

e REPORTER

Professional Insurance Agents of New York State Inc. July 31, 2007

PIANY meets with Superintendent Dinallo, NYSID staff

PIANY met with New York State Insurance Department Superintendent of Insurance Eric Dinallo and key members of his staff July 11 for a two-hour, wide-ranging discussion of issues that affect PIANY members.

PIANY was represented by President David Dickson, joined by President-elect Martin Koles and past President Robert Franzese; as well as Executive Director Diane Kattrein, CAE, Assistant Executive Director Ellen Kiehl and Legislative Representative Allison Lee.

Superintendent Dinallo was joined by Michael Moriarty, deputy superintendent for property and capital markets; Robert Easton, deputy superintendent and general counsel; Susan S. Donnellan, deputy superintendent for policy and chief ethics officer; and Gerry Scattaglia and Marty Schwartzman, assistant bureau chiefs in the property bureau.

Discussion began with the recent release of the Insurance Department's regulatory agenda and focused first on the NYSID's plans to propose rules regarding disclosure of compensation. PIANY was assured that PIA and other interested parties would

PIANY survey: Improve insurance markets for downstate HO

A membership survey conducted by PIANY in June 2007, finds downstate insurance agents seeking alternative sources of coverage, as many of their regular homeowners insurance companies continue steps to reduce exposure in downstate New York.

"With fewer companies and more underwriting restrictions, agents are turning to alternative markets to write homes close to the water," said PIANY President David Dickson. "PIANY is proposing steps to improve the usefulness of each type of alternative market for its members and spread the word about flood insurance."

NYPIUA. Use of the state's official last-resort market to insure coastal homes is climbing, with 51 percent of agents saying they sometimes use the New York Property Insurance Underwriting Association this year, compared to 47 percent last year and

be given an opportunity to review and comment on the draft proposal when it has completed the department's internal review process. A final proposal may be ready by year-end.

PIANY also discussed a regulatory initiative to set forth certain broad principles, to which licensees are expected to adhere. This is in keeping with the superintendent's interest in moving toward principles-based regulation, an approach that involves somewhat more flexibility, and also more responsibility, for regulated parties. PIANY explained the important services it now provides to members in the compliance area and offered its help as the department's current review of insurance laws and regulations moves forward.

PIANY also presented to the Insurance Department results (see article below) from its most recent survey of downstate members (June 2007) regarding conditions in the homeowners market. PIANY explained how a set of recommendations developed through discussions with downstate agents would help provide better options for coastal area members and their customers.—*Kiehl*

41 percent in February 2006. PIANY members say NYPIUA would be more useful if it provided better coverage.

E/S Lines. Use of the excess line market is growing even faster, with 76 percent using it this year, versus 67 percent last year and 61 percent in February 2006. Prices and coverage forms in this market, comprised of companies not licensed in New York state, are not regulated by the state. Annual premiums for a homeowners policy in this market average more than \$2,500, according to PIANY. Still, for some coastal homeowners, it now is the only source of adequate coverage, so PIANY seeks changes making it easier to access.

CMAP. Most agents say they aren't using the state's Coastal Market Assistance Program.

(Continued on page 3.)

Association

PIA BusinessLink™—your business connection

PIA's BusinessLink™ service provides two programs to help association members build lasting relationships with carriers, managing general agents and general agents. Under the Business Link™ umbrella there are two distinctive programs that help you promote your business:

- **Agency-Company Appointment Program**, which attempts to bring professional insurance agents together with companies looking for quality agents; and

- **PIA's Appointment Access Program**, which offers an opportunity for professional agents to be linked with managing general agents and general agents who are looking to appoint agents.

Company/MGA/GA alert: BusinessLink™ wants you!

