



2016

MONTANA INSURANCE SUMMIT

SEPTEMBER 21 :: BILLINGS

MONTANA INSURANCE COMMISSIONER MONICA J. LINDEEN



Welcome

Monica J. Lindeen

Montana Commissioner of Insurance and Securities



Health Insurance Update

Katharine Wade

Connecticut Insurance Commissioner



2017 Updates Health Insurance Market in Montana

Christina Lechner Goe
General Counsel

Montana Commissioner of Insurance and Securities



Market competition in Montana

Three “on exchange” issuers (also selling off exchange)

Individual:

- HCSC, dba. BCBSMT: 55,643
- MHC: 16,206
- PacificSource: 8770

Small group:

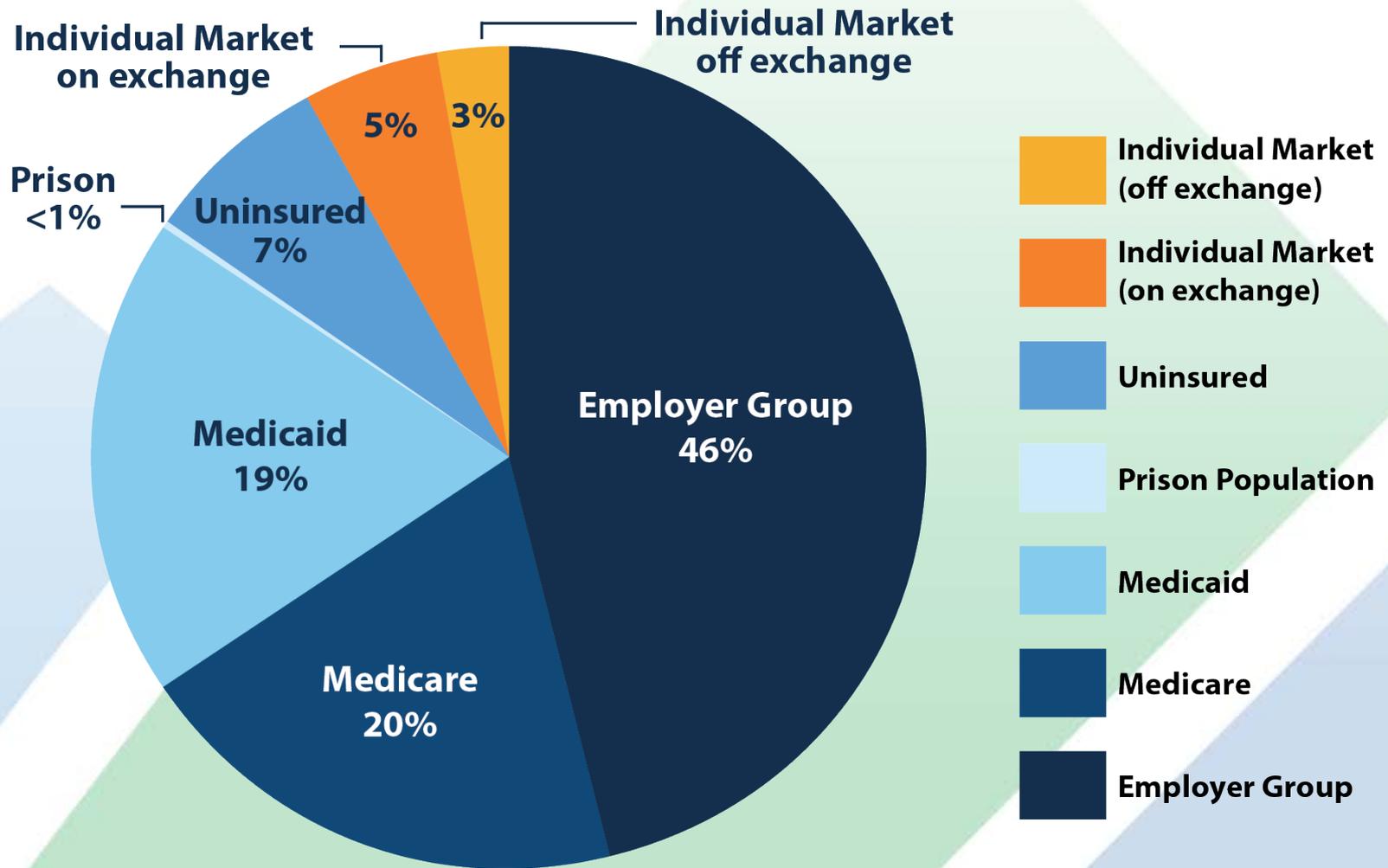
- HCSC, dba. BCBSMT: 38,504
- PacificSource: 7476
- MHC: 1195

