

The Regulator[®]

INSURANCE REGULATORY EXAMINERS SOCIETY

The CDS Commissioners Interview

Preserving a State Voice in Health Care Reform

This year's Career Development Seminar (CDS) opened with a panel discussion on current federal proposals for health insurance reform. Participating in the panel were **U.S. Senator Benjamin Cardin** (D-MD), Maryland Insurance Commissioner **Ralph Tyler** and Maryland Deputy Insurance Commissioner **Beth Sannis**. After the session, *Regulator* editor **Wayne Cotter** conducted the following interview with Commissioner Tyler and Deputy Commissioner Sannis.

Regulator: *Many Americans say they are happy with their health insurance plans and are wary of change, while most states are seeing the number of their uninsured rise and more individuals enrolling in self-funded plans that are not subject to state insurance laws. To me, saying you're happy with your current health insurance plan is like saying you're happy with your defined benefit pension plan. Both benefit systems are unsustainable in the long run. How do you convey to the American public that their current health plans are not sustainable?*

Sannis: I don't know that the typical American cares whether or not it's a self-funded plan or a fully insured plan. I don't think that they know the difference in that nuance. What they know is what their contribution towards their premium is and what their out-of-pocket costs are for their families. Clearly, over the years, everyone has seen these costs go up. I think they *are* concerned about the cost of their health insurance and how much that will continue to go up. We receive lots of phone calls

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See inside for more photos and coverage of the Baltimore CDS.

New IRES President: Shoop of Pennsylvania

BALTIMORE — Dennis C. Shoop, MCM, is the Society's new President.

An unaffiliated regulator, Shoop officially took office here during the IRES Career Development Seminar and Annual Meeting.



Dennis Shoop

Shoop is Director of Market Regulation for INS Regulatory Insurance Services, which provides market conduct examination and compliance services to state insurance departments.

He is responsible for supervising examiners in the performance of market conduct examinations and other regulatory options, training of examination staff, oversight of examinations, including selection of companies for examination, pre-examination planning, the review of reports and work papers,

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From the President

A Springboard for Success

In 1988, then-Pennsylvania Insurance Commissioner Constance Foster asked me to establish a new Market Conduct unit for the Department. We began with a staff of four examiners. Since the Department had limited resources, we visited the New York, Virginia and Maryland departments to learn firsthand how those states approached market conduct exams.



Those visits helped us to understand the intricacies of market conduct examinations and underscored the willingness of insurance regulators to share information and work together in the best interests of the public.

About that time, I began representing the Pennsylvania Department at National Association of Insurance Commissioner (NAIC) meetings. These meetings were a great help to me in identifying emerging market trends. I learned that problems we had uncovered in Pennsylvania had also arisen in other jurisdictions.

Another thing I noticed was that while regulators and the industry may not always agree, industry feedback can be quite helpful. Whether I was updating the Examiner Handbook, determining Best Practices procedures or drafting changes to regulations, listening to licensees was essential. I also believe that two-way communication can help insurers better understand the issues that confront the regulatory community.

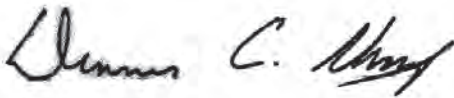
While we were creating our market conduct unit in PA, a number of us discovered a new organization that offered training for insurance regulators. It was hands-on training and offered by state regulators that were facing the same type of problems we were. That organization was IRES. I recall that internal feedback from those early CDSs was very positive and prompted us to try to send staff to each and every CDS. As Pennsylvania moved into other areas of regulation — such as market analysis and fraud — we found that there too the

CDS offered valuable learning opportunities for our employees.

As I gaze forward to the next 12 months, I offer a few objectives that I would like to see IRES consider. First, I firmly believe one of IRES's recent successes was the creation of the MCM designation. Thanks to Gary Domer, Doug Freeman and a host of others for making that happen. I urge all of you to explore participating in this valuable program.

I also believe we owe it to our membership to continue moving forward and develop additional areas that warrant designations. Two areas that are likely candidates are market analysis and complaint handling. IRES members are the experts in those fields and we should tap into that knowledge base to establish appropriate designation standards.

These are tough economic times, but during such times organizations such as IRES can be invaluable, helping us all regulate better, more efficiently and more effectively. Let us use the Baltimore CDS as a springboard to another successful year. I look forward to working with all of you and urge you to contact me with your suggestions to help IRES prosper and grow. Please e-mail me with your comments and suggestions at dshoop@insconsultants.org.



Dennis C. Shoop, MCM
IRES President

IRES
*22 years
of service*

C.E. News

It's that time of year again when AIEs and CIEs must comply with the annual continuing education program requirements.

The current compliance reporting period is 9/1/08 – 9/1/09. Designees have until 30 days after the end of the reporting period to submit a compliance form.

Those with an AIE or CIE who attended the IRES CDS in Baltimore and who received an on-site attendance certificate, will receive an automatic 15 CE hours; no reporting form is required. Those who did not pick up their certificate must contact the IRES office (913-768-4700). We will send you a CDS certificate that must be submitted with a standard reporting form. On the form you will need to list the actual seminar hours you attended.

NEW THIS YEAR - You can receive up to 3 CE hours if you worked on one of IRES's Committees or Subcommittees. Please contact your committee chair for your hours earned. In order to receive credit, you must turn them in on a NICE compliance reporting form along with the documentation from your committee chairperson.

N I C E

National IRES Continuing Education

The mandatory continuing education program for AIE and CIE designees

Welcome, new members!

