

From the Chair

Get Involved

While PIMA has a professional staff to handle day-to-day activities, PIMA can only be GREAT if you, the members, get involved. There are 9 committees that need your input/involvement. The committees will meet at the Summer Conference on Thursday, July 27, 2006 starting at 8:00 a.m. Take a look at the brochure for specific times of each meeting (or see online at www.pima-assn.org).

During our April Board meeting there was an interesting discussion of "Who are we and who do we want to be." PIMA was formed and has focused on the Broker/Administrator of Mass Marketed Life and Health Insurance products.



Jim Larson

In view of the changing environment our focus could be too narrow. Should we expand the scope to P&C agencies, work-site marketing, electronic marketing and managing general underwriters? This would require expansion of meeting content and Legislative focus. We have asked the Past Presidents Advisory Forum for feedback and seek yours too.

All members are welcome to attend our Board meeting at 1:00 p.m. on July 27th.

The Silverado always attracts a large turnout. Please register -- the program looks Terrific!

See you soon,

Summer Conference -- "Product Strategies in a Maturing Industry"



The Summer Conference will be held at the beautiful Silverado Resort in Napa, CA from July 27-30, 2006

The theme of this year's PIMA Summer Conference is "Product Strategies in a Maturing Industry." The tri-chairs for this conference are **Scott Kelley**, Vice President, Marketing, Aon Group, Inc., **David Olsen**, Account Executive, AMA Insurance Agency, Inc., and **Eric Wuebker**, Marketing Director, Topak Marketing. Inc. They have put together a great program of networking and education featuring speakers with a broad understanding of the insurance marketing industry.

Highlights of the educational portion of the program include...

- *Baby Boomers- A Complicated Generation of Consumers* by Scott Schroeder and Mark Weishaar of Cohorts

see **Conference**, page 9

What's Inside					
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MarkeTTech Symposium in Chicago	Marketing Methods Competition	Association Trends	PIMA Members Grapevine	New and Prospective Members	Legislative Newsfront

Report from HQ

At this writing we are almost ready for the Summer Conference and it promises to be a great meeting. Hats off to our Tri-Chairs Scott Kelley, Eric Wuebker and Dave Olsen as well as Faith Morreale, Education Action Group Chair. A reminder that we will have member “soundbite” introductions at this meeting, to enhance your networking opportunities.

Our Strategic Partner, Mastercard International, will also be present in Napa. Two new representatives will share more about the persistency and cash flow benefits of accepting payment by debit/credit card. Mastercard is also the very generous sponsor of our opening reception.

The MarkeTTech program is finalized. Two highlights will be: the presentation of the Best of PIMA Award at this meeting (with

highlights at the Annual Meeting); and, a session on our new

Advertising Compliance Manual alerting you to key issues and red flags. Also, an apology.... The original MarkeTTech date was November. Last fall we discovered that the DMA meeting was on the same dates. Many MarkeTTech attendees also attend the DMA meeting so we moved our dates. The only options at

our contracted hotel involved election day or Yom Kippur. We regret the conflict for members who observe the latter—and it won’t happen again.

In our attempt to serve you better and in response to member feedback our Communications & Technology Task Force has expanded its role (and title). The group is assessing how we interact & communicate with you, as well as *your* experience interacting with *us*. PIMA News, PIMA-in-the-Loop, our web site are being

reviewed and streamlining meeting & housing registration is in progress. In addition, our Marketing Methods Competition will be re-assessed after this year’s awards. To start that process this year’s judges will host a Roundtable at the Summer Conference to get your feedback. Finally, in this issue there is news about a recent association membership trends survey that is surprising and which should interest many of you.

In staff news, Ralph Gill recently remarried—we extend congratulations—and he has decided to pursue new professional interests, so has resigned effective June 30th. We thank him for his past contributions to PIMA and wish him well.

I look forward to seeing many of you in California. In the interim, please call me at any time with suggestions or feedback.



Mona Buckley, CEO

New Location for PIMA Office

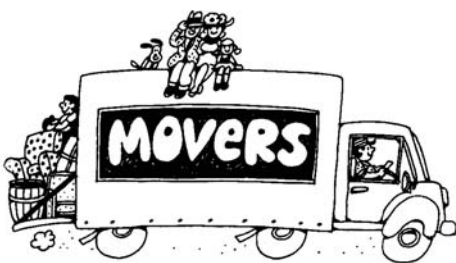
PIMA’s offices moved on Friday, May 26th to a new, smaller and less expensive space within the same building. The only change to the contact information is the suite

number— from 1008 to 410. This will allow for more efficient use of resources and it also gave the staff a chance to discard duplicative and unneeded files laying around since the last time the office moved (from Bethesda, MD in the spring of 2001).