Three “off-exchange” insurers

Individual:

- National Foundation Life Small Group
- WMI
- United Healthcare

2016 Enrollment Data



Demographics of Insured population

- **Individual Market**

- 51,758 enrolled the marketplace;
- 85 % qualified for an average tax credit of \$306/month
 - Average monthly premium after APTC: \$115
- 45 % received cost sharing reduction policies
- Majority enrolled in silver or bronze
- *Approximately 36,000 individuals do not receive a tax credit*
 - *28,261 enrolled outside the marketplace*

- **Small Group Market**

- 47,175 enrolled in the small group market



Rate Review Authority overview

- Rate review authority not authorized until 2013
- Requires prior review before use of rates for small employer group and individual insurance
- Review factors include:
 - Surplus, reserves, executive compensation and loss ratios
 - Administrative costs and claims expenses, including medical trends
- May find a rate to be unreasonable (excessive), unjustified, or discriminatory
- May NOT stop an insurer from implementing an unreasonable rate increase



2017 Rate Review Process

- Contracted with additional actuaries
- Implemented additional data collection tools
 - specific to Montana
- Held public hearings
 - Insurers presented in depth on specific topics
- Encouraged public comment and participation
- Added additional transparency about the rate review process

2017 Rate Review results

Average Rate Increases

- HCSC, dba BlueCrossBlueShield of Montana
 - Individual – 58.4 %; Min. 34 % - Max. 63.4 %
 - Small Employer Group – 28.9 %; Min. 17.3 % - Max. 57.5 %
 - **Finding: “unreasonable rate increase”**
- PacificSource Health Plans
 - Individual – 27.6 %; Min. 19 % - Max. 33.1 %
 - Small Group – 6.4 %, Min. 3.2 % - Max, 8.6 %
- Montana Health Co-op
 - Individual – 30.7 %; Min. 18 % - Max. 44 %
 - Small Group – 2 %; Min. -2.1 %; Max. 7.5 %

What is driving rate increases

MLRs for 2015:

- BCBSMT: IND 1.07%; SG 94%; LG 94 %
 - RBC: 766 %
- PacificSource: IND 1.31%; SG 94 %; LG 95 %
 - RBC: 416 %
- MHC: IND 1.40%; SG 90 %
 - RBC: 400 %

Cost Drivers:

- Prescription drugs costs (trend: 10.9 % to 16.8 %)
- Loss of federal reinsurance program in 2017 (3 % to 5 %)
- Understatement of prior year's rates (9 % to 17.5 %)

How to Lower Premium?

Reduce Healthcare Costs

- Healthcare delivery reforms
 - Value based care reimbursement
 - Eliminate fee for service
 - Healthcare cost transparency

Maintain Competition in the Market

- Support small regional health insurers

Individual market requires different approach

- Churning population
- Challenges in managing population health
- Requires an approach more like Medicaid managed care?

Medicaid expansion

- May improve loss ratios in the individual market
- Continued reduction in pent-up demand



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Long Term Care

Nick Gerhart

Iowa Insurance Commissioner



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2015 Montana Legislature Highlights

Jesse Laslovich
Chief Counsel

Montana Commissioner of Securities and Insurance

Overview

The Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI) played an active role in the 2015 legislative session by:

- drafting and promoting bills on regulatory topics impacting Montana consumers and the industry, and
- providing consultation and informational testimony on non-CSI insurance-related bills.