PIANY encourages interested insurance carriers,

Creative Services wins awards, can handle your marketing needs

PIA Creative Services, PIANY's in-house advertising group for the insurance industry, received three 2007 Communicator Awards. It received an Award of Excellence, or first place, in the "corporate" category for the *Insight* newsletter created for Banc of America Corporate Insurance Agency LLC. The Award of Excellence recognizes those entries that are among the best in the field and most effectively communicate a company's message. PIA also received two Awards of Distinction, or second place,

managing general agents and general agents to use PIA's Agency/Company Appointment Program in your marketing efforts. This program has been bringing carriers together with quality agencies for more than a decade. Through the Agency/Company Appointment Program, carriers provide PIA with their appointment criteria, and their contact information is forwarded only to members seeking markets and which meet these requirements. Then, the carriers and producers take it from there to work out any details for further consideration. MGA/GAs also are encouraged to participate in our PIA Appointment Access Program.

To learn more about either of these programs, logon to www.pia.org and key **RC10000** in the Quick-Link box in the upper-right-hand corner, or fax PIA's Industry Resource Center at (888) 225-6935.

in this year's contest for the "magazine advertisement" category for the Jimcor Agencies advertisement for *PIA magazine*; and the "promotion kit" category for Loyd Keith Friedlander/Partners Ltd.

More than 5,000 entries were submitted to The Communicator Awards, an international awards competition that recognizes outstanding work in the communication field.

Interested in what PIA Creative Services can do for you? Call (800) 424-4244, ext. 282.—Nazar

PIANY Industry Resource Center

Agreements not to compete: protection or illusion?

Agencies understandably place great value on the preservation of their books of business, taking great care to protect their valuable assets. As part of their efforts to protect their expirations, many agencies attempt to constrain their employed producers from absconding with valued customers and the attendant income flow by compelling such employees to sign so-called "noncompete" agreements.

These agreements, however, may not, in the end, supply the type or level of protection intended by the employers. Factors, such as variances in state law or weaknesses in the agreement itself, may fail to convince a court that protection is warranted.

For a discussion of some of the weaknesses found in these types of agreements and how to avoid them, logon to www.pia.org and key **QS90285** in the Quick-Link box, or fax PIA's Industry Resource Center at (888) 225-6935.—Albright



Address comments to:
PIANY Reporter
Phone:
(800) 424-4244
Fax: (888) 225-6935
Web site: www.pia.org
Editorial staff:
Jaye Czupryna,
Sr. Publications Editor
Joseph D. Renzi,
Publications Editor
Kenneth Bessette
Mary Christiano
Dan Corbin,
CPCU, CIC, LUTC
Darel Cramer
Athena Hoesten
Diane Kattrein, CAE
Ellen Kiehl, Ph.D., CAE
Finley Middleton
Jill Muratori, Esq.
Melissa Nazar

State

PIANY survey: Downstate HO insurance markets *(Continued from page 1.)*

CMAP encourages regular homeowners companies to waive distance-to-shore restrictions and accept coastal homeowners they otherwise would not write, while using NYPIUA to assume much of the property risk. Only about one-in-10 agents (12 percent) use CMAP. PIANY believes this program could be more successful if the state could recruit more company participation and address certain coverage issues.

Eighteen months of data. PIANY began surveying downstate members in February 2006, a month after the Allstate Group stopped accepting new customers and began nonrenewing more policyholders in eight counties, including Long Island, Westchester and the five boroughs of New York.

This year, 90 agents in these counties responded to PIANY's survey, up from 70 a year ago and 66 who took a similar survey in February 2006. Last June, agents were asked about certain company actions restricting markets since Allstate's campaign began (Jan. 1, 2006). This June, agents were asked about actions in the past year.

Nonrenewals. In June 2007, 57 percent of respondents said at least one of their companies has increased its nonrenewals in the past year—more than double the minority (24 percent) reporting more nonrenewals last year. In all counties except New York's boroughs, two-out-of-three agents now say "yes" to this question. Because extra nonrenewals by traditional homeowners carriers strain an already difficult market, this increase may be the most significant figure in the 2007 survey.

No new business. This year, seven-out-of-10 agents (69 percent) say at least one of their companies has stopped accepting any new homeowners business. In Suffolk County, the figure is 92 percent. Nine agencies (10 percent) now have no companies willing to write new homeowners policies. All but one is located in Suffolk County.

