

PA Insurance Insights

The Pennsylvania Insurance Department Newsletter

www.insurance.pa.gov

Vol. 1, Issue 3

Government Spotlight

Governor Wolf Committed to Protecting Consumers

Health insurance

In this issue:

DEPARTMENT GETS "LEAN"

The Wolf Administration has made significant efforts to cut waste and improve efficiency by encouraging state agencies to make improvements using "Lean" practices.
p. 03

PUSH FOR FLOOD INSURANCE

To help consumers, the department has a one-stop flood insurance webpage, including information about both the federal government-run program and private insurance.
p. 04

WORKERS COMP: BLACK LUNG UPDATE

The Affordable Care Act changed the entitlement criteria for miners' and survivors' claims filed after January 1, 2015, as well as claims pending on/after March 23, 2010.
p. 07

Message from the Commissioner



The work of the Insurance Department is diverse and spans many different issues, but our goals remain the same — to protect consumers and fairly regulate the industry.

Our department is committed to these goals, and that means continuing to work with state agencies, community advocates and public officials to assist consumers by protecting them from scams, preparing them for emergencies or informing them about health coverage.

(Continued on page 2)

You may contact the department at RA-IN-Insights@PA.gov

@PAInsuranceDepartment



@PAInsuranceDept

Commissioner continued

We recently worked with the Department of Aging to inform senior consumers about a new consumer protection law on annuities.

We met with consumers at LifeSpan Services at Bethel Park Community Center in Allegheny County and introduced them to a local senior citizen who lost thousands of dollars in an annuity scam.

Under the old law, someone selling an annuity only needed to know the consumer's financial and tax status, investment objectives, and other information the seller considered reasonable.

The new law (Act 48 of 2018) adds consumer protections to annuity sales by requiring an agent, or an insurance company if it sells directly to a consumer, to gather much more financial information to determine whether an annuity is suitable for the consumer. The new law also requires, for the first time, anyone selling annuities in Pennsylvania to take four credit hours of training to sell these products and holds the insurance company accountable for making sure anyone selling annuities for them has completed this training. We issued a new brochure on the law's enhanced consumer protections, and have a consumer tip sheet called *The Do's and Don'ts of Annuities*.

We also worked with the Pennsylvania Department of Transportation (PennDOT) and Pennsylvania Emergency Management Agency (PEMA) to recognize September as National Preparedness Month by hosting a news conference to discuss how the state is analyzing and preparing for extreme weather. Our agencies offered tips and resources for Pennsylvanians.

This summer was one of the wettest on record in many Pennsylvania communities and flooding and other extreme weather have impacted many citizens. Our agencies each have a unique role in assisting Pennsylvanians who have been impacted and in preparing for future events, so working together is critical to providing information and support to folks in emergencies.

As we prepare for open enrollment for Affordable Care Act coverage, our department is actively planning an informational and marketing campaign to update the public about the open enrollment period and individual market plans by working with stakeholders such as consumer assistance groups, providers, health insurers and legislators.

We know that Pennsylvanians want affordable health coverage because, despite the numerous roadblocks put in place last year, the number of marketplace enrollees remained nearly the same this year compared to last year. Additionally, recently released data from the US Census shows our uninsured rate is at a record low 5.5 percent. This progress motivates us to continue our tireless work to get all Pennsylvanians access to quality, affordable health care.

Working together with agencies, individuals and organizations, the Insurance Department is fulfilling its mission to protect consumers.

Jessica K. Altman



Commissioner Jessica Altman speaks to consumers at Delaware Valley Community Health Inc. in Philadelphia about the positive changes to the ACA health insurance market in the Philadelphia region.

Department Gets ‘Lean’ to Improve Efficiency

The Wolf Administration has made significant efforts to cut waste and improve efficiency through the Office of Performance Through Excellence (OPE), including encouraging state agencies to make improvements using “Lean” practices.

“Lean” techniques are implemented in private sector industries all over the world, but they can also be used successfully in state government.

The Insurance Department has been an early adopter of Lean because we recognized the benefits as a small agency that has faced increased duties and obligations with relatively finite resources. Lean strategies provide a great opportunity for the department to become more efficient so that we can do more with the resources that we have today.

For more than a year, the department has been working on or executed a number of Lean projects. The department formed a team of employees who have been trained by OPE on Lean practices and implementation. OPE also gave a presentation to the entire department. The department created an online submission program called “PIDeas” to provide employees with a platform to submit Lean ideas on how the department can streamline processes. The online program has mechanisms in place to provide feedback to employees after an idea is submitted and to track the progress of the idea. Ideas ranged from security improvements and noise reduction to document cleanups and mailroom reorganization. Some ideas reflect internal improvements, while others impact the consumers we assist.