J. Joseph Cohen, unaffiliated
Rachel Crowe, AIE, MO
Justin K. Durrance, AIE, GA
Nancy Grodin, MD
Nancy Yanan Lu, AIE, NY
Brant M. Lyons, VA
Terry Raycraft, AL
Mari A. Sanchez, MCM,
unaffiliated
Thomas B. Walker, NJ
Dwight Ward, AIE, TX

Commissioners Interview

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from individuals who are surprised at their premium increases each year and they don't know how they will continue to afford it . . . So I do think there is a concern about the price of health insurance.

Tyler: I would just like to add that one of the very important functions that state insurance regulators perform . . . is to bring visibility to the facts. One of the big problems in this debate is that people don't know what the facts are, the system is very complicated and difficult to decipher . . . Maryland is a state that has been very active in health care, including enacting mandated benefits for good reasons, but not always recognizing what's happening in the marketplace and that these good efforts are reaching fewer and fewer people. So there needs to be a better understanding about costs and a better understanding of how this system actually works. Disclosure and transparency are tremendously important.

Regulator: You noted in today's opening session that six holding companies account for 96% of health insurance premium written in Maryland. How much is that a concern to you and what can you do about it?



Maryland Commissioner Tyler

Sannis: We're very concerned about that. There's been a fair amount of effort in our state to try to increase competition within the marketplace and to try to encourage more companies to come in, but this is an industry that [requires] a fairly sophisticated group of executives and employees to be able to run a health insurance business . . . This isn't [a business] where you can come in with a low amount of capital and expect to compete in the marketplace. So our emphasis has been more on

holding the [existing] companies accountable and to try to make sure that the pricing is done in a fair manner through prior approval of the rates.

Tyler: To follow on that, our central concern in our presentations and arguments to the General Assembly has been to make [the current system] fairer and more efficient as compared to saying "Well, we wish we had more competition" because we don't have a lot of control over getting competition. Everything is moving the other way. What I know from talking to other

insurance commissioners around the country — and Senator Cardin made the same point — is that while the specifics might vary a little bit, the general picture in Maryland of concentration is repeated all across the country.

Regulator: In Maryland, do you have complete prior approval or a flex-rating system?

Sannis: It's a complete prior approval system.

Regulator: Do insurers claim that prior approval discourages them from coming into the market?

Sannis: No, they haven't made that argument.

Regulator: You noted in this morning's session that directing ERISA complaints regarding self-funded health insurance plans to the Department of Labor is like sending them to a "black hole." Does it concern you that a federal health insurance plan could allow additional health insurance complaints to circumvent state insurance departments?

Sannis: We are concerned and that is why we are hoping [any final proposal] will be a federal-state

partnership. Senator Cardin today emphasized the strengths of state regulation and we're hoping that will be the view that will prevail.

Regulator: *One proposal to pay for a new health insurance plan that frightens some people is one in which the benefits to individuals in so-called Cadillac plans would be taxed as income. Many public plans could fall into that "Cadillac" category. Such a change may also prompt some employers to trim back their plans, thus undermining the pledge that under any new federal health insurance system, consumers would be able to keep whatever employer-based health insurance they currently have. Are such fears legitimate?*

Sannis: I think as a country we're going to have that as an outcome irrespective of whether or not we have federal health care reform.

Regulator: *You think there will be a tax on benefits?*

Sannis: I'm not talking so much about a tax on the benefits, but rather on the erosion of benefits. So if you're a private or public employer with declining revenues there's going to be plenty of pressure on you as an employer to make your employees pick up more of the cost. And that can be through co-pays, deductibles and co-insurance as well as [increasing] the cost of their contributions toward the premium.

So I think we'll see that downward pressure on benefits irrespective of whether or not we have health care reform. So if we have health care reform perhaps we will all be at least subject to a minimum standard of benefits. And it sounded like — from what Senator Cardin was talking about — it [will be] a fairly robust policy with no lifetime maximums. . . .

Tyler: If you put aside for a moment the political difficulties of doing it, the fact that employer-provided health coverage is *not* treated as income is really just an historic artifact because, of course, it is income — it is a benefit. It would be a change to tax some or all of it, but the present system isn't altogether logical. It is something that grew out of World War II, wages being frozen and so employers began providing health insurance benefits and we exempted them from

federal taxation and that may be something we need to reexamine.

Regulator: *Senator Cardin said that a provision that would prohibit health insurers from discriminating against those with pre-existing conditions currently appears in all the federal health care reform proposals. Could such a provision lead some people to wait until they're sick to buy coverage?*

Sannis: I think that's why they're talking about the individual mandate to address that.

Regulator: *Yes, but they could pay to stay out of the system.*

Sannis: They could pay to stay out of it, but how many people would actually do that if there is a subsidy available to them to make it more affordable, is something we don't know. In the Maryland small group market, we haven't had pre-existing conditions [exclusions] since 1993. There are some who argue

that there have been individuals or small groups that will wait until they're sick to jump in and then jump out, but there is nothing more than anecdotal evidence to show that that's the case.

Regulator: *But in Maryland's individual market, you still have a waiting period for pre-existing conditions, right?*

Sannis: We still have a pre-existing condition limitation in the individual market in Maryland, but we don't have an individual mandate. I think that if we did have an individual mandate, we would be more likely to take away the [industry's] ability to impose pre-existing conditions exclusions.

Tyler: You have to view the two together. The trade-off of eliminating pre-existing conditions is that you get everybody in.