The average number of companies that will write new business for the 2007 respondents is 3.2; last year it was 3.8. The average Suffolk agency has

only 2.5 homeowners companies—down from 3.5 last year. Nine-out-of-10 Suffolk agencies (89 percent) have fewer homeowners markets this year.

Insurers continue adding other restrictions as well. Agencies saying one or more companies have stricter guidelines on distance to water: 84 percent this year, 71 percent last year. More or larger wind-storm deductibles: 59 percent this year, 43 percent last year.

"Coastal" availability. For agents throughout the downstate area, the toughest homes to insure are the ones built closest to the shore. For "coastal homeowners," the survey shows a small improvement in the average "market score." As a quick way to assess market conditions, PIANY routinely has members rate availability on a 1-to-5 scale. On this scale, 1 means "highly competitive" and 5 means "impossible to place (except in a state-provided residual market)." For coastal homes, last year's survey produced a score of 4.2; this year it's 3.9.

Only Nassau County agents rated this year's coastal market tougher than last year. In Nassau, 77 percent of agents also said their homeowners markets in general are less competitive than a year ago. It appears Nassau County agents may have seen the biggest change in their ability to place coastal homes with their regular companies. This year, 55 percent say they "never" can do so, compared to 41 percent last year and 21 percent in February 2006.

"It is an extremely difficult market for homeowners insurance," writes a Suffolk County agent in the survey's comments section. "We need some assistance."

PIANY's recommendations. PIANY advocates a number of steps to improve conditions for its downstate members. On the legislative front, PIANY wants to increase the New York State Insurance Department's review of companies' nonrenewal plans (A.2678/S.2069). PIANY also supports an

(Continued on page 5.)

For up-to-date industry news and association information, logon to the PIANY Web site, www.pia.org.

State (Continued)

WC rates to drop by record 20.5 percent

Gov. Eliot Spitzer, announced that rates for workers' compensation insurance will decline by more than 20.5 percent and save New York state businesses about \$1 billion in the 2007-2008 fiscal year. The rate drop stems from the reform of the Workers' Compensation Law earlier this year.

Based on a careful analysis of the impact of the reforms and market trends, New York State Insurance Superintendent Dinallo has ordered a 20.5 percent decline in workers' compensation insurance rates for the fiscal year beginning July 15. In March, when the governor and legislative leaders announced the agreement designed to lower the cost of workers' compensation insurance while increasing the weekly benefits for workers he projected the result would be a rate decline of 10 to 15 percent.

The lower rate is possible largely because of the passage of the 2007 Workers' Compensation Reform Act, which included a number of reforms designed to substantially decrease costs, increase workers' weekly benefits and improve system performance. The reform package:

- Increases maximum weekly benefits by

Insurance rates to drop for drivers in AIP

Drivers in **New York's Automobile Insurance Plan**, also known as the assigned risk plan, will see an overall 7 percent reduction in auto insurance premiums, according to the New York State Insurance Department.

Superintendent Dinallo said the new rate schedule will go into effect Aug. 15, 2007, for new policies and Oct. 1, 2007, for policies being renewed. An estimated 130,000 policies will be affected.

Dinallo explained that the rate reductions can be attributed largely to the department's continuing efforts to combat fraud, along with the willingness of district attorneys to prosecute no-fault auto

75 percent for injured workers, but still lowers employer costs significantly by creating fair limits on the benefit duration.

- Eliminates the Second Injury Fund, which creates stronger incentives for carriers and employers to control risk, reduce claim frequency and settle cases at reduced cost.

- Speeds resolution of disputes and lowers the costs of administering the workers' compensation system.

- Requires evidence-based treatment guidelines that provide more effective medical care at lower cost. Workers will recover more quickly and more completely so they can return to work earlier and be more productive when they are back on the job.

- Produces pharmaceutical and durable medical equipment fee schedules and networks that reduce high drug and equipment charges.