For example, staff identified a lack of a conference room space for meetings. Although the department has several smaller conference rooms, there was a need for a larger space to accommodate a large meeting or presentation. To successfully address this, the department reorganized and utilized its supply room space more efficiently to move the mailroom and repurpose the old mailroom into a new conference room.

Also, the Insurance Department collaborated with the Pennsylvania Department of Transportation to decrease bureaucracy while cutting costs to both agencies and Pennsylvania drivers by streamlining the automobile insurance notification process.

To improve the consumer’s experience, the department made improvements to its online “Contact Us Form” so that consumer complaints are sent immediately to the proper bureau or individual (read more about this project in our newsletter’s Consumer Corner). The Bureau of Consumer Services is also in the process of implementing a “live” chat feature which will increase access, and create a more efficient, modern method for consumers to reach our Department’s insurance experts.

Lean empowers department employees to contribute ideas that improve the workplace for themselves, their colleagues, the consumers and stakeholders with whom the department interacts.



Department Website's 'Contact Us' Form Updated to Expedite Responses to Consumers

Have you ever tried to find help online only to learn there is no way to get to the right place to get the right answer? How frustrating! Our goal at the Insurance Department is to provide the best service to Pennsylvanians so we recently made an improvement to our website to help you get to the right people easier and faster.

We have updated our "Contact Us" Form on our website to target your questions, concerns or complaints directly to the appropriate individual or bureau within the department.

Previously, all online inquiries from our "Contact Us" form were sent to one e-mail account and then were forwarded to the appropriate entity.

Now, if you have a question about a producer license, or if you are looking for a speaker at an upcoming event, our form includes a drop-down menu of choices for you to select and sends the message directly to the right people.

This effort was identified and applied as a "Lean" project, which is a Wolf Administration initiative that encourages state agencies to implement strategies that improve customer service, cut red tape, remove inefficiencies (read more about Lean in our newsletter article [Department Gets 'Lean' to Improve Efficiency.](#))

This small change will make a significant difference in our ability to respond to you even faster than before. We look forward to hearing from you.

Commissioner Urges Consumers to Consider Flood Insurance

Continuing Governor Wolf's consumer protection and education initiative, Commissioner Altman in two public forums urged homeowners, renters, and business owners to consider flood insurance, whether or not they live in a Special Flood Hazara Area (SFHA) where such coverage is likely required by mortgage lenders.

Speaking at a day-long symposium in Williamsport Aug. 27, Commissioner Altman reminded property owners their homeowners, renters, and business insurance typically does not cover flood damage. She urged consumers to think about buying coverage even if it's not required where they live, as much of the flooding that occurs annually in Pennsylvania is outside of SFHAs.

To help consumers, the Insurance Department has a one-stop flood insurance webpage, including information about both the federal government-run National Flood Insurance Program (NFIP) and private insurance. In the two and a half years since the department established this page, the number of private flood insurance policies in Pennsylvania has more than tripled, from 1,500 to 5,200.

Altman said consumers should shop around to find the best coverage, adding the Insurance Department has seen many instances where comparable private coverage is significantly less expensive than NFIP plans.

(Continued on page 5)



Consumer Corner continued

She also encouraged insurance producers at the Williamsport symposium, if they are selling private flood insurance, to complete a request form and email it to the department at ra-in-floodins@pa.gov., to be listed on the flood insurance webpage.

Altman repeated her message at a Sept. 19 capitol news conference in conjunction with the Pennsylvania Emergency Management Agency and PennDOT. All three agencies discussed Wolf Administration efforts to plan for protecting infrastructure and helping Pennsylvanians recover from floods, as well as the need for residents to protect themselves financially by purchasing flood insurance.

With the current short-term extension expiring Nov. 30, Altman urged Pennsylvanians to join her in asking their member of Congress to support a long-term extension of the NFIP, including specific language backing private flood insurance, to provide consumers with more and better choices for this important coverage.

New Law Improves Consumer Protections for Annuity Purchases

The importance of the new law signed by Governor Wolf in late June beefing up consumer protections for annuity purchases, and the need for cooperation among insurers, producers, and the Insurance Department in implementing this, is driven home by the story of a senior citizen who joined Commissioner Altman to announce the law's provisions.