Deputy Beth Sannis

continued on next page

Commissioners Interview

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Regulator: *Shifting from health insurance, Commissioner Tyler you said at this morning's session that the current state-based regulatory system is "a good system, but it's not good enough." What did you mean by that?*

Tyler: Well for the purposes of this group I focused particularly upon market regulation. The truth is that the state system is very strong and effective in monitoring the financial side. It is not as strong and effective on the market regulation side. That's where we need to improve because that is the area that most immediately impacts consumers — what products they buy and how their claims are paid. Consumers take it for granted that insurers are solvent. I'm not suggesting that is a minor or trivial matter. It is an important matter. We should continue to maintain the strength of financial solvency regulation, but we need to do a better job of understanding how insurance markets work and [ensuring] that insurance companies follow the rules.

Regulator: *What are the lessons that insurance regulators should take away from the current economic crisis?*

Tyler: In comparison to other regulators, state insurance regulators have done a good job on financial solvency. The evidence of that is that the insurance industry has been probably the strongest and most solvent financial [sector] in this crisis. Having said that, there are inefficiencies in the state system that are not particularly defensible and that do not add to consumer protection. Those inefficiencies need to be addressed and corrected.

Further, it is a weakness in the present system that there is no place in the federal government that has a responsibility for being knowledgeable about insurance. It's a huge, very important part of the economy . . . and that needs to be addressed. The NAIC supported last year, and is supporting again, legislation

to create an office of insurance information in the federal government.

There's also an absence of an entity that is capable of dealing with international issues. States cannot do that. The NAIC tries to play that role, but there are certain issues with respect to it being recognized as a proper entity to do that. So that is another issue that needs to be addressed.

Regulator: *How can insurance commissioners deal with the challenges of maintaining morale in their departments in the face of layoffs, furloughs and cutbacks?*

“
It is a weakness in the present system that there is no place in the federal government that has a responsibility for being knowledgeable about insurance.
”

Tyler: That's an important thing to try to do and it's a challenge. What is happening in Maryland is that the state budget is under strain and the Governor has had to make a number of reductions. [Maryland] Insurance Administration employees were required to take five

furlough days in the last fiscal year. There's been no announcement yet for the current fiscal year which started July 1, but it will not surprise anyone if there are required furloughs again. Furloughs mean pay cuts. It is painful. It is difficult. It does create morale issues.

The way to motivate people in the face of it is to reinforce the importance of the work that we're doing and to be clear about the reason for it. Also, to the extent that we can, we try to provide people with opportunities to come to meetings such as these to increase their skills and reinforce the importance of the work they do. Is that a substitute for their pay? No it's not. I understand that.

The other thing we try to do is to be honest about this situation. This problem is not going to be solved for some time. There are some positive signs. But unemployment in Maryland, although lower than the national average, is at historically high levels and in all likelihood will increase over the next six months. That means incomes decline and tax revenues decline. So for at least another year, it's going to be very difficult.

Regulator: *Thank you.* ■

Heard in the Halls



"The 3:30 Monday Roundtable on regulatory issues hosted by Dave Kenepp was outstanding."

— Don Belanger, CIE,MM, 20-year IRES member
— Wes Pugsley, MCM 15-year member
New Hampshire Insurance Department



"I loved the long-term care session Tuesday morning."

— Towanda David, MCM
California Department of Insurance
4-year member



"I enjoyed the 'Continuum of Regulatory Options' session, particularly Lynette Baker and Fred Kottmann."

— Rhonda Peterson, CIE, MCM
Wisconsin Office of the Insurance Commissioner
14-year member



"This is our first CDS. It's been a very educational and informative experience for all of us."

— Angie Bartlett, MCM, Nikki Rasinski, and Nykol Wynn
Maryland Insurance Administration
1-year IRES members



A Job Well Done

The 2009 CDS Planning Team (LEFT TO RIGHT):
Dennis Shoop, Dudley Ewen, Stephen Martuscello

If It Looks Like Fraud, Smells Like Fraud ...

by **Melissa L. Hull**

Monday, August 10, 2009 (10:30 a.m.-noon)

At this session, **Robert Passmore**, Senior Director, Personal Lines, Property Casualty Insurers of America (PCI) and **William Bokel, Jr.**, Chief Investigator of the Maryland Insurance Administration, discussed the adverse impact of insurance fraud on all consumers.

What is It?

According to Passmore, insurance fraud is generally defined as providing false information to

- (1) lower premiums and/or
- (2) collect on or increase the amount of an insurance claim. In addition, insurance fraud usually requires an intent to defraud an insurance company. States, however, lack uniformity as to what constitutes insurance fraud.



Robert Passmore fraud is a misdemeanor or felony criminal offense and may include jail time and/or restitution. In some states, it is a civil offense only. While most states have insurance fraud statutes that do not distinguish among various insurance products, a few states limit insurance fraud to particular lines of business, such as workers' compensation or health. States with broader insurance fraud statutes also typically have fraud reporting requirements, reporting immunity provisions, anti-fraud plan requirements, and funding provisions for fraud enforcement. In other states, there are no such requirements. This lack of uniformity makes it difficult on insurers as well as regulators.

Costs

The costs associated with insurance fraud are difficult to measure and are ultimately borne by the consumer. The Coalition Against Insurance Fraud estimates that insurance fraud costs the average family about \$1,000 a year and costs all of us at least \$80 billion a year. In contrast, state insurance departments spent about \$147 million in 2007 investigating insurance fraud according to the Coalition.

Investigations

The responsibility of investigating fraud in most states lies with both insurers and the departments of insurance (DOIs). Currently, most states require insurers to investigate and report fraud to DOIs. In turn, DOIs determine whether criminal insurance fraud has occurred. Depending on the state's criminal justice system, the DOIs may or may not be directly involved in the prosecution of insurance fraud. An investigator's "gut instinct" may help an investigator recognize insurance fraud, but our civil and criminal justice systems require proof, often proof beyond a reasonable doubt, to successfully prosecute such fraud.

