulators and increased market share for the major traditional insurers.

Incidentally, my letter on this subject to NAIC leaders as chair of the steering committee of SIIA's American Risk Retention Coalition will be found in the "SIIA Defending Members' Interests" column elsewhere in this issue.

State Stop-Loss Assessments

State regulators have long fumed at their loss of control over ERISA employee benefit plans that are protected by federal preemption. So what they can't accomplish in regulating the form of the plans they are attempting by taxing stop-loss policies. About half the states have either attempted to assess stop-loss insurance or are in that process currently.

The states' argument is that all health insurers are taxed to support high-risk health care pools. SIIA's argument is that stop-loss insurance is not health insur-

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ance, but solely indemnifies employers against catastrophic losses of their self-insured health plans.

Still, the states press on in their attempts to levy unfair and illegal taxes, cheered on by the traditional insurance industry that would benefit from any erosion in the numbers of self-insured benefit plans.

More about state assessments on stop-loss insurance is reported in the articles in this issue that cover the Legislative/Regulatory Conference.

Association Health Plans

This is a huge battlefield for both state governments and traditional insurance companies. SIIA's goal is the passage of

legislation to allow associations to provide health plans to their members across state lines. By all accounts, this would drastically reduce the number of uninsured Americans while enabling smaller employers to provide benefits plans on a level playing field with larger companies.

AHP legislation has been passed by the House on five occasions – including last year's opening session of the current Congress. Each time, the legislation has been sidetracked by the Senate.

There is still time for SIIA members who value the economic and management advantages of ART to help. Write, call or drop by to see your senator today and request support for association health plans.

You can be sure that lobbyists representing state governments and the insurance industry are doing the same thing to oppose AHPs. But your voice, as a constituent who brings real world experience to your appeal, can outweigh the hired guns.

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