This new law is a product of bipartisan cooperation between Gov. Wolf and Senate Banking and Insurance Committee Chairman Don White (R) Indiana County, who wrote the annuity language in the law, and Rep. Marguerite Quinn (R) Bucks County, who sponsored the underlying legislation.

Act 48 of 2018 requires producers, or insurers if selling annuities directly, to gather much more financial information from consumers, to determine the suitability of a given annuity product. The law also specifically requires companies or producers to inform consumers of any surrender charges, tax penalties, investment advisory fees, or other changes associated with the annuity.

The department is particularly concerned about a practice called "churning" or "twisting," where a consumer is sold a replacement for an existing annuity that does not benefit the consumer and is not suitable for his or her needs. The new law has specific requirements for consumers considering replacing one annuity with another to

be informed about surrender charges, and existing benefits that would be lost, and whether the move would subject the consumer to increased fees or changes to riders.

Commissioner Altman announced the new law at the LifeSpan Services at Bethel Park Community Center in Bethel Park, Allegheny County, to a group of nearly 100 seniors, including 78-year-old Bethel Park resident Rosemary Welsh, who joined Commissioner Altman to tell the group how she and her 80-year-old husband, Tom, were scammed out of more than \$19,000 by husband-and-wife insurance producers who convinced them to
(Continued on page 6)



Commissioner Altman meets with consumers at LifeSpan Services at Bethel Park Community Center in Allegheny County to talk about a new state law that adds stronger consumer protections to sales of annuities. Altman was joined by a local senior citizen who lost thousands of dollars in an annuity scam.

Annuities continued

exchange two annuities twice over a four-year period. The Welshes were never told they would have to pay surrender fees, and the producers reaped more than \$14,000 in commissions by “churning” these annuities.

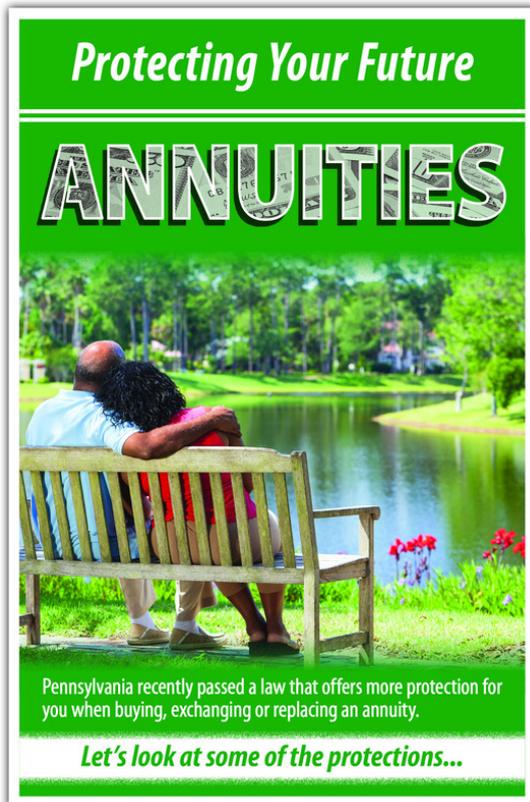
The Welshes were two of more than 40 consumers scammed by this couple, whose licenses have been revoked by the department. In all, consumers lost more than \$159,000 in this scam, while the

producers made more than \$136,000 in commissions. The case has been referred to the state attorney general for possible criminal prosecution. The department has secured restitution for the victims from one of two insurers involved in this scam and is working on doing so from the second insurer.

The new law also permits the insurance commissioner to hold insurers more accountable for inappropriate annuity sales practices by imposing penalties on both the insurer and the producer in these cases.

The law also requires, for the first time, anyone selling annuities in Pennsylvania to complete four credit-hours of training specifically on these products.

The department produced a brochure outlining details of the new law. Commissioner Altman is encouraging producers to download this brochure and share it with their customers considering purchasing annuities. This information was also sent to all 135,000 life and annuity license holders through use of the department’s new blast email communication tool.



Legislative Update



Meet Our New Deputy Legislative Director

Emily Holladay recently joined the Pennsylvania Insurance Department as deputy legislative director. In this roll, she works with Legislative Director Abdoul Barry to serve as a liaison between the Department and the General Assembly.

Prior to this, Emily worked as a legislative aide at the Pennsylvania Department of Health. In this position, Emily served as a health resource to the General Assembly, assisted in the operations of the Vital Records Program, attended committee meetings, and tracked legislation.