Maryland's Perspective

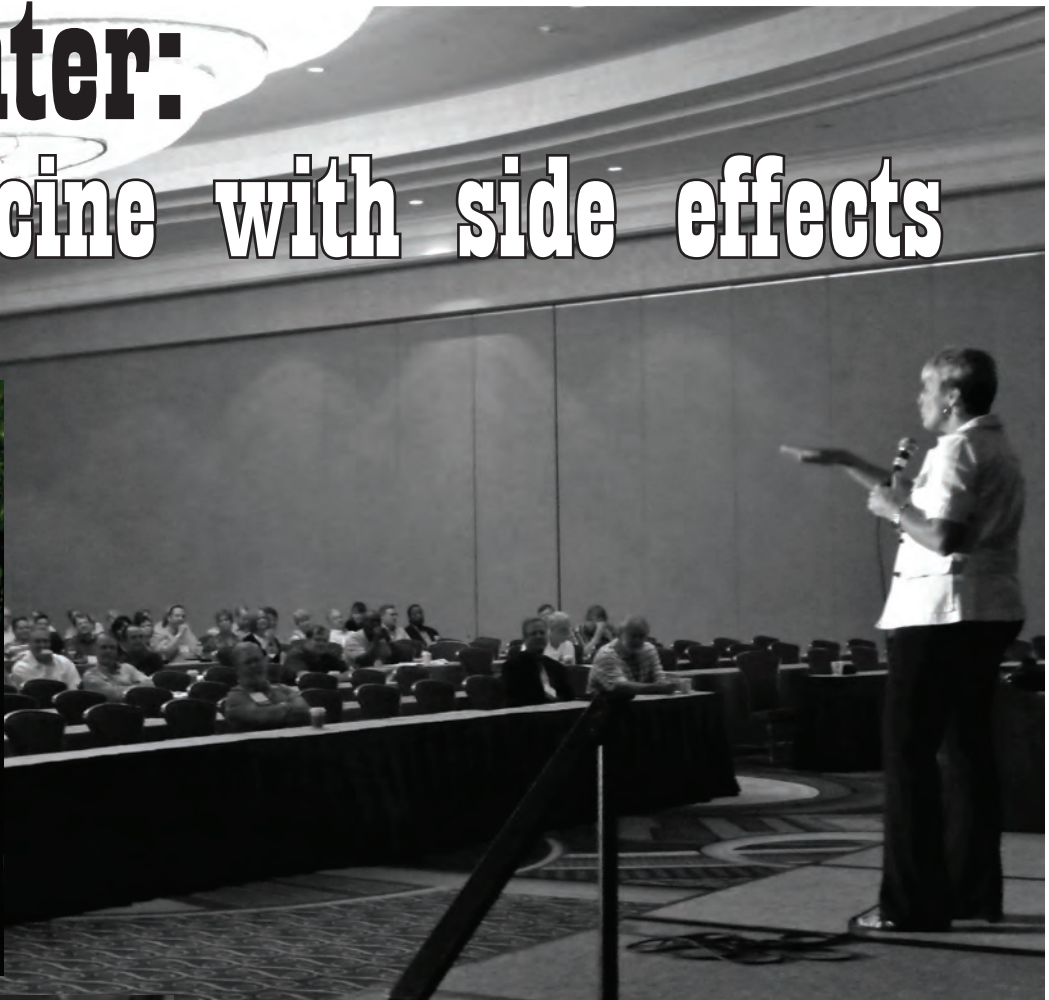
Currently, Maryland has seen an increase in arson-related auto and homeowner claims. Bokel attributes the increase to tougher economic times as cash-strapped policyholders view arson as an easy way out of a mortgage or a car note. Unfortunately, arson-related claims can be trickier to investigate and prove than more traditional forms of insurance fraud in part because of the lack of coordination among fire departments, police departments, insurers and DOIs. Both Passmore and Bokel touted the increased reliance on agencies such as the National Insurance Crime Bureau to assist in insurance fraud reporting, investigation and prosecutions.

Recommendations

Not surprisingly, given the money at stake, regulators and the industry have a vested interest in minimizing insurance fraud. A comprehensive definition of insurance fraud that applies to every state and to every line of business is needed. Penalties should be increased to make more types of insurance fraud a felony. Reporting immunity and information sharing should be emphasized along with appropriate funding mechanisms. Improved communication, along with appropriate safeguards, is the key. ■

Melissa L. Hull, Baker, Donelson, Bearman, Caldwell and Berkowitz, is part of the firm's Insurance Regulatory Group. Ms. Hull previously worked at Nationwide as lead counsel and the Ohio Department of Insurance as Assistant Director, Market Regulation and Licensing.

Laughter: Medicine with side effects



Comedienne Karen Mills makes people grab their sides in laughter. On top of that, the former college hoops star can still twirl a basketball on one finger. It was all part of the show during Tuesday's opening general session in Baltimore.



Hazlewood: An IRES ‘unsung hero’

Longtime Board member and treasurer receives 2009 President’s Award

BALTIMORE — R. Weldon Hazlewood of Virginia is recipient of the 2009 President’s award.

President Jo LeDuc called Hazlewood “one of IRES’s unsung heroes,” citing his long history of service to both the national organization and the Virginia IRES chapter.

A member of IRES since 1990, Hazlewood “served IRES tirelessly in many roles over the years,” LeDuc said, “never seeking the limelight... working quietly behind the scenes ... always striving to build a better organization.”

LeDuc noted that Hazlewood was the driving force in establishing Virginia’s IRES state chapter. He has remained an active member of the chapter, she said, long after it grew to be one of the largest, most active chapters in the nation.