The office is now fully operational. The email and phone numbers haven’t changed.

New address:

PIMA
6300 Ridglea Place, Suite 410
Fort Worth, Texas 76116



**Members Are
PIMA's
Strength**

**Each One-
Get One!**

“Winds of Change – Hear the Forecast, Chart Your Course”

This year’s MarkeTTechSM Symposium will be at the Chicago Marriott O’Hare Hotel on October 1-3 and includes two days of information-packed seminars.

The co-chairs for the annual symposium are **Fred Hron**, Director- Corporate Communications, Forrest T. Jones Co.; **Kathie Kinde**, Manager-Marketing Planning, AIA/USI Affinity; **Todd Ruopp**, Vice President, ARAG North America; and **Mike Wise**, Vice President, IdeaStar, Inc. The theme they chose for this year’s symposium plays on Chicago’s breezy reputation and focuses on what insurance marketers need to do today to respond to the changes affecting marketing tactics over the next years.

The program is designed to show how the fundamentals previously learned may not have the desired effect in today’s fragmented communication world. **Todd Ruopp** suggests, “The winds of change in technology and the regulatory environment will continue to fracture how people receive and request information.”

Kathie Kinde adds, “The forecast calls for even more difficulty in capturing consumer attention in order to present an insurance offer or get inside the decision cycle, let alone a consumer’s consideration set.”

Fred Hron feels, “The presentations at this year’s symposium will show what you can do as a marketing professional to break through.”



PIMA’s 2006 MarkeTTech Symposium will held at the Chicago Marriott O’Hare Hotel. Save \$50 by registering before Sept. 1st.

Mike Wise says, “Attendees will also learn that the penalty for not paying attention to the forecast is finding yourself way off course, being blown about, or worse, finding yourself stranded and irrelevant in the marketplace.”

The first day is focused on strategy and the second is more tactical. It’s a virtually 100% insurance direct marketing crowd and approximately 200 key marketing professionals are expected to attend.

The details of the program are available on the PIMA website and in the brochure being mailed to all members. PIMA would like to thank Business Partner Member World Marketing for designing this year’s brochure. They also designed, printed and supplied mailing services for the Marketing Methods Competition Brochure.

Exhibiting Opportunities Still Available

Prime locations for the Trade Show exhibit space for this year’s event are available on a **FIRST COME, FIRST SERVED** basis.

see *MarkeTTech*, page 15

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ING Association Sales

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New York Life

2006 PIMA Committee Leadership

	<u>Chair</u>	<u>Vice Chair</u>	<u>Board Liaison</u>
<u>Agency Advisory Forum</u>	Sandy Niespodzianski	Allen Haney*	
<i>Objective: To provide a forum for discussion and surveying about common Agency member issues and provide advice and input to the Executive Committee, Board and staff on those issues. To assist PIMA with Educational and other Strategic Goals, as able or appropriate.</i>			
<u>Business Partner Advisory Forum</u>	Ann Nagle	Linda Brignola-Braverman*	
<i>Objective: To provide a forum for discussion and surveying about common Business Partner issues and provide advice and input to the Executive Committee, Board and staff on those issues. To assist PIMA with Educational and other Strategic Goals, as able or appropriate.</i>			
<u>Company Advisory Forum</u>	Diane Moras*	Jim Roth	
<i>Objective: To provide a forum for discussion and surveying about common Company member issues and provide advice and input to the Executive Committee, Board and staff on those issues. To assist PIMA with Educational and other Strategic Goals, as able or appropriate.</i>			
<u>Past Presidents Advisory Forum</u>	Susan Hussar*		
<i>Objective: To provide a forum for discussion and surveying about issues and to provide advice and input to the Exec Committee, Board and staff on those issues. To assist PIMA with other strategic goals, as able, assigned or appropriate</i>			
<u>Education Action Group</u>	Faith Morreale	Mike McCarthy*	
<i>Objective: Oversee the planning of PIMA's meeting/conferences held annually, to ensure educational merit, Agency & membership relevance, as well as adherence to the PIMA goal of three distinct meeting types: strategic, product-focused and marketing & technology. Make recommendations as needed, to meet or amend these goals. Provide guidance to the meeting chairs on topics and content based on Board and member input.</i>			
<u>Product Development Task Force</u>	Ed Ruth	John Magyar	Jim Gallagher
<i>Objective: To create, foster and model innovative product and process development for PIMA members, to assist the Education Action Group with content ideas related to products and to manage the Product & Process award process.</i>			
<u>Legislative & Regulatory Action Group</u>	Paul Latchford*		
<i>Objective: To identify and provide information & guidance to PIMA and its members about key legislative and regulatory issue, including publishing relevant items or tools. To encourage member involvement in federal and state legislative issues, and NAIC matters.</i>			
<u>Membership Action Group</u>	Dan O'Brien*	Michael Mercer	
<i>Objective: To work with the Executive Committee, Board and staff in the recruitment and retention of PIMA members, with a specific focus on Agency members. To monitor those efforts and make any recommendations needed to meet those goals.</i>			
<u>Non-Dues Revenue Action Group</u>	Joan O'Sullivan	Ed Miltenberger*	
<i>Objective: To investigate, assess, and recommend to the Board of Directors, activities and opportunities that generate alternative revenue sources</i>			
<u>Communications & Technology Task Force</u>	Karen McGuiness	Bill Tyson	Ken Kelting
<i>Objective: To assess PIMA communications (PIMA News, PIMA-in-the-Loop) in relation to our evolving an "e" strategy and in support of the Strategic Plan. Identify additional or best ways to disseminate legislative/regulatory information, committee information, etc.</i>			