- Enacts a diagnostic fee schedule and networks that will reduce the cost of MRIs, CAT scans and other tests.

- Adds tough anti-fraud provisions designed to reduce bogus claims and other misconduct.

insurance fraud cases. The AIP is the insurer of last resort for individuals unable to obtain insurance otherwise, generally because they are drivers with little or no prior driving experience or those with poor driving records. Premiums charged in the AIP are determined according to a unified set of rates approved by the NYSID, no matter which auto insurance company actually issues the policy.

The number of drivers in the AIP peaked a decade ago at 1.7 million. Since then, the growing competitiveness of the state's auto insurance industry has enabled most drivers to save money by obtaining coverage in the voluntary market.

New York Fall 2007 Insights topics announced. Topics for the next issue of *Insights*, a personal-lines newsletter for your agency's clients, will include: *Where does coverage for a school bus accident come from; Timothy's Law; Trick or treat ... it's your choice* (Halloween safety and insurance issues); *Renter's insurance; Safety: It's good for cars and insurance rates*; and *Our focus is excellence* (agency public relations). For information on how to purchase *Insights*, for your clients, contact PIANY at (800) 424-4244.—Cramer

State (Continued)

The Hartford settles, implements new commission program

The Hartford Financial Services Group Inc. issued an announcement saying it has settled with the Attorneys General of New York, Connecticut and Illinois regarding issues arising from their investigations of the insurance industry. The Hartford press release can be found here: <http://ir.thehartford.com/releasedetail.cfm?ReleaseID=255858>.

The Hartford agreed it will forego paying contingent compensation in any line of its property/casualty business in which more than 65 percent of the U.S. market does not pay contingent compensation. Complete details of the Hartford's agreement can be read here: <http://www.ct.gov/ag/lib/ag/antitrust/hartfordaodfinal.pdf>. (62-page pdf)

The Hartford said it has decided to implement a **PIANY survey: Downstate HO** annual policyholder notice about flood insurance (A.6344-b/S.4097-a). Homeowners policies exclude coverage for storm surge and other types of flood conditions but the federal government makes such coverage available through a special program.

PIANY wants permanent legal status for NYPIUA. To make NYPIUA more useful, PIANY recommends making available property insurance limits up to \$1 million and offering replacement cost coverage, which some mortgage lenders require. To offset the increased exposure, PIANY thinks NYPIUA should have hurricane deductibles like those used by insurance companies.

To improve the success of CMAP, PIANY advocates securing participation by more companies, encouraging CMAP companies to write HO-3 "all perils" wraparound policies and letting NYPIUA provide broader coverage in conjunction with CMAP policies to lessen the potential for coverage gaps.

new program for 2008 to compensate p/c agents and brokers for their performance in these lines of insurance and in its other standard commercial lines of insurance. Under this new supplemental commission program, The Hartford will pay a fixed commission, set prior to the sale of a particular insurance policy, that is based among other things on the agent or broker's past performance.

Earlier, Travelers and Chubb adopted similar programs, which (along with the "65 percent rule") are discussed in PIA's QuickSource document No. **QS90514**. It can be accessed by PIA members here: http://www.pia.org/IRC/qs/qs_other/QS90514.pdf.—Kiehl

PIANY survey: Downstate HO insurance markets *(Continued from page 3.)*

"Recognizing that the best alternative for some coastal homes is the excess line market, PIANY recommends the NYSID recognize coastal homeowners as a class of risk for which significant restrictions in the licensed market exist," said Dickson. "Placing coastal homeowners on the state's 'special risks list' would make it easier and quicker for agents to place these homes in the excess line market."

Other steps recommended by PIANY include: reviewing the current variety of hurricane deductibles in use, aimed at standardizing the provisions that activate them (amounts/percentages could vary); encouraging companies to price and offer buy-back options to reduce hurricane deductibles; and, in return for greater market commitment, allowing licensed companies to include a coastal area rate component reflecting their reinsurance costs, catastrophe exposure and capital risk.—Kiehl

Commercial insurance premiums continued to decline during the second quarter of 2007.