Today:

- discuss significant laws passed by the 2015 Legislature, whether drafted by the CSI or another party, and
- look ahead to bills the CSI is proposing during the 2017 legislative session.

Goal





Legislation by the Numbers

2015 Overall Legislative Statistics

- 1187 bills introduced
- 539 bills passed
- 52 bills vetoed

2015 CSI Legislative Statistics

- 20 bills introduced
- 14 bills passed
- 1 bill vetoed

Background: NAIC

NAIC = National Association of Insurance Commissioners

Comprised of insurance commissioners from all 50 states, the District of Columbia, and U.S. territories

Drafts model uniform legislation for accreditation purposes





HB 119 Accreditation Standards

✓ HB 119 adopts five NAIC model acts needed for Montana to retain regulatory accreditation.

Accreditation = The “stamp of approval” for a state regulatory entity.

Important to the industry as it ensures uniformity between states, so states don't apply differing or conflicting standards to insurers doing business in multiple states.



HB 119 Accreditation Standards (cont'd)

Accreditation Model Acts

1. Own Risk and Solvency Assessment Act

- Ensures large insurance companies maintain an adequate risk management framework.

2. Standard Valuation Act

- Describes how life insurers value policies for purposes of experience reporting and reserve requirements.

3. Insurance Holding Company System Regulatory Act

- Amends current law to (1) require filing of enterprise risk reports and (2) add language to account for divestitures.



HB 119 Accreditation Standards (cont'd)

4. Model Risk Retention Act

- Clarifies that risk retention groups (RRGs) are the only captive insurer subject to holding company statutes and (2) applies governance standards to RRGs.

5. Credit for Reinsurance Model Act

- Provides that insurers may use credit for reinsurance and (2) defines what securities may be used in a reinsurance trust agreement.

Military Discounts



HB 53 Property/Casualty Military Discounts



HB 53 permits insurers to offer “military discounts” for property or casualty insurance.

- Exception to Montana’s anti-rebating/inducement statute, 33-18-210, MCA.

Who qualifies?

- Active, retired, or honorably separated member of the U.S. armed forces, including a reservist
- Spouse, surviving spouse, dependent, or heir of one of the above

Multiperil Insurance



HB 94

- ✓ **HB 94** authorizes issuance of a new coverage type - natural disaster multiperil insurance - in the surplus lines context.

Natural disaster multiperil insurance: Bundled flood, earthquake, and landside insurance.

Inability to procure: Surplus lines policy may be obtained only if the insurance cannot be obtained from authorized insurer.

- Natural disaster multiperil insurance automatically satisfies this requirement; no further proof needed.

Why? Developed as an affordable alternative to the National Flood Insurance Program in the face of recent, significant premium increases.

Public Adjusters



HB 95

HB 95 updates Montana's adjuster licensing statutes to address the unique role of public adjusters in the marketplace.

Public Adjuster: An adjuster employed by and representing the interests of the insured. 33-17-102, MCA.

Clarifications: Insurance Code statutes amended to clarify that adjuster laws apply equally to public adjusters, including:

- Licensure requirements
- Examinations
- Continuing education

Public Adjusters Cont'd

Public Adjuster Contracts: Public adjusters must enter into written contracts with the insured.

- Contracts must be filed with the CSI
- Required and prohibited contract terms
- Disclosure to insured of any public adjuster financial interest

Standards of Conduct: Public adjusters must conform to statutory standards of conduct consistent with their relationship with insured

- e.g. duty of loyalty, absence of conflict of interest

Electronic Delivery

HB 118

- ✓ **HB 118** permits insurers to deliver consumer insurance documents by electronic means (“e-delivery”).

Approved e-delivery methods:

- (1) delivery to an email address; or
- (2) posting on a network or website and notifying insured where to view posted document.

- Insured may not be penalized for not opting into electronic delivery.
- Insurer must deliver hard copy if it suspects non-delivery.

Types of documents: Any notice or document required in an insurance transaction.