* also a Board member, so serves as Board liaison

Mark Your Calendars

UPCOMING MEETING SCHEDULE

What: **2006 MarkeTTech Symposium**
When: October 1-3, 2006
Where: Chicago Marriott O'Hare Hotel in Chicago, Illinois
Room rate: \$169
Co-chairs: Fred Hron, Forrest T. Jones Company
Kathie Kinde, AIA/USI Affinity
Todd Ruopp, ARAG North America
Mike Wise, IdeaStar, Inc.
Theme: Winds of Change-
Hear the Forecast, Chart Your Course

What: **2007 Annual Meeting**
When: January 18-21, 2007
Where: Boca Raton Resort & Club in Boca Raton, Florida
Room rate: \$289

What: **2007 Summer Conference**
When: July 26-29, 2007
Where: Stoweflake Resort in Stowe, Vermont
Room rate: \$275

For more information go to: www.pima-assn.org

Marketing Methods Competition

Best of PIMA Award to be Presented at MarkeTTech

The annual contest is designed to highlight the best work in the insurance marketing industry and is dedicated to recognizing the high standard of excellence in marketing materials developed by PIMA member firms.

Recognition of award winners is moving from the last session on Tuesday at the end of MarkeTTechSM to the luncheon on Monday. Also, the Best of PIMA Award will be presented that evening at a special dinner and reception instead of at the Annual Meeting.

2006 Marketing Methods Competition • Details and Instructions

Rules:

- Also new this year - Each Agency, Company and Business Partner is entitled to submit as many entries, in as many categories as they wish. (only PIMA members in good standing are eligible).

- Materials submitted cannot have been used prior to January 1, 2005 and cannot have been previously submitted in any PIMA Marketing Methods Competition.

- Category winners will be announced during MarkeTTech, Oct. 1-3, 2006.

- Category winners become participants in the competition for the "Best of PIMA Award for Excellence in Marketing."

New Report on Gen X & Gen Y

Pre-Boomers More Likely to Join Associations

The William E. Smith Institute for Association Research recently published a research report entitled *Generations and the Future of Association Participation*.

The results have surprised many, i.e. that adults born after 1965 are *likely to join* individual membership associations and at even higher rates than Baby Boomers, over the next ten years. The study revealed that the key difference between Generation X and Y workers and Baby Boomers is the expectation about what membership means and the returns such membership should provide.

The report is available to members of the association community free of charge and online at www.smithbucklin.org.

Marketing Methods Competition

Entry Deadline July 14, 2006

see *MMC*, page 11

Member Grapevine

American Wholesale Insurance Group (AmWINS) announced the acquisition of Irving, Texas based Web TPA, Inc., a leading third party insurance administrator focused on improving the administration process for self-funded employers and insurance companies.