RIMS Benchmark Survey second-quarter reports show that directors and officers liability continued to drop, falling an average of 7.29 percent since last year. Workers' compensation also continued its steady downward slide, though at a lesser pace, to 1.82 percent as compared to minus 3.8 percent in the first quarter. The slower pace of premium erosion in workers' compensation may be due to reform measures in large states such as California and Florida now having worked their way through the system, according to an Advisen analysis. General liability premiums continued a downward trend with a decrease of 1.16 percent.

Association (Continued)

PIANY Annual Business Meeting mail ballot

PIANY's Annual Business Meeting will be held Wednesday, Sept. 12, 2007, at the PIA Headquarters, Glenmont, N.Y. PIANY members may cast their vote in person at the meeting or via mail.

In accordance with PIANY bylaws requirements, the following individuals have been nominated for election as PIANY directors.

Nominated for a three-year term, expiring in 2010:

• Anthony A. Kubera, CIC, Russell Bond & Co., Buffalo

• John C. Parsons, II, AAI, CPIA, Parsons & Associates Inc., Syracuse
• Kevin M. Ryan, CIC, Valley Group, Inc., Kingston
• Richard A. Savino, CIC, CPIA, Warwick Resource Group, Warwick

• Robert Shapiro, Global Facilities, Lynbrook
If you are unable to attend the meeting and would like to give PIANY President David Dickson your proxy vote, please photocopy this page, mark your vote, sign and return this form to PIANY, P.O. Box 997, Glenmont, N.Y., 12207.—*Kattrein*

Members unable to attend the Annual Business Meeting may give their proxy vote to PIANY President David Dickson by signing and completing the proxy form, shown below.

_____ I give my proxy vote to President David Dickson to vote in favor of the director nominees listed above.

_____ I do not give my proxy vote.

Name: _____

Agency: _____

Signature: _____

Legal

Fraud concerns do not exempt insurers from deadline

The Second Department of the Appellate Division recently rejected **Travelers'** argument that it was excused from denying a no-fault claim within the required time limit of 30 days because the company suspected fraud.

Travelers denied reimbursement to Fair Price Medical Supply Corp. for medical supplies because the accident victim said he never received the supplies.

Travelers relied on the exception to the 30-day rule for claimants who have not purchased coverage. The court of appeals has applied this exception to staged accidents. Travelers argued there was no real difference between a fraud that involved staging an accident and a fraud that involved failing to furnish medical supplies. The Second Department disagreed and said the case was more like an overbilling than a staged accident.

The court reasoned that an exception to the 30 day rule is allowed for a staged accident because no coverage exists for an accident that does not occur. However, in this case, there was an actual accident which caused real injuries. Coverage legitimately came into existence and the alleged fraud did not occur until later.

The court found that allowing insurance companies to avoid the 30-day requirement whenever the possibility of fraud arose would carve out too broad of an exemption that would undermine the law.

The New York Insurance Association, the American Insurance Association and the Property Casualty Insurers of America supported Travelers in the case.—*Muratori*

Company

Travelers strikes “supplemental” from commission language

Travelers has written an open letter to independent agents and brokers, notifying them that it will drop the word “supplemental” when discussing the compensation its agents receive. Posted on its company Web site, the **letter** says, “To avoid confusion in the future, we will transition away from the word ‘supplemental’ and refer to our new program as a fixed, value-based commission program.”

The full letter identifies the defining characteristics of the commission program, which the company says are as follows: 1) the commission rate for the placement of a policy in every case is fixed at the time the policy is placed; 2) the rate is not contingent or dependent upon any action by the producer or by the company; 3) the commission rate and amount for any policy is fully transparent and disclosable to the purchaser; and 4) the commission program differentiates among producers in terms of compensation, generally based on the historical value of the relevant business to Travelers.

