

# OUTSIDE the Beltway

Written by Dave Kirby

## SIIA Members Continue to Clarify Stop-Loss with Texas Regulator

TEXAS



**S**IIA members along with representatives of the Texas Association of Life and

Health Insurers (TALHI) and the Texas Association of Business (TAB) joined in a second recent consultation with the Texas Department of Insurance (TDI) as it ponders a draft rewrite of employee health insurance regulations targeted for adoption later this year.

The main point of discussion was stop-loss insurance for self-insured employee health plans. In contrast with the earlier public hearing that drew SIIA members' participation, this was a lobbying event initiated by TALHI in partnership with SIIA.

"The best kind of lobbying is performed by local constituents of any government body," said **Adam Brackemyre**, SIIA Director of State Government Relations, who was among the industry delegation that held meetings last month with TDI leadership and staff members of **Governor Greg Abbott**. "We very much appreciated TALHI's leadership on this project."

The SIIA contingent for the Austin meetings included **Jay Ritchie** of HCC Life and a SIIA Director; **Barry Koonce** and **Marc Marion** of

American Fidelity Assurance Company; **Catherine Bresler** of The Trustmark Companies and Brackemyre. TDI participants included **Doug Danzeiser**, Deputy Commissioner, Life, Health and Licensing.

Deputy Commissioner Danzeiser has stated that no new elements will be added to the draft regulations but that some revisions and reductions of elements could be made. But the self-insurance industry is unable to predict

*This was an informal meeting to help TDI understand how stop-loss insurance works to support the self-insured plans of Texas employers,* Brackemyre noted.

*TDI has stated that the draft regulations are a work-in-progress that could be shaped in part by meeting with the self-insurance industry, employers and other interested parties.*

As noted in a previous *Self-Insurer* article, SIIA is concerned that some employers would lose their health plans and others would see stop-loss premium increases if the early draft of regulations were adopted. Particularly troubling is a possible small business minimum aggregate of \$4,000 per enrollee. SIIA members report that that requirement is far too expensive for small businesses and SIIA has consistently urged the elimination of the minimum products standards from the draft.

when – or even if – the rewritten regulations would be adopted.

One important issue raised by the industry was the question of whether stop-loss insurance would be regulated as health insurance or casualty insurance. "This is the classic debate that we seem to encounter in every state," SIIA board member Ritchie commented. "The point of confusion for regulators appears to be that stop-loss acts like liability insurance but operates in the health world.

“While regulators mistakenly approach our product in the context of health insurance, we cannot operate as health insurance,” he said. SIIA has long made the distinction that stop-loss insurance pays no claims for health care to members of plans and so cannot be categorized as health insurance. Rather, it covers liabilities that plan sponsors experience in amounts above a predetermined level. A preponderance of federal and state courts have agreed with SIIA on this point and no court has ever defined stop-loss insurance as health insurance.

“To many, it appears that much of the Texas draft regulation is a solution looking for a problem,” Ritchie said. One member of the Texas industry group asked if TDI had evidence that supports the need for new regulations and none was offered in reply. ■



SIIA will continue to participate in the development of Texas regulations. Copies of the current draft and SIIA’s written comments are available from Adam Brackemyre in SIIA’s Washington DC office, (202) 463-8161 or [abrackemyre@siaa.org](mailto:abrackemyre@siaa.org).

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