“Bringing Web TPA into American Wholesale is significant,” said **Sam Fleet**, President of AmWINS Group Benefits division, **National Employee Benefit Companies (NEBCO)**. “Web TPA’s services and community based health plan



Sam Fleet

products complement NEBCO’s existing offerings and provide a platform for us to build new and innovative products.

What makes the acquisition so logical is that Web TPA has the best proprietary claims-paying platform in the industry and, like NEBCO, is known for its excellent customer service.”

AmWINS also announced recently that it has acquired the Policy Administration Division of **CBCA Administrators, Inc.**, of Fort Worth, Texas.

With the addition of the Policy Administration Division’s significant customer base, NEBCO is now among the largest association insurance administrators in the United States.

“Joining AmWINS means joining

one of the finest group benefit brokerage and administration companies in the US,” said **Duane Beckner**, **CBCA Senior Vice President**. “We believe our core competencies dovetail nicely with what AmWINS and NEBCO already offer in the marketplace.”

“The one-two punch of **CBCA’s** Policy Administration Division acquisition, on the heels of Web TPA, is extremely exciting for our team,” said **Fleet**. “This means both a significant expansion of our capabilities and services for our customers and an increase in the number of insurance carriers we service.”



The American Medical Association (AMA) has announced the appointment of **Christopher Burke**, FLMI, as president of its wholly owned subsidiary, **AMA Insurance Agency, Inc.**

Burke, a graduate of the University of Indianapolis has extensive leadership and management experience in the areas of business-to-business, marketing, and sales of life, health, disability, Medicare supplement and annuity products. He previously was senior vice president of marketing with **Forethought Financial Services, Inc.**, where he was responsible for corporate communications, insurance and bank



Christopher Burke

marketing. He was also an executive management team member, board member for six Forethought subsidiaries, and a former board member of Forethought Federal Savings Bank.

In his new position, **Burke** is charged with providing leadership and vision to **AMA Insurance Agency** and assuring physician-focused service excellence and competitive insurance products from top rated carriers to enhance membership value to AMA members and the medical community.



Gilsbar has announced the addition of Todd Randolph as National Sales Consultant. Mr. Randolph will help expand **Gilsbar’s** national presence and play a critical part in forming and nurturing new business partnerships throughout the country. With Randolph’s leadership, **Gilsbar** plans to extend their reach to a national base of self-funded clients who want to take advantage of **Gilsbar’s** tightly integrated, unique approach to long term cost management for self-funded health plans.

Mr. Randolph comes to **Gilsbar** from Humana where he excelled in sales and group account management. With



Todd Randolph

experience in both traditional and

(Grapevine continued, page 7)

consumer-choice employer plans, Randolph has been a featured speaker and panel participant for national healthcare forums specifically on the topic of Health Savings Accounts. Mr. Randolph received his Bachelor's Degree from Texas A&M University.



PIMA's Immediate Past Chair, **Susan Hussar**, Compliance Officer - Consumer & Commercial Practice for **Marsh** (at press time) was presented with the 2006 Helen



Susan Hussar

Garvin Outstanding Achiever Award by the National Association of Insurance Women - New York City. The event was attended by

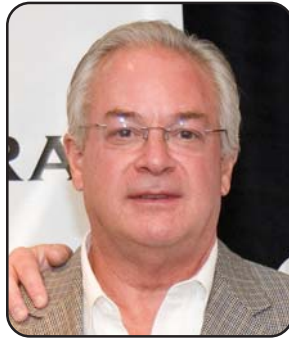
350 New York-based insurance professionals.

In other news, Susan Hussar has accepted a position as a Relationship Manager at The Hartford, effective July 17th. Susan will work from the Alexandria, Virginia office. Her new contact information will be in PIMA's 2006-2007 Membership Directory and Buyers' Resource Guide, available in July.



Warren Hunter, president and CEO of **DMW**, announced the agency and its clients were honored for their direct response television commercials in the Communicator Awards competition. Entries are

judged against a high standard of excellence rather than against other competitors. The Crystal Award of Excellence for projects that exceed industry standards



Warren Hunter

was presented to **DMW** for **The Hartford's** "Pulled Over" television commercial. The commercial targets AARP member drivers ages 50 plus.

DMW also tied for "Best of Show" in the New England Direct Marketing Association awards and won "Best of **PIMA**" with the same campaign.

In other news, **Warren** has been honored by the Philadelphia Direct Marketing Association (PDMA) as "2006 Direct Marketer of the Year." With more than 35 years of experience in advertising and direct marketing, **Hunter** has led **DMW** to become a nationally known expert in all facets of direct marketing in a variety of industries including insurance and financial services.