E-Delivery Cont'd

Conditions of use:

- Opt-in: insured must **affirmatively consent** to e-delivery of documents.
- Consent can be effective beyond renewals, if provided for in initial consent document.
- Disclosures:
 - right to hard copy documents, including how to request
 - right to withdraw consent, including how to do so
 - types of documents to be delivered electronically
 - how to update contact information
 - hardware/software requirements for e-delivery, including any changes to those requirements

E-delivery Cont'd

**Withdrawal of Consent Insured may withdraw consent to e-delivery at any time
Withdrawal effective 15 days after insurer receives request**

Protection of Information: Insurer e-delivery processes must be reasonably calculated to:

- result in actual receipt of information
- protect confidentiality of personal information.

Electronic Insurance Card: Insureds may now satisfy Montana's automobile proof of insurance requirements by using an electronic representation or equivalent of a documentary insurance card provided by the insurer.

- (e.g. smartphone insurance card)

Black Box Legislation



HB 78

Telematics Programs

- ✓ **HB 78 imposes privacy, disclosure, and consumer protections on insurer telematics programs, also known as “black box” programs.**

Telematics Program

Insured allows an insurer to obtain data relating to vehicle operation and driving habits by means of the vehicle computer or other device, typically in return for a discounted rate.

- Progressive “Snapshot,” State Farm “Drive Safe and Save,” Allstate “Drivewise.”
- Data = performance or operation information such as speed, time, or location.
- Device (“black box”): can include event data recorders, vehicle sensors, plug-in devices provided by insurer, cell phones.

Black Box Cont'd

Telematics Agreement: Written agreement signed by policyholder. Must disclose:

- Types of data to be collected
- Purposes for which collected data may be used
- Who will collect/receive data (e.g. third-party vendor on insurer's behalf)
- How long insurer will retain data
- Terms of benefit (e.g. discount) associated with agreement

Data Ownership

- Is "personal information" protected as confidential under 33-19-104, MCA.
- Insurer and third parties may only use information for purposes disclosed in agreement.

Black Box Cont'd

Benefit Terms

- Insurer may offer benefit (e.g. discount) for participating in program
- Exception to Montana's anti-rebating/inducement statute
- Insurer may adjust benefit based upon data analysis of policyholder driving habits.

Insurer Obligations

- Must offer program to all policyholders.
- May not penalize non-participating insureds (e.g. cancellation, non-renewal, rate increase, coverage reduction, etc.).
- Exceptions: mileage discounts, pay-as-you-drive programs
- May not use data for negative rating purposes.

Is this ever going to end?

Termination

- Insurer may terminate agreement (and associated benefit) if policyholder materially fails to comply with its terms.
- Insurer must terminate agreement upon request of policyholder.

Internal & External Review

- ✓ **SB 83 adopted three NAIC model laws relating to the health insurance benefit determination review process and modernized archaic Montana law, which was federally preempted in significant part.**

Utilization Review: Techniques used to evaluate the clinical necessity, appropriateness, efficacy or efficiency of health care services, procedures, or settings. 33-32-102, MCA.

Internal Appeal (aka “grievance”): A complaint submitted by an insured regarding:

- Availability, delivery, or quality of health care services;
- Claims payment, handling, or reimbursement;
- Matters pertaining to insured-insurer contractual relationship. 33-32-102, MCA.

(Typically, an appeal of an adverse benefit determination)

External Review Cont'd

External Review: Procedure providing for review of adverse benefit determinations involving medical necessity or policy rescission.

- Review is provided by an accredited independent review organization.

HIGHLIGHTS

Eliminates federal preemption (Montana law = Montana regulators)

Implements uniform review processes (Notices, Deadlines, Review Standards)

Provides expedited reviews of emergent care adverse benefit determinations

Ensures impartiality of Independent Review Organizations (IROs)

Insurers may now only use CSI-approved IROs on a random or other impartial basis

Establishes recordkeeping requirements



SB 99 – Insure MT

Insure Montana

- Small business health insurance pool
- Premium incentive and assistance payments, tax credits

Funding: Was set to run out in June 2015

SB99 would have modified Insure Montana by eliminating the health insurance pool but retaining premium incentive and assistance tax credits.