Hazlewood served on the Society’s Budget and Finance Committee for six years, three of those years as IRES Treasurer. He served on the Board of Directors for 11 years.

“His commitment to IRES,” LeDuc added, “is demonstrated by the fact that he is with us today — not because his employer sent him but because he wanted to be here even though he retired from the Virginia Bureau of Insurance on June 30.”



LeDuc and Hazlewood

IN HIS OWN WORDS

As many of you know, I do not make much noise, but most of the time I have something to say. That is except at the Tuesday CDS lunch, when Jo LeDuc informed everyone that I was the recipient of her 2009 President’s Award.

Jo, a sincere “Thank You.” As I retire, my thoughts go back to 20 years ago when I attended my first CDS in Denver. IRES has been like the “Life Line” on some TV show. I have used my IRES contacts and have freely asked questions. It has been very beneficial to me and I would encourage others to take advantage of IRES and communicate with other members. It has been great. Thanks.

— Weldon (or Wendell to a few)



LEFT TO RIGHT: New York’s Benita Hirsch, Bob McLaughlin, Rolf Kaumann, Gail Keren, and Jack Chaskey



Washington D.C.’s Betty Bates

Sevigny: State System Works, but Change is Needed

by Melissa L. Hull

BALTIMORE — Roger A. Sevigny, NAIC President and New Hampshire Insurance Commissioner, endorsed the state insurance regulatory system in this year's Keynote Address during the IRES Career Development Seminar on Monday, August 10, but cautioned that change must occur.

The world is very different now, said Sevigny, than when he started his career and the federal vs. state regulatory debate has received significantly more attention during the current economic crisis. Legislators and the American public are asking: What has worked? What has not? Can we prevent a repeat of the mistakes of the past?



Sevigny

On the financial services side, according to Sevigny, it is widely recognized that there was a massive regulatory failure. The housing bubble, loose policy controls, and improper economic incentives all led to greed and fraud. The collapse also highlighted the failures inherent within the regulatory system. Regulators make mistakes, but when a mistake occurs under federal jurisdiction, it can have massive implications. For evidence of this, one need only look to the credit default swap debacle that slipped past the Office of the Treasury and other federal regulators.

Sevigny believes that the same type of regulatory failure would not occur in a multi-state insurance regulatory system. While the multi-state system is cumbersome, it is designed in such a way that regulators “watch” each other. Large-scale fraudulent schemes, such as those perpetrated by Bernie Madoff, could not have occurred under the state system. Evidence of this, said Sevigny, can be seen in the detection and prosecution of Martin Frankel.

Frankel committed insurance fraud on a widespread scale, affecting national and international jurisdictions. While he had escaped detection on the federal level in at least two other states, his activities in Mississippi raised the suspicion of the Mississippi Insurance Department (MID). As a result, the MID uncovered

the massive insurance scheme involving more than \$200 million in fraud before the damage became more substantial. According to Sevigny, the MID's discovery was a direct result of the current state-based regulatory system. Frankel slipped through some cracks, but was not able to slip through all of them.

While 51 jurisdictions may seem like a lot of “cooks in the kitchen,” it can also mean that all regulatory “eggs” are not in one basket. This is particularly true as states strive for uniformity. Under a federal regulatory structure, one regulator plus one failure is a recipe for disaster.

At the same time, Sevigny recognizes that the added costs of doing business in 51 separate jurisdictions are worthy of concern. There are limitations to what the NAIC can do to promote uniformity, but new systems to create efficiencies have been developed, such as the National Insurance Producer Registry (NIPR) and the Interstate Insurance Compact. On the other hand, Sevigny feels state insurance regulators have not been as successful in dealing with surplus lines issues or with speaking with a single voice to Congress.

Sevigny noted that changes have been made and although incremental, such changes are positive. For instance, the establishment of the NAIC's Washington D.C. office and the Center for Insurance Policy and Research will enhance the national presence of state regulators. In addition, the attitude of state regulators toward Congress has changed from a “Just Say No” mentality to one that recognizes the importance of endorsing certain acts such as the proposed bill to create an Office of Insurance Information (i.e., the OII bill).

All in all, Sevigny believes that state regulators as a group are moving toward a more proactive stance — a significant development in his tenure. ■

Melissa L. Hull, Of Counsel at Baker, Donelson, Bearman, Caldwell and Berkowitz, is part of the firm's Insurance Regulatory Group. Ms. Hull previously worked at Nationwide as lead counsel and the Ohio Department of Insurance as Assistant Director, Market Regulation and Licensing.

Shoop is new IRES president; Krier is president-elect

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examination logistics, interacting with departments of insurance, and various other supervisory functions, and market analysis.

“During these tough economic times,” Shoop told the Baltimore audience, “IRES can be invaluable helping us all regulate better, more efficiently and more effectively.”

From 1977 to 2008 Shoop was Enforcement Director for the Commonwealth of Pennsylvania Insurance Department. He directed a program to enforce state laws and regulations pertaining to insurance agents, brokers and companies through the conduct of investigations. He also directed the market conduct examination program involving examinations of insurers to detect and eliminate industry practices before they impact upon large numbers of policyholders.

In 2005, Shoop received the Paul L. DeAngelo Teaching Award presented by the IRES Foundation.

Shoop represented Pennsylvania on National Association of Insurance Commissioners (NAIC) committees and working Groups. He chaired the Market Conduct Uniformity Examinations Standards Working Group, which developed the Uniformity Exam Guidelines and the Market Regulation Core Competencies.