John J. Harrison, founder and partner, **The Keystone Equities Group** and past chair of **PIMA** said "I have followed **Warren's** career as a colleague, a competitor, and a friend. Not only do I recognize him as a top-notch direct marketer, but also as a fiercely determined businessman who has been successful on both the insurance

company and direct marketing agency sides of the business."



New York Life announced the promotion of **John R. Cassagne** to Senior Vice President. **John** is responsible for every aspect of the Company's Group Membership Association operation. He has worked at **New York Life** for over 25



John Cassagne

years. He took the reins of the Sales operation in 1995 and was promoted to Vice President in 2000. **John** is a staunch supporter of **PIMA** and was the organization's first Chair from the Company segment of its membership.

New York Life was also pleased to announce the addition of **Dan**

O'Brien to the Group Membership Association Division. **Dan** has over 15 years of association/affinity experience and will be



Dan O'Brien

New York Life's Vice President of Sales and Account Services.



Genelco Ad
full page
(from Buyers' Guide)

➤ *The Changing Long Term Care Landscape- An Affinity Opportunity?* by Joe Sturla of Long Term Care Resources

➤ *The Current and Future State of Term Life and Disability Insurane* by Edward P. Baird of Prudential



Edward Baird

➤ *HSA Update* by Allen Wishner of Flexible Benefit Services

➤ *Legislative Environment- Inside the Beltway* by Paul Latchford of AEGON Direct Marketing Services

➤ *Natural Disasters- Their Impact on the Marketplace* by Jonathan Thomas of Lloyd's Syndicate and Ed Miltenberger of Gilsbar



Jonathan Thomas

➤ A special closing keynote by Michaela Rodeno, CEO, St. Supery Vineyards entitled *The Branding of Napa Valley*.



Michaela Rodeno

The networking opportunities will be stunning in beautiful Napa, California at the historic Silverado Resort. Please look on the PIMA website www.pima-assn.org for more details.

Prepare Your Intro

The popular Member Introduction Session on the first day of the general session will be slightly different this year. One attendee from each organization will have 30 seconds to introduce him/herself, colleagues, company and provide a brief description of products and/or services. All registrants have a space on the Conference Networking Boards, located near the registration table, allowing you to make contact or exchange messages.

Thanks go to David Daniel at CBCA, Inc. who designed the 2006 Summer Conference postcard and brochure. Both can be viewed and/or printed from the PIMA website www.pima-assn.org.

This is expected to be one of our best attended conferences in years so register and reserve your room as soon as possible, if not already done.

Go to www.pima-assn.org/Conferences or contact PIMA at 817-569-PIMA (7462).

At press time our hotel was almost sold out. For questions about hotel reservations or air/ground transportation needs call Empire Meetings Solutions at 800-456-6778.

Vertis announced the acquisition of USA Direct, Inc., a full-service provider of innovative direct marketing services, based in York, Pennsylvania.

“**Vertis** is dedicated to providing world-class marketing services to our clients,” said Dean D. Durbin, president and CEO of **Vertis**. “The addition of USA Direct expands our capacity and production range, and further enhances delivery of fast and efficient direct marketing solutions.”

The strategic investment increases **Vertis**’ flexibility and range of direct marketing product offerings by adding capacity to core manufacturing capabilities. The acquisition also enables clients’ access to USA MailNow®, a web-based direct marketing order entry tool.



ABIS, Inc. of Owings Mills , Maryland continues to expand by opening a 43,000 square-foot, state-of-the-art production facility. The new facility increases the companies’ production and warehouse capacity to 80,000 square-feet and will allow **ABIS** to continue serving its client’s demanding, high volume direct mail needs. **ABIS** can produce over 200mm mail packages per year and will continue to expand its capacity and services to satisfy the evolving needs of its clients.

If you have news of interest to the membership and would like to share it in a PIMA publication please send it to gail@pima-assn.org.

Spotlight On New Members



All members are encouraged to welcome these new members.