Workers' Compensation



SB 123 – MSF

SB 123 granted the Commissioner regulatory authority over the Montana State Fund, Montana's largest workers' compensation provider.

Generally subject to the workers' compensation provisions of the Montana Insurance Code

However, a number of exceptions apply, consistent with State Fund's role as the guaranteed market for workers' compensation:

- **Not subject to revocation/suspension proceedings**
- **Not a guaranty association participant**
- **Not subject to 2.75% premium tax found in 33-2-705, MCA**
- **Subject to higher risk-based capital (i.e. solvency) requirements**
- **Subject to excessiveness standards in ratemaking not applicable to other workers' compensation insurers**



How is it working? MSF Perspective



Our Perspective?



Other Bills – HB 240

- ✓ **HB 240** allows surplus lines insurance producers to assess a flat per-policy fee in connection with a sale of surplus lines insurance.

Fees: May not exceed:

- \$50 for a personal lines policy
- \$100 for a commercial lines policy

Premium: Additional fee is not considered “premium.”

NOTE: Applies only to surplus lines producers when transacting surplus lines insurance business.

SB 396 – Uber in MT

- **SB 396** provides a regulatory framework for the operation of transportation network carriers.
- **Basics of bill**
 - Creates “Class E” motor carrier class subject to jurisdiction of Public Service Commission.
 - Class E = transportation network carriers
 - Record-keeping requirements
 - Fare and disclosure requirements
 - Mandatory automobile insurance requirements

Ride Sharing Cont'd

Liability limits

- Policy must recognize driver as a network carrier driver
- Limits differ depending upon driver's working status

Available, No Rider Onboard

- Death and bodily injury coverage: \$50,000 per person/\$100,000 per occurrence
- Property damage coverage: \$25,000
- Uninsured motorist coverage: standard requirement

Rider Onboard

- Death/bodily injury/property damage coverage: \$1,000,000
- Uninsured motorist coverage: standard requirement

Ride Sharing Cont'd

Personal automobile policy

- Insurers may exclude coverage for losses incurred while the driver is “working” (logged into the network or carrying a passenger).
- Insurers have no duty to defend for these excluded losses.
- In other words, driver may need a separate policy or endorsement for work.
 - Only Farmers Insurance is offering a separate policy in MT

Who purchases coverage – driver or carrier?

- Coverage is driver’s obligation, but carrier may purchase on driver’s behalf.
- Carrier must provide secondary coverage for same amounts in event driver’s policy lapses or is insufficient.

2017 ☺

✓ AIR AMBULANCE LEGISLATION

Air Ambulance Working Group & EAIC Committee

- Network vs. Non-network providers
- Families “held harmless”
- Insurer must do one of three things:
 1. Pay billed charges ☹
 2. Negotiate with provider ☺
 3. Initiate dispute resolution process after paying highest in-network rate to out of network provider
- Insurer and Provider must work it out
 - voluntary arbitration
 - litigation

CLOSING



What questions do you have?





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Industry Perspective

Mike Consedine

*Senior Vice President & Global Head of Government &
Policy Affairs for Aegon*



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BIG DATA & INSURANCE

Laura N. Cali, FCAS, MAAA

Chair, NAIC Big Data (D) Working Group

*Oregon Insurance Commissioner and
Administrator, Oregon Division of Financial Regulation*



OREGON DIVISION OF FINANCIAL REGULATION



Protecting Oregonians' access to fair products
and services through education, regulation
and consumer assistance

What is Big Data?

- No official or agreed upon definition
- Most variations center on consistent themes
 - Large amounts of data/information
 - Analysis, storage, and management of the data presents logistical challenges
- Some also focus on the potential impact on society
 - Ability to use data in new ways to spark new insights and/or deliver value
 - Intersection of business and consumer experience

Why is Big Data Important?