Emily, who earned a bachelor’s degree in Public Health: Health Promotion from West Chester University of Pennsylvania, started at the Department of Health as an intern by being the one student selected from the university to participate in The Harrisburg Internship Semester (T.H.I.S.) to learn about state government in Pennsylvania’s Capitol. Emily also currently holds a certification as a Certified Health Education Specialist (CHES). Please join all of us in welcoming Emily to the Insurance Department team.

Wolf Administration Committed to Protecting Health Care Consumers **by Governor Tom Wolf**

Making sure Pennsylvanians have access to comprehensive health care remains my top priority. When I took office in 2015, one of my first actions was expanding Medicaid, under the Affordable Care Act (ACA), which has impacted every health care consumer in some way and has provided critical protections for so many Pennsylvanians.

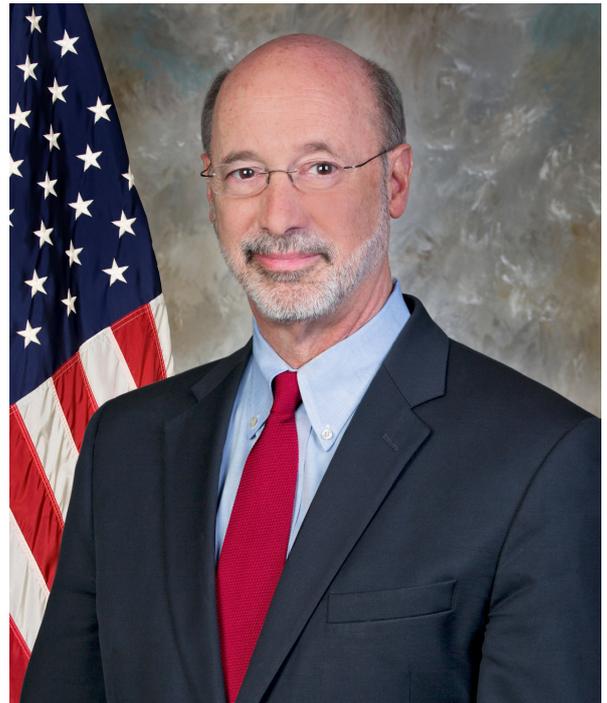
As Pennsylvanians prepare for the 2019 open enrollment period, it's important to highlight the life-changing difference the landmark health care law has made in the lives of so many Pennsylvanians.

Because of the ACA, more than a million Pennsylvanians have comprehensive health care through expanded Medicaid or the marketplace today. As of 2017, our uninsured rate is at a record low 5.5 percent. Subsequently, uncompensated care costs have gone down, and the health care industry has created more than 15,000 jobs in Pennsylvania to care for the newly insured in their communities.

This fall, when Pennsylvanians return to the marketplace to shop, many will see increased choices and competitive rates. Based on what insurance companies have filed with the Insurance Department, a new carrier has entered the market, and people in 31 of Pennsylvania's 67 counties will see more health insurers offering coverage in the individual market next year, and the number of counties with just one health insurer offering coverage in the individual market will decrease from 20 to eight.

In addition to expanded participation, the 2019 rate filings paint a positive picture for Pennsylvanians: The health insurers that currently sell in Pennsylvania's individual market will all stay in the market and their rate change requests indicate a stable market for 2019 plan year, with an average statewide rate increases of 0.7 percent

The positive news about the state of the ACA in Pennsylvania comes despite the hurdles put in place by the Trump Administration.



Last year, the federal government cut the open enrollment period in half and decimated funding for navigators and advertising. Still, enrollment numbers remained steady compared to 2017, thanks to my administration's outreach efforts.

While similar obstacles are again in play this year, my administration, under the guidance of the Insurance Department, will once again step up and keep the public informed about their ACA coverage options.

We continue to fight back against the Trump Administration's relentless efforts to dismantle the ACA. On behalf of my administration, Insurance Commissioner Jessica Altman has taken swift and decisive actions to defend the ACA in Pennsylvania by cautioning consumers about short-term, limited-duration insurance plans and by ensuring that consumer protections remain in place as expanded association health plans enter the market.

Additionally, I joined a bipartisan group of governors to publicly oppose the Trump Administration's decision not to defend a Texas lawsuit that would invalidate the ACA's protections for individuals with preexisting conditions.

(Continued on page 8)

In addition to protecting key provisions of the ACA, we are also taking broad steps to improve our health care system. My administration has been holding “Health Care in Your Community” events across the state focusing on a variety of health topics and featuring Commissioner Altman and the secretaries of the departments of Aging, Health, Human Services and Drug and Alcohol Programs.