Stephanie D'Amico
Sr. Account Executive
SourceLink
Columbus, OH

Clark Wooten
Client Executive
Axiom Corporation
Little Rock, AR

Mike Snavelly
Client Representative
Axiom Corporation
Little Rock, AR

Michael Pooley
Vice President, Sales
Axiom Corporation
Little Rock, AR

Lee Sing
Client Executive
Axiom Corporation
Little Rock, AR

Michael Eve
Head of Assn. & Affinity Markets
Aetna
Hartford, CT

Prospective Members

Larry Sigle
Sr. Sales Consultant
DenteMax
Lindsborg, KS

Frank Shellabear
President, Sales Division
CSA Travel Protection
San Diego, CA

Craig Arnold
President & CEO
The Princeton Group
Kentland, IN

Denise Rodgers
President
Market Atlanta
Owens Cross Roads, AL

Ron Furlong
President
Pacific Educators
Orange, CA

Jim Johnston
CEO
Couch Braunsdorf
Liberty Corner, NJ

Joe Lojacono
President & CEO
Valmark Associates
Williamsville, NY

Carl Adamek
President, Health Care Division
Allianz
Minneapolis, MN



Stephanie D'Amico
SourceLink



Bill Gorman
Veterinary Pet Insurance



Michael Pooley
Axiom Corporation



Mike Snavelly
Axiom Corporation

Calling all new members!

If your picture has NOT been featured in *PIMAnews* please let us know and send us your best snapshot.



Michael Eve
Aetna

Marketing Methods Competition Judges:

Sharon Harman, Pearl Insurance
Jeff Roedel, AIA, Inc.
Shannon Warner, AIG American General.

This distinguished panel of judges will choose the 2006 contest winners based on the following:

Effectiveness - How well the material communicates its message

Results - How well it accomplished its goals, including response rates and net income or ROI

Theme - Appropriateness, merit and relevance

Visual Appeal - Impact of design and copy, and the degree to which a point of difference is presented, relative to other offerings in the same product or category.

Entry Instructions:

Complete the entry form on the PIMA website and choose one of the following options:

- **Scan/Email Entry Form to:**

gail@pima-assn.org

- **Fax to:** 817-569-7461

- **Mail Entries/Payment to:**

Attn.: 2006 Marketing Methods Competition
PIMA

6300 Ridglea Place, Suite 410
Fort Worth, TX 76116



Janice Mayo
OnRequest Images



David Norris
OnRequest Images

Buyers' Guide and Membership Directory is gone to press!

Members note:
When your membership information changes please update your information on the Member's Only section of the website www.pima-assn.org or call the PIMA office.

1-817-569-PIMA (7462)

or

gail@pima-assn.org

PIMA conducts this competition annually as a service to its membership. Entry fees are designed to cover expenses only.

When the completed entry form is received, shipping instructions for materials are sent, along with a competition form for each category in which you wish to compete.

Deadline for entries: July 14, 2006

Deadline for Complete Display Kits: August 4, 2006

Questions: Call PIMA at 817-569-PIMA (7462) or e-mail Gail Cannon at gail@pima-assn.org.

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Legislative Newsfront

SMALL BUSINESS HEALTH PLANS

The Senate, on May 11, 2006, defeated a Closure Motion that, if approved, would have paved the way for consideration of approximately 100 amendments to Senator Enzi's Small Business Health Plan Bill. Shortly after the vote the Enzi Bill was withdrawn from the Senate floor and the Senate has turned its attention to other legislative business. On the Closure Motion, 55 Senators voted "Yes" and 43 Senators voted "No." The vote on the Motion was heavily partisan and was defeated after falling short of the required three-fifths Senate vote.

Senator Enzi's Bill would have given small business owners the power to ban together through their membership in a particular trade associations and ensure their employees utilize small business health plans. These plans would be exempt from certain state requirements. This pulling together of small business groups would afford the participating groups the power to negotiate more affordable health care benefits. This bill has been commonly referred to as the "Association Health Plan" bill. Supporters of the bill say that the bill would lower health insurance costs for small businesses and reduce the number of uninsured people. Recent studies have shown that approximately 20 million working individuals who are uninsured and that 63% of that total are either self-employed or work for a small business. Critics of the bill

state that allowing insurers to bypass state protection gives consumers a false sense of security and could lead to higher insurance premiums and lower benefits.

S. 1955 (Small Business Health Plan Bill) is considered by many to be "dead" for the remainder of the 109th Congress. The small business community made this vote a "key" vote for the purpose of noting the strengths of the Senate incumbents in the November election.

Of the 20 million uninsured working individuals 63% are either self-employed or work for a small business.