In addition to Shoop, the following were elected to serve as officers on the IRES Executive Committee:

- IMMEDIATE PAST PRESIDENT: Jo A. LeDuc, CIE, MCM, Wisconsin
- PRESIDENT-ELECT: Leslie Krier, AIE, Washington
- VICE PRESIDENT: Anne Marie Narcini, CIE, MCM, New Jersey
- TREASURER: Gary Kimball, CIE, MCM, Missouri

- SECRETARY: Thomas Ballard, CIE, MCM, Georgia
- AT-LARGE: Mark Hooker, CIE, MCM, West Virginia

The following were elected by the membership to four-year terms on the IRES Board of Directors:

Mark Hooker, West Virginia; **Martin Hazen**, Kansas; **Cristy Owen**, Alabama; **Polly Chan**, California; **Parker Stevens**, unaffiliated; **Rosanne Mead**, Iowa.

In addition, the following were appointed by the Board to serve at-large, one-year Board positions: **Hazel Mosby**, AIE, District of Columbia; **Betty Bates**, District of Columbia; **Lynette Baker**, MCM, Ohio; **Douglas Pennington**, AIE, MCM, Washington.

Details on the 2009 elections can be found at: www.go-ires.org/leadership/execcomm.cfm ■



Outgoing President LeDuc congratulates Dennis Shoop



The 2008-09 Executive Committee: (Front Row, LEFT TO RIGHT) Polly Chan, Anne Marie Narcini, Jo LeDuc, Leslie Krier. (BACK row) Dennis Shoop, Gary Kimball, Tom Ballard

Face to Face in Baltimore



The NAIC's Joe Bieniek moderated a Monday morning panel on innovations in the p/c industry.



Kim Shaul, Wisconsin Insurance Department



Dan Daveline, NAIC



Roundtable discussion on Industry & Regulatory Issues, moderated by Liberty Mutual's Dave Kenepp (at podium)



Missouri's Mike Woolbright



Pennsylvania U.S. Senator Benjamin Cardin (above) discussed health insurance reform, on a Monday morning panel that included Maryland Commissioner Ralph Tyler (below left) and Maryland Deputy Commissioner Beth Sannis (below right)



IRES CHAPTER NEWS



LOUISIANA — The Louisiana Chapter had a State Chapter Annual Business Meeting on June 17. The election results for new officers were announced. The officers for the upcoming year are as follows: President -- **Madonna Jones** (Market Conduct Division); Vice President – **Joycelyn Spriggs** (Property & Casualty Forms Division); Secretary – **Terry Stubbs** (Company Licensing Division); Treasurer – **Kallie Ruggerio** (Life & Annuity Division); State Co-Chairs – **John Lamke** (Office of Consumer Advocacy) and **Larry Hawkins** (Market Conduct Division).

The Chapter also held an Officer and Committee Meeting on July 30. Several issues were discussed including creating a new calendar for meetings for the upcoming year. The Chapter will now be holding monthly meetings featuring various speakers from outside the Department. Participation in these meetings will allow those with professional designations to accrue Continuing Education (CE) credits.

—Larry Hawkins; lhawkins@ldi.state.la.us



Luther T. Ellis receives 2009 Al Greer Award

BALTIMORE — A surprised and shaken Luther Ellis walked to the stage and accepted one of his colleagues' highest accolades.

Ellis, a District of Columbia regulator, had just been announced recipient of the 2009 Al Greer Achievement Award. You could tell he never saw it coming.

You could also tell he was too choked up to speak. Instead, Ellis held the award over his head, waved to the ballroom luncheon audience, then gave Krier a big hug.

"What his peers value most about Luther," said Leslie Krier, chair of the IRES Membership & Benefits Committee, "is his sincerity, loyalty, passion for life, and his keen sense of humor."

A 40-year veteran of both the insurance regulatory and insurance communities, Ellis has served on numerous NAIC committees. He has been honored for effectively implementing SBS systems in his jurisdiction.

In 2000, Ellis, AIE, MCM, was promoted to Assistant Director for the Department's Consumer and Professional Services Division. In 2005 he became Deputy Associate Commissioner for Insurance with administrative oversight and managerial responsibility for the Insurance Division.



2009 Publications Award

BALTIMORE — The Schrader-Nelson "Article of the Year" Award was presented to Lauren E. Willis for her article, *Financial Literacy Education: The Illusion of Regulation*, which appeared in the November 2008 issue of *The Regulator*.



Accepting on behalf of Ms. Willis are *Regulator* Editor Wayne Cotter and Publications Chair Polly Chan.

Congratulations to the IRES Class of 2009



BALTIMORE — New AIEs and CIEs (regulators) were officially confirmed here along with more than 140 MCM designees (regulators and industry).



New AIE designees, LEFT TO RIGHT: Dennis Bensen, NY; Carolyn Kerr, MO; Joe Bieniek, NAIC; Douglas Pennington, WA; Tom Whitener, WV; Lynn Pink, WI



New CIE designees, LEFT TO RIGHT: James Hattaway, AL; Gregory Bronson, TN; James Williams, ME; Mary Hartell, MN; Mark Hooker, WV; John Korte, MO; Gregory Lee, VA; Walter Guller, MO.



Accreditation Chair Anne Marie Narcini of New Jersey reads off the names of new designees while . . .

**AIE
CIE
MCM**



. . . IRES President Jo LeDuc of Wisconsin offers congratulations.

Hot Issues in Life and Health Market Regulation

Douglas A. Freeman, CIE, MCM

Tuesday, August 11, 2009 (1:30-3:00 p.m.)

This concluding CDS joint session provided wide perspectives on a variety of hot issues in the life and health arenas including suitability standards, prompt pay, senior sales, centralized data collection and collaborative actions.