I also joined a group of governors to lay out a bipartisan plan that would improve our nation’s health system performance with the goals of improving affordability, restoring stability to insurance markets, providing state flexibility and encouraging innovation, and improving the regulatory environment.

Our work is far from over. Commissioner Altman and I will continue to fight to ensure that Pennsylvanians have access to comprehensive health coverage and that our health insurance industry is stable and competitive.

Workers Compensation Claims for Black Lung Updated under ACA

Coal mines have been active in Pennsylvania since the late 1700s. More than 10 billion tons of bituminous coal has been mined in 21 Pennsylvania counties in the past 200+ years. Pennsylvania is currently still one of the biggest coal-producing states in the United States.

The Federal Coal Mine Health and Safety Act of 1969/Black Lung Benefits Act (FBL Act) provides monthly payments and medical benefits to coal miners who are totally disabled from pneumoconiosis arising from employment in or around the nation’s coal mines. Pneumoconiosis is caused by long term exposure to coal dust, where coal dust builds up in the lungs and cannot be removed from the body. The FBL Act also provides monthly benefits to a miner’s dependent survivors if pneumoconiosis caused or hastened the miner’s death.

The Patient Protection and Affordable Care Act of 2010 (ACA) changed the entitlement criteria for miners’ and survivors’ claims filed after January 1, 2015, as well as claims pending on/after March 23, 2010. The changes reinstated two provisions made inapplicable by the Black Lung Benefits Amendments of 1981. First, it revived a rebuttable presumption of total disability or death due to pneumoconiosis if the miner had 15+ years of qualifying coal mine employment and a totally disabling impairment for certain claims. Second, it

reinstated benefit entitlement for certain eligible survivors of coal miners whose lifetime benefit claims were awarded because they were totally disabled due to pneumoconiosis.

The last coal mine operator for whom the miner worked for a cumulative period of at least one year is usually responsible for the payment of benefits. The Black Lung Disability Trust fund pays benefits when the miner’s last coal mine employment was before January 1, 1970; there is no liable coal mine operator; or the miner’s most recent employment of at least one year with an operator ended while the operator was authorized to self-insure, and such operator is no longer financially capable of securing benefit payments.

Black Lung claims are submitted by the miner or their dependents to the federal Department of Labor, Division of Coal Mine Workers’ Compensation (DCMWC). DCMWC reviews the application, collects information on the miner’s employment history, identifies “potentially liable operators” and submits the claim to the operator and their insurance company. The PA Workers Compensation Security Fund (PA WCSF) could be identified as a potentially liable operator if an employer was insured by a company in liquidation and for which WCSF is handling workers’ compensation claims on behalf of the Pennsylvania Insurance Department. The employer and/or the

(Continued on page 9)

Workers Compensation continued

claimant's address must be in Pennsylvania for the WCSF to be liable.

Upon receipt of the claim from the DCMWC, the WCSF requests Black Lung coverage verification from the defunct insurance company's Liquidator for the employer identified by the DCMWC. If coverage verification is provided the claim is opened and WCSF manages the claim.

If DCMWC determines the claimant to be eligible and the claim is accepted, indemnity and medical benefits are paid by the WCSF. Indemnity benefits are paid in accordance with Section 412(a)(1) of the FBL Act at the rate of 37.5 percent of a federal employee at level G-2, Step 1. The FBL Act includes an annual cost of living (COLA) provision for indemnity benefits. In 2018 indemnity benefits were increased by 1.4 percent to \$660.10 per month. Like Pennsylvania workers' compensation benefits, these benefits are not taxable.

As of June 30, 2017, the WCSF was handling 38 open FBL claims from various liquidations. There are no settlement provisions in the FBL Act; therefore, these claims cannot be settled by the WCSF.



Insurance Department Maintains State Authority over Association Health Plans

Earlier this year, the federal government released a final rule on Association Health Plans (AHPs), touting the rule as a way to expand affordable coverage to more people. Resulting from a troubled history with certain types AHPs, Pennsylvania has enacted laws over time to protect against the vulnerabilities created by AHPs, and the Insurance Department intends to continue to oversee AHPs as directed by the state legislature. The department is focused on reiterating its regulatory authority, appropriately implementing changes at the federal level, and providing clarity for stakeholders who may be misled by assertions surrounding the final rule.