MEDICAL LIABILITY REFORM BILLS

On May 8, 2006, the Senate defeated two (2) procedural Motions that, if approved, would have paved the way for consideration by the Senate of two (2) separate medical liability reform bills – the "Medical Care Access Protection Act" (S. 22) and the "Healthy Mothers and Healthy Babies Access to Care Act" (S. 23). Both of these procedural Motions required three-fifths majority for approval. S. 22 was defeated by a margin of 48-42 and S. 23 was defeated by a margin of 47-44. In the calculation of votes, it was noted that three (3) Republicans cross party lines to join Senate Democrats in voting against the Closure Motion.

S. 22 proposed reforms which would have applied to lawsuits for all types of health care services against health care providers and institutions. S. 23 would have applied only to lawsuits involving obstetrical and gynecological services. Unlike previous legislation proposals for medical liability reforms, the bills considered would not cover lawsuits against health insurance plans, employer sponsors of health coverage and pharmaceutical/medical device manufacturers.

Both bills include the following reforms:

- non-economic damages would have been limited to a total of \$750,000 with separate caps at \$250,000 for each provider, \$250,000 for each institution and \$500,000 for all institutions combined;
- punitive damages would have been limited to a greater of \$250,000 at twice the amount of non-economic damages awarded; and
- other provisions address limits on attorney's contingency fees, the statute of limitations health care lawsuits, a fair share rule providing that each parties liable only for a percentage of its responsibility, and collateral source rule to prevent double-recoveries, subrogation rights, standards for expert witnesses, and sanctions for attorneys who file frivolous lawsuits.

TAX-FREE HEALTH SAVINGS ACT

In May, 2006, Representative Cantor (R-VA) introduced H.R. 5262 which proposes changes aimed at making

Health Savings Accounts (HSAs) more affordable and attractive to consumers. The “Tax-Free Health Savings Act” includes provisions which would:

- increase the maximum allowable HSA contribution to the out-of-pocket limit for the high-deductible health plans;
- establish an above-the-line tax deduction for premiums paid by individuals for HSA-eligible high-deductible health plans;
- provide tax credits to offset payroll taxes paid by individuals on income they spend making contributions to HSAs and paying premiums for HSA-eligible high-deductible health plans;
- provide refundable tax credits to assist low-income persons in purchasing HSA-eligible high-deductible health plans;
- allow employers to make higher HSA contributions for employees with chronic conditions;
- provide flexibility to coordinate HSAs with Flexible Spending Arrangements (FSAs) and Health Reimbursement Arrangements (HRAs);
- permit individuals to use HSA funds to purchase any non-group HSA-eligible high-deductible health plan; and
- permit individuals to use HSA funds to pay for any medical expenses incurred on or after the first day they are covered by an HSA-eligible high-deductible health plan.

Bill proposes- Insurers have option to remain in state regulatory system or be regulated by national overseer.

REGULATORY REFORM:

OPTIONAL FEDERAL CHARTER

Senate 2509 was introduced by Senators Sununu (R-NH) and Johnson (D-SD) on April 5, 2006. This bill proposes an optional federal charter as a new regulatory structure for life insurers and property and casualty insurers. Long-term care and disability products sold by national life

insurers would be regulated under this new structure, but health insurance policies would not be covered. Insurers would have the option of remaining in the state regulatory system or being regulated by a

new established office of the national insurance which would oversee national life insurers and national property/casualty insurers. This bill is not the same as the SMART Act (State Modernization Regulatory Transparency Act).

HEALTH INFORMATION TECHNOLOGY PROMOTION ACT

On May 24, 2006, the House Ways and Means Subcommittee on Health approved an amended version of H.R. 4157 “Health Information Technology Promotion Act.” The amendment makes a number of modifications to the original version

of H.R. 4157 that Representative Nancy Johnson (R-CT), Chair of the Subcommittee, introduced in October 2005. H.R. 4157 is aimed at permitting the adoption of Health Information Technology. The bill would provide statutory authority for the Office of National Coordinator of Health Information Technology to the Department of Health and Human Services. The National Coordinator would be charged with leading the development and approval of standards used in the creation, maintenance, or exchange of health information, as well as certification and inspection of health information technology products, exchanges and architectures. The Johnson bill would require the health care industry begin using ICD-10 codes for identifying medical diagnosis and procedures by October 2009. There has been quite a bit of opposition to this particular point as there are a number of parties who want to see this issue delayed until 2012.