- Big data is everywhere...
 - Start-ups/tech companies
 - Retail
 - Financial institutions
- ...and includes lots of types of information from many sources – public and private
 - Social media
 - Unstructured data (video, text, voice)
 - Geospatial/location information
 - Telematics
- It's changing the way we work, the way we buy/sell goods and services
- There is great potential for value, but also some risks

Big Data Applications in Insurance

- Insurers have always been in the data business, but big data is changing the way insurers use data
 - Access to more and different types/sources of information
 - More powerful tools to analyze data
 - New and more sophisticated applications
- How are insurers using it?
 - Marketing
 - Underwriting
 - Pricing
 - Claims
- Why are insurers using it? A few examples...
 - Product design and refinement
 - Risk management
 - Fraud detection
 - Competitive advantage

Big Data through the Regulatory Lens

- Evolution of the “asymmetric information” problem that leads to need for regulation
- Protect the public while supporting beneficial innovation
 - Identify opportunities for development that benefit consumers and enhance market competitiveness and stability
 - Understand and mitigate potential risks and unintended consequences of big data, as well as those related to our regulatory framework
- Understand what data is being used, for what purpose, and to what effect
- Evaluate whether current regulatory tools are sufficient to protect public and support innovation
- Identify how we can harness and analyze data to do our jobs more effectively and efficiently



NAIC's Big Data (D) Working Group

- Newly formed in 2016 to address insurers' and regulators' use of big data across all lines of insurance
- Charge:
 - *Explore insurers' use of big data for claims, marketing, underwriting and pricing. Explore potential opportunities for regulatory use of big data to improve efficiency and effectiveness of market regulation. If appropriate, make recommendations no later than the 2016 Fall National Meeting for 2017 charges for the Committee to address any recommendations identified by the 2016 exploration.*
- To date, approach focused on information gathering, discussion of potential benefits and areas of concern

What the Big Data (D) Working Group is Discussing

- Sources of data
- Transparency to regulators, consumers
- Accuracy of information and opportunities to correct
- Complexity and consumer ability to understand and react
- Consumer experience enhancements
- Risk segmentation
- Risk management
- Objectivity vs. bias in models and datasets
- Dynamic models and machine learning
- Privacy and information security
- Fraud identification
- Regulatory use of existing data



Big Data (D) Working Group's Next Steps

- Currently working on recommended charges to present at the NAIC's Fall National Meeting in December
- Likely to address:
 - Regulatory resources to evaluate insurers' use of big data and complex models
 - Policy discussions about big data applications and relevance of current regulatory framework
 - Regulators' use of big data
- A significant amount of work ahead!



**QUESTIONS?
COMMENTS?**



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Cybersecurity

Raymond G. Farmer,
Director, South Carolina Department of Insurance



NAIC Cybersecurity (EX) Task Force

- Guiding Principles for Insurance Cybersecurity
- Examination Protocol Updates
- Cyber Liability Market Data Collection
- Roadmap for Cybersecurity Consumer Protection
- New Model: Insurance Data Security Model Law

Why are Insurance Companies Targets?

Thieves rob banks because that's where the money is; they hack insurers because that's where the sensitive information is.

Policyholders share more lifestyle and personal history information with insurers than almost any other business.

Insurers develop a highly detailed risk profile from private health and financial information that has a long shelf life.

What do Attackers Want?

Motives

- **Steal Identities**
- **Steal Intellectual Property**
- **Introduce Malicious Software**

Specific Information Hackers Seek

- **Medical History and Family Records**
- **Claims History**
- **Driving and other Lifestyle Records**
- **Employment, Salary, and Payment Information**
- **Policy Coverage Information – Including Cyber Liability**

What's a Company to Do? (Pre-Breach)

Preparation: Keep an updated Incident Response Plan outlining roles, responsibilities, and tasks if breached.

Corporate governance: CEO and Board of Directors should be actively engaged on cybersecurity projects and efforts.

Culture: Emphasize cyber-hygiene by frequent employee training, response plan testing, and audits. Cybersecurity is not a state that is achieved – it is a process of continuing improvement.