Fortunately, the final rule repeatedly reinforces existing state authority. To be completely transparent about Pennsylvania's interpretation of

its authority, the following positions were outlined in a letter sent to Department of Labor Secretary Alexander Acosta and Department of Health and Human Services Secretary Alex Azar at the beginning of August:

- An association may provide for health care coverage for its members in Pennsylvania only if the association is properly formed as specified in Pennsylvania law, including, inter alia, that it is maintained in good faith for purposes other than that of obtaining insurance, and has been in active existence for at least two years.

(Continued on page 10)

Association Health Plans continued

- The health care coverage an association issues to its members in Pennsylvania must be fully-insured by an entity licensed and with a certificate of authority to do the business of health insurance in Pennsylvania.
- A health plan formed by an association is a multiple employer welfare arrangement (“MEWA”). Unless a MEWA is licensed and has a certificate of authority to do the business of health insurance in Pennsylvania, it is illegal in Pennsylvania.
- The health care coverage an association issues to its members in Pennsylvania will be subject to all Pennsylvania legal requirements for health insurance, not only vis-à-vis licensure, but also pertaining to solvency, form and rating standards, examination provisions, and enforcement.
- An insured health plan for employer members of an association in Pennsylvania will provide policy forms and rates, compliant with Pennsylvania law and the Affordable Care Act, consistent with the market in which each employer member is a part, that is, a sole proprietor will have an individual policy, an employer group of 2-50 employees will have a small group policy, and an employer group of more than 50 employees will have a large group policy.

- Compliant with Pennsylvania law and the Public Health Service Act, a sole proprietor continues to be a part of the individual market and is not an “employer” for purposes of health insurance coverage.

- An AHP organized in another jurisdiction, and its agents, may not market, i.e., sell, solicit, or negotiate, its plan, whether insured or self-funded, in Pennsylvania without appropriate compliance with all applicable Pennsylvania laws and regulations.

The federal Department of Labor responded, confirming that states retain regulatory authority over association health plans (AHPs) under the new federal government rule covering these plans.

The Insurance Department will continue to offer guidance for stakeholders on AHPs, as it is critical that regulated entities, i.e., producers and companies, understand how Pennsylvania law correlates to the final rule, and that association products are sold in compliance with state law.



“Allowing Pennsylvania to continue to regulate AHPs means consumers here will continue to receive the strong protections Governor Wolf and I believe are vital to make sure health insurance provides the coverage Pennsylvanians need and deserve, such as essential health benefits and prescription drug coverage.”
Commissioner Altman

Supervisory Colleges Link Regulators and International Holding Companies

The insurance market serves a worldwide customer base, which has led to the growth of international insurance holding companies.

With the rise of international groups, groupwide supervision through supervisory colleges is a key tool for insurance regulators to work together and share information while recognizing different regulatory schemes for legal entities. The use of supervisory colleges for group supervision has been adopted in law and in practice by supervisor/regulators all over the world.

A supervisory college is the platform used by regulators to meet and form a common bond for sharing information, raising concerns, solving problems and discussing groupwide plans. They were designed as a tool for more efficient and effective supervision of an insurance group.

Pennsylvania has international holding companies where the Pennsylvania Insurance Commissioner is the groupwide supervisor and hosts the supervisory college.

Pennsylvania Insurance Department staff also participate in colleges when there is a Pennsylvania company included in the group and it is a major contributor to the group's financial position.

This month, the department will be hosting approximately 30 other regulators in Philadelphia for a Chubb Limited Supervisory College. The attendees include supervisors from Australia, Bermuda, Canada, the United Kingdom, France, Panama, Delaware, Illinois, Indiana, and Wisconsin.

Many supervisory colleges meet annually or bi-annually. They usually last one or two days and are generally held at the company office and/or city of the group's state or country of domicile. Colleges foster camaraderie and regulatory awareness through sharing information about each insurance company in the group, including financial strengths, management cooperation, concerns and prospective risks.

The groupwide supervisor chairs the meeting, sets the agenda and organizes various presentations by regulators in addition to presentations by company personnel.

Information disseminated by regulators during a supervisory college gathering is governed by international confidentiality agreements that prohibit the sharing of information outside of the college members. Each regulator's cost to participate in the college is reimbursed by the company. The regulators invited have specific regulatory responsibilities for insurance entities domiciled in their state or country.

A supervisory college has no legal or binding authority to make decisions for the group but is used as an efficient and effective way to regulate multinational insurance groups.

An effective supervisory college allows the supervisors to better understand the insurance group with respect to risks, financial position, business operations, enterprise risk management and governance systems along with the available capital for the group.

It is truly a forum for cooperation and communication between the supervisors involved and senior company personnel.