Moderated by **Melissa L. Hull**, Of Counsel with Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, panelists included: **Holly L. Blanchard**, Life & Health Administrator, Nebraska Department of Insurance; **Kara Baysinger**, Partner, Sonnenschein, Nath & Rosenthal LLP; **Riva F. Kinstlick**, Vice President, Government Affairs, External Affairs, Prudential Financial; **Jim Mealer**, Audit Manager, Life & Health, Market Conduct Division, Missouri Department of Insurance, Financial Institutions and Professional Registration; and **Ward Sanders**, Esq., President, New Jersey Association of Health Plans.

Discussion focused on the current NAIC exposure draft of changes to the Suitability in Annuity Transactions Model Regulation, the challenges insurers and regulators face in monitoring the Model, and appropriate training initiatives. The model can be accessed at www.naic.org/committees_a_suitability.htm.

Riva Kinstlick believes no wholesale revision of the Model is required, but rather focus should be on enforcement of existing laws. Kara Baysinger noted that the existing Model has not been in place long enough to know if there are any problems. Jim Mealer added that the playing field needs to be leveled by creating a new suitability sales model and that interpretative guidelines — as proposed by the Insurance Marketplace Standards Association (IMSA) — are not enough, since they lack the force of law.

Mealer stated that he believes that producer training is one area where the current model falls down. Kinstlick stated that she believes regulators could also use additional training and Mealer agreed, noting that he had a steep learning curve because of the complexity of some annuities and how annuities are distributed. However, as Baysinger noted, the question of who

should be responsible for providing the producer training — insurance departments or insurers — remains an issue.

Health Insurance

The impact of eliminating pre-existing conditions exclusions for individual health insurance policies and offering guaranteed-issue health products on a community-rated basis depends on whether all residents would be required to purchase health insurance, according to Ward Sanders. If there is a coverage mandate, it may be possible to have a viable market with those protections. If it is a voluntary market for individuals, then the cost of coverage would be too great.

As for the impact of mandating certain health benefits on the availability and affordability of health insurance, Sanders said it depends on the mandate. Some mandates — like mammography screening are inexpensive and should be covered — whereas in vitro fertilization is quite costly. Mandating ovarian cancer screening is a problem, because there is no medically agreed upon effective test at this time. Early detection affects overall costs, especially with mammographies, according to Holly Blanchard.

Regarding rescission practices, Jim Mealer stated the individual health insurance market is the most affected as a result of the actions of a few carriers. However, some policies have been rescinded for no good reason, such as for a prior unrelated injury, according to Mealer. While it is a delicate balance, Holly Blanchard believes there is a place for rescissions in some cases, but not all. Mealer suggested that an Independent Review Organization (IRO) is a means to see if a rescission is valid or not, and Melissa Hull and Ward Sanders agreed, stating that IROs take the burden off insurance departments.

This joint session was a wonderful way to wind up another successful IRES Career Development Seminar (CDS)! ■

Douglas A. Freeman is Chair of the IRES Past Presidents Council and an Insurance Regulatory Consultant with Sonnenschein, Nath & Rosenthal LLP in St. Louis.

Strong State Chapters = A Strong IRES

by Holly Blanchard

BALTIMORE — A State Chair meeting was held at the recent CDS in Baltimore, attended by 15 State Chairs in addition to a number of Executive Committee members and other interested parties.

A roundtable discussion focused on what IRES leaders can do to help state chapters succeed and to encourage growth. Many states reported they do not currently have regularly scheduled meetings for various reasons, including low membership and travel restrictions. A number of suggestions and ideas were discussed to encourage states to make these meetings part of their regular agenda. They included:

- Combine efforts by affiliating with local SOFE and AICP chapters to host joint training sessions on topics of mutual interest.
- In order to address concerns about budget constraints, IRES will examine the feasibility of organizing multi-state webinars to help members earn CE credits.

(We are looking for states to host webinars. Can your state host a webinar?)



(LEFT TO RIGHT) Dennis Shoop, Holly Blanchard, Polly Chan, and Phil Sheridan

- IRES might form “Zones” for joint meetings with other states. Several states said they would be willing to travel short distances to attend a larger meeting. Larger meetings could draw a larger audience and possibly attract a broader group of guest speakers.
- IRES will schedule quarterly State Chair telephone conference meetings so State Chairs can share ideas and work together on common problems. Such meetings would also serve as an outreach for those IRES members unable to attend the CDS.



Holly Blanchard (right) with Polly Chan of California

IRES currently maintains a library of handouts (Word, PDF and/or PowerPoint) from past CDSs, posted in the Members Only section of the Web site. Those who authored/submitted these archived materials can be contacted by your Chapter for permission to reprint and/or distribute. This is a great opportunity to share ideas and presentations where they will be greatly needed and appreciated.

Thank you State Chairs for all you do! You are a tremendous asset to IRES!

Holly Blanchard is Nebraska’s State Chair



William E. Bailey

1941 - 2009

IRES Mourns a True Friend

IRES members were saddened to learn of the death of a longtime IRES friend, William ("Bill") E. Bailey, J.D., CPCU. Many IRES members remember Bill as the moderator for numerous Commissioners' Roundtables during IRES's Career Development Seminars. He was 68 years old and lived in Chelsea, Massachusetts.

Known for his dedication to the insurance industry as well as his quick wit and penchant for one-liners, Bill always thoroughly prepared for his CDS appearances by culling a wide range of media sources to ensure a lively and engaging Roundtable.

IRES President Dennis Shoop said: "Any IRES member who has ever attended a Commissioners' Roundtable hosted by Bill Bailey never forgot the enthusiasm, energy and insurance insights he brought to the event. He was sorely missed in recent years when failing health prevented him from attending the CDS. The entire organization

the aftermath of every major natural disaster to assist with emergency management efforts.