- **Progressive Corp.** rolled out coverage improvements that mark the beginning of an overall expansion of its truck program. Progressive said it will continue to develop and enhance its commercial auto coverage options in the coming months, rolling out customizable coverage options for most commercial drivers and vehicle types, including light local vans and passenger cars, as well as dump trucks, tow trucks and trailers.

- **Progressive** reported a 29 percent drop in second-quarter net income. The results were worse than analysts expected, pushing the auto insurer’s shares down 3.7 percent during afternoon trading. Net income was \$283.7 million, or 39 cents a share, in the second quarter, versus \$400.4 million, or 51 cents a share, a year earlier, Progressive said. Goldman Sachs analyst Thomas Chohnoky said, “Progressive’s more aggressive pricing actions have yet to generate meaningful improvements in new business production.”

- **The Hanover Insurance Group Inc.** announced it entered into a definitive agreement through which it will acquire Professionals Direct Inc. for \$23.2 million. Professionals Direct is the Michigan-based holding company for the Professionals Direct organization, an insurance provider for

small and mid-sized law practices. Hanover assured agents the market will be made available to them. The transaction has been approved by the boards of directors of both companies, and is subject to regulatory reviews and approvals, as well as the approval of Professionals Direct’s shareholders. It is expected to close in the fourth quarter of 2007.

- **The Hartford Financial Services Group Inc.** launched a new, automated system that will make it faster and easier for agents to service and modify their clients’ personal lines insurance policies from The Hartford. **The Hartford’s Personal Lines Policy Change Center** will enable agents and their customer service representatives to manage auto policy changes in real-time, providing information when they need it—immediately. The application also will support homeowner policy endorsements, although real-time capabilities are available only for auto policies at present. Among other things, agents will be able to quote different scenarios, such as adding a new car to a policy, and quickly determine how these changes will affect their client’s premium. Agents also can save quotes for future reference, get a detailed view of how changes can impact future policy bills and print new identification cards and supplemental applications online. More than 90 percent of the auto policy changes made through the Policy Change Center can be completed within minutes.

- **Safeco** announced an expansion of its sales organization from five to nine regions, and the naming of executives to lead two of the new territories. “Independent insurance agents have consistently told us they want more personal contact,” said Spencer Donkin, senior vice president, sales and distribution at Safeco. “These new regions will make that possible—and our new region executives will bring a strategic and ‘hands-on’ approach to agency relations and distribution management.” The company’s Northeast region includes: New York, Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island and Vermont.—*Czupryna, Renzi*

PIANY Calendar of Events

September

- Sept. 17—Your office

Lunch 'n' Learn

Teleconference: Contractor's Equipment

- Sept. 18—Buffalo

AIP Producer Procedures Course

NYCE: 5 PC, BR, C3, PA

- Sept. 18—Ronkonkoma

CISR PR: Insuring Personal Residential Property

NYCE: 8 (or 9 w/passing exam)

PC, BR, C3, PA

- Sept. 18—Buffalo

CISR IP: Insuring Commercial Property Exposures

NYCE: 8 (or 9 w/passing exam)

PC, BR, C3, PA

- Sept. 19—Syracuse

AIP Producer Procedures Course

NYCE: 5 PC, BR, C3, PA

- Sept. 19—New York

CISR PR: Insuring Personal Residential Property

NYCE: 8 (or 9 w/passing exam)

PC, BR, C3, PA

Mandatory Flood Training:

PIANY makes it easy for your agency to attend a mandatory training course. Each of PIA's flood training courses meets Federal Emergency Management Agency's minimum training and education requirements, required for all insurance agents and brokers who sell Standard Flood Insurance Policies issued through the National Flood Insurance Program.

NFIP-approved flood training courses are coming to your area:

Sept. 25, Sept. 26, Sept. 27, Oct. 2, Oct. 3 and Oct. 4.

Check the PIA Web site for more details.

All CE courses are approved for NYCE credit through Nov. 30, 2007. To register for a PIANY education event (NYPO-100002), logon to the [PIANY Web site](#) and key **EC10028** into the Quick-Link box. Or, call the Education Department at (800) 424-4244.

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