What's a Company to Do? (Post-Breach)

○ Promptly notify law enforcement and regulators

○ Contain attack, identify and eliminate malware

○ Recover data, restart networks

○ Upgrade monitoring: "Fool me twice" rule

○ Develop a mitigation plan for consumers

What Do We Know About the Cyber Insurance Market

- Cyber crime costs the global economy around \$445 billion annually - \$108 billion in the US alone¹
- Global cyber insurance market = around \$2.5 billion in premium in 2014 – *US businesses account for 90%*²
- Fewer than 10% of companies are thought to purchase cyber insurance¹ - *only a third of US companies had some form of cyber coverage in 2014*²
- Market for cyber insurance is estimated to grow²
 - \$5 billion in annual premiums by 2018
 - At least \$7.5 billion by 2020
 - US companies purchasing standalone cyber insurance increased 27% in 2015, compared with 2014³

Cybersecurity Insurance Coverage

Liability associated with libel, slander or copyright infringement

Costs associated with a breach, including regulatory compliance and consumer notices

Costs associated with restoring business assets

Business interruption and extra expense

Expenses related to cyber extortion or terrorism

NAIC Cybersecurity (EX) Task Force

Guiding Principles for Insurance Cybersecurity

Examination Protocol Updates

Cyber Liability Market Data Collection

Roadmap for Cybersecurity Consumer
Protection

New Model: Insurance Data Security Model Law

Guiding Principles and Roadmap

Guiding Principles for Insurance Cybersecurity

- **Adopted June 2015**
 - Obligations and expectations on protecting information for insurers, producers, and regulators
 - Regulatory guidance must be tailored, practical, scalable, flexible, and risk-based
 - Emphasize importance of planning, training, incident response, audits, vendor monitoring

Roadmap for Cybersecurity Consumer Protections

- **Adopted December 2015**
- **What consumers can expect *all the time* from insurers**
 - E.g., What information do they keep about me? What is their privacy policy? How are they protecting my information? Who are they sharing my information with?
- **What consumers can expect *in the event of a breach***
 - E.g., How and when will I be notified? What are they doing to fix the problem? Who can I call for more information? Can I get identify theft protection, credit monitoring, or a credit freeze? Copies of relevant documents?

Examination Update and Data Collection

Exam Protocol Updates

- Reviewed existing guidance
- Reviewed data security controls
- *Financial Condition Examiners Handbook* – used for examinations with an effective date of December 31, 2015
- *Market Regulation Handbook* updates – expected in 2017

Cyber Liability Market Data Collection

- *Cybersecurity and Identity Theft Coverage Supplement* – insurer's annual financial reports
- **Began Q1 2016**
 - Identity theft insurance
 - Cybersecurity insurance



Standalone Cybersecurity Insurance Policies

- Number of claims reported (First Party & Third Party)
- Direct premiums written and earned
- Direct losses paid and incurred
- Adjusting and other expenses paid and incurred
- Defense and cost containment expenses paid and incurred
- Number of policies in-force (claims-made and occurrence)



Cybersecurity Insurance Coverage Sold as Part of a Package Policy:

- Number of claims reported (First Party & Third Party)
- Direct premiums written and earned, if available or estimable
- Direct losses paid and incurred
- Adjusting and other expenses paid and incurred
- Defense and cost containment expenses paid and incurred
- Number of policies in-force (claims-made and occurrence)

Proposed Common Definitions

Consistent meanings for “Data Breach”, “Personal information”, etc.

Information Security Program

Requirements, Board of directors role, 3rd party service providers

Consumer Rights

Pre-breach, post-breach, investigations, notifications

Regulator’s Role

Commissioner’s power, hearings, witnesses, examination authority



Questions?



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Insurance Round Table

Monica Lindeen (NAIC President in 2015)

Montana Commissioner of Securities and Insurance

Ted Nickel (NAIC President – Elect)

Wisconsin Commissioner of Insurance

Julie McPeak (Vice President – NAIC)

Tennessee Commissioner of Commerce and Insurance

Eric Cioppa (Secretary-Treasurer – NAIC)

Superintendent of Maine Bureau of Insurance



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Thanks for Coming!

Drive Safely.

Please turn in your CE code words to ensure that you receive credit.