In addition, the bill also provides safe harbors under the Stark Act and the federal anti-kickback statute to permit investments by hospitals and other in physician health information. Other provisions would direct the HHS Secretary to develop a strategic plan for coordinating the health information and technology standards, HIPAA transaction standards and federal activities with respect to electronic exchange health information. The bill will receive further review by the House in June after its return from recess.

PRIVACY UPDATE - 5/2006

2006 State Breach of Security Legislation

Since January 2006, there has been 9 new Breach of Security laws passed, which include: Arizona, Colorado, Idaho, Indiana, Kansas, Maine, Nebraska, Utah and Wisconsin.

The primary requirements of these bills continue to be investigation and notification when a breach of security has taken place. A breach of security is usually defined as “unauthorized acquisition of unencrypted computerized data that compromises the security, confidentiality, or integrity of the personal information maintained by the commercial entity.”

Proposed - Victims of privacy violation should be notified by three “acceptable” ways: in writing, telephonically or electronically. Certain conditions allow for web site posting and statewide media.

Most states base the notification requirement on the outcome of the investigation. Therefore, if the investigation determines that the misuse of personal information has not occurred or is unlikely to occur, notice is not required.

If a breach of security is confirmed, there are 3 methods acceptable to notify affected residents. These methods include: written, electronic, (if this has been the primary method of communication with the resident) and telephonic. If the commercial entity can demonstrate that the cost of

providing such notices meets a state specific threshold or the affected residents exceeds a state specific threshold, substitute notice may be used. The substitute notice primarily allows notification by web site posting and statewide media.

Some states require additional disclosure of the breach to consumer reporting agencies as well as law enforcement agencies.

The Attorney General is usually the enforcement authority and has the right to bring action to obtain actual damages as well as fines for violations that range from \$10,000 - \$150,000. All Breach of Security compliance memos that have been distributed since 2003 are posted under the Security link from the main ADMS portal.

2006 LEGISLATIVE UPDATE ON TELEMARKETING

Below is a summary of current legislation affecting telemarketing.

Mississippi Senate Bill 2695 was enacted and extends the repeal on the Telephone Solicitation Act to 2010.

Michigan House Bill 4423 was approved May 10, 2006 and became effective May 10, 2006. The bill

prohibits a telephone solicitor when leaving a message for a consumer from misrepresenting in that message that the consumer has a current business matter or transaction to discuss with the consumer, that there is a current business or current customer relationship with the telemarketer and that the consumer is to call back to discuss that relationship or transaction.

PROPOSED LEGISLATION

New Jersey Assembly Resolution 145 calls upon the Federal Communications Commission (FCC) not to weaken New Jersey’s “Do not Call Telemarketing Law.”

The Resolution requests that the FCC dismiss the Petition for Declaratory Ruling filed by the American Teleservices Association which seeks to eliminate certain provisions in the New Jersey telemarketing rules so that telemarketers may call residents with whom they have done business in the past 18 months, even if the residents are on the State’s “No Telemarketing Call” list.

The Resolution was reported out of Assembly Committee, 2nd Reading 5/18/2006. The Statement to the Resolution sets forth that New Jersey’s “Do Not Call” Telemarketing law is recognized as one of the toughest laws in the nation and it has attracted over 2.8 million New Jersey residents who have signed up for the “Do Not Call” program in order to avoid the relentless and intrusive invasion of their privacy from telemarketers trying to sell their products and services.

New York Assembly Bill 615 introduced in early 2005 passed the Assembly on May 2, 2006 and was referred to the Senate Consumer Protection Committee.

The bill requires senders of unsolicited advertisements to inform the recipients of such advertisements of the right to decline any further solicitations. In addition, the bill requires senders to maintain an exclusion list of those consumers who do not want to receive any further unsolicited advertisement and imposes various penalties.

New York Assembly Bill 11141 and Senate Bill 7887 as proposed would amend Section 399-z(7)(a) of the General Business Law to require that telemarketers use the Do-Not-Call Registry obtained from the Federal Trade Commission no more than thirty-one days prior to the date any call is made.

Ohio House Bill 470 and Senate Bill 254 would prohibit a telephone solicitor or salesperson, in relation to a telephone solicitation or a call subsequently arising from that solicitation, from failing to disclose the physical location where the call is originated or received.

"Legislative Newsfront" is submitted by Paul Latchford, Vice President, Law and Governmental Affairs, Aegon Direct Marketing Services.

Paul is the Treasurer of PIMA's Board of Directors and has been a Legislative & Regulatory Action Group volunteer for over 25 years.



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