And on September 11, 2001, Bill was in New York about to lead a seminar in lower Manhattan on behalf of the New York State Insurance Department when disaster struck. He ended up taking a taxi from New York to his home in Chelsea, Massachusetts that day, but subsequently returned to New York's Pier 94 in Manhattan to work on relief efforts.



Bailey was a graduate of Harvard College and also attended Harvard Law School. He received a doctorate from Union Graduate School and University and was a veteran of the U.S. Marine Corp. Early in his career, Bill worked as an associate in the law firm of his older brother, F. Lee Bailey. Prior to joining I.I.I., he worked as Senior Vice President of Commercial Union Insurance of Boston.

For the past decade, Bill hosted a nationally syndicated talk radio show "It's Your Money!"

The show featured some of the most influential leaders in the insurance and regulatory communities over those ten years. When he was participating in a CDS, Bill would host his show from the site, interviewing commissioners and other distinguished attendees.

Bill was past President and Chairman of the Massachusetts Defense Lawyers Association, a member of the Board of Directors of

the Norman Vincent Peale Foundation and President of the National Consumer Education Foundation.



is deeply saddened by the loss of this true IRES friend."

Bill worked since 1986 as Special Counsel to the Insurance Information Institute (I.I.I.) and as Director of the organization's first Hurricane Center, which began in 1992 following Hurricane Andrew. Since that time, Bill Bailey was there in



Bailey (left) broadcasting from the CDS

Darkest Before the Dawn

It was perhaps the muggiest Monday evening of the summer, but my son and I – along with nearly 100 IRES members – had long ago purchased tickets for a baseball game that night at beautiful Camden Yards. So I donned my shorts, tee shirt and sunglasses and prepared to sweat it out with my IRES friends.

I have always loved baseball. Even in the most tedious game, I can usually find some facet to enjoy. This one, however, really tested that love. It was the home-team Orioles squaring off against the Oakland A's, two teams mired in last place in their respective divisions.

Although the game was meaningless, I thought perhaps I could root for some individual players. But a quick glance at the scoreboard revealed two teams with mostly unrecognizable names.

With no players to follow, I began rooting for the home team in that old "Take Me Out to the Ballgame" tradition. That didn't last long. Before I knew it, the home team was trailing 5-1 and muggy nights in August between second-division teams tend to stifle rallies.

As the seventh inning approached, the wind suddenly began to pick up. Hot dog wrappers and crumpled napkins commenced a manic swirl around the playing field. "All we need now is a rain delay," I said. Then, as if on cue, the skies opened up.

This was by far the best part of the game as grounds crew members stumbled over each other to control the windswept tarp. Next, we were all treated to an unparalleled natural fireworks show. The temperature also dropped precipitously. Those shorts and tee shirt no longer seemed like such a good idea.

The rain delay did, however, allow me some time to appreciate my surroundings and the fact that this was a rare opportunity to see a major league game with my son. I

also thought about all those IRES members who couldn't be here at the CDS this year due to cutbacks at their departments or furloughs that affected their personal budgets. I'm sure they too would have loved to have been at the ballpark, rain delay and all.

Yes, our annual CDS was not spared from these harsh economic times. Just like those clouds that so rapidly darkened the Baltimore skies, an economic storm not of our making arose last year and we're all still reeling from its grip. Although some of us are paying a higher price than others, we're all affected in one way or another.

At the ballpark, I noticed there were those who sought refuge from the storm in the passageways that circled the stands, but they found that ceilings leaked and the floors were soaked.

Others, including my son and me, moved under the overhangs for shelter. Soon, however, the water was dripping down and heavy gusts of wind began blowing rain in our direction.

A few left the stadium when the winds first picked up. They fared worst of all — stranded outside the ball park in a torrential rainstorm with no umbrellas, no rain gear and no taxis in sight.

When the storm lifted, the game resumed . . . unfortunately. The home team lost 9-1, but the game itself had been dwarfed by Mother Nature's fury.

The next morning, many of us who were at the game swapped stories of how we had dealt with the elements. Some had fared better than others, but none had totally escaped the storm's wrath.

But that evening brought another game and a chance for the home team to redeem itself. And, who knows, perhaps next summer the home team will win a division championship . . . and all those who want to attend the CDS will do so.

— W.C.

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U.S. Senator Ben Cardin
discusses health insurance
reform at Baltimore CDS.
*Highlights and photos from
the Baltimore CDS inside.*



BULLETIN BOARD

- ✓ We are saddened to report the passing of John Hartley, AIE, CIE, former regulator for Missouri and Oklahoma. John was a charter member of IRES and served on the Board of Directors.
- ✓ IRES member Kristie Radmall recently passed away after a brief illness. Kristie was a greatly loved and respected staff member of RSM McGladrey. Prior to joining the firm, she worked for the Utah Department of Insurance.
- ✓ The Association of Insurance Compliance Professionals (AICP) will hold its 22nd Annual Conference October 4 - 7, 2009 at the JW Marriott Desert Ridge Resort in Phoenix, AZ. This conference brings together industry professionals, trade association representatives and regulators to share information about timely and relevant p/c, life and health insurance topics. Visit www.aicp.net/annualconference/2009conference/index.cfm for more information and registration materials.

In the next REGULATOR:

*Special Issue: Lessons from
the Financial Crisis*

BULLETIN BOARD items must be no more than 75 words, and must be accompanied by the sender's name, e-mail address and phone contact information. Submit plain, unformatted text (no special font stylings, underlined hyperlinks or special margins). Email to Wayne Cotter at: quepasa1@optonline.net.