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The Impact of Selected Issues Resulting from COVID-19 on Agents and Lessons for the Future October 10, 2020

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Jamie Anderson-Parson**
Joe Stewart***

Abstract

As the COVID-19 virus outbreak rapidly spread across the nation, state and local governments responded with mitigation efforts designed to slow the spread. This article focuses on four main areas and describes the impact on insurance agents. The first area is the designation of "essential employees." This was the most immediate issue and required determination of who should stay home and who should continue to work because their job was essential. Second, we focus on agency operations and customer support issues. Next, we cover the challenges agents face complying with licensing and continuing education (CE) requirements. Lastly, we look at the surprisingly complicated factors surrounding premium adjustment and possible conflict with rebate laws and regulations. We interview a range of agents

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and leadership at insurance trade associations to obtain firsthand experience regarding these issues, and we provide recommendations based on lessons learned that can be applied in future disasters.

Introduction

Insurance agents were placed in an exceptionally difficult situation during the first months of the COVID-19 outbreak. Although the Department of Homeland Security (DHS) clearly defines insurance agents as "essential," the unprecedented circumstances seen in the early months of the pandemic led to uncertainty of this fact, fueled by a lack of clear language in locally issued emergency orders. The resulting uncertainty regarding their status as "essential employees" caused confusion on whether they were allowed to travel and meet with policyholders. Even though deemed "essential," some agency employees were not able to work due to safety concerns.

Agents had to operate and provide support to commercial policyholders that required immediate attention as they had unprecedented coverage questions and changing business operations.[1] Assisting policyholders with the even the most routine questions became challenging due to travel and distancing restrictions. Agents struggled to comply with licensing and CE regulations as providers closed their physical locations and had limited online opportunities. Licensing and CE requirements had to be satisfied, which was nearly impossible in some states given the closures.

Agents had to answer questions for customers regarding premium adjustments. Insurers began modifying premiums based on the changing exposures. Some insurers offered highly publicized refunds to auto policyholders to reflect the reduced travel. An unforeseen complication arose from premium refunds that potentially ran afoul of rebate laws.

In addition to helping their policyholders affected directly by COVID-19, agency owners evaluated Paycheck Protection Program (PPP) loan applications, scrambled to track rapidly evolving government orders and regulations, and managed their own employees as many navigated to working remotely.

Along with the COVID-19-related issues, there were still the typical activities like quoting new business, preparing renewals, and assisting with normal claims like fires and auto accidents.

This paper focuses on the issues that agents faced, as well as their interaction with regulators and legislators. We interviewed leadership at several state independent agent and broker associations, the Independent Insurance Agents & Brokers of America (IIABA), and the National Insurance Producer Registry (NIPR).[2] Following the discussions, it became clear the following four topics were the most relevant:

- Essential employees definition and application

1. For example, restaurants were suddenly in the food delivery business, some employees were sent home, and retail operations would be unoccupied for an unknown amount of time. As coverage questions arose related to livery, vacancy and business interruption, customers needed fast and accurate answers.

2. The IIABA and the state associations are often referred to as "The Big I."

- Agency operations, policy maintenance, and customer support
- Licensing and CE
- Premium Adjustments and Refunds

The paper is organized as follows. First, we will provide background information and context regarding the decision on whether to classify insurance agency employees as essential. Second, we will summarize the impact on agency operations and examine the feedback from stakeholders. This includes a discussion of prelicensing, licensing and CE requirements, as well as the subsequent attempts to respond to "shelter in place" orders. We also review how premium adjustments were handled and the unexpected complications arising from rebate laws. Lastly, we will share our perspective on the lessons learned so far from this experience and offer recommendations that could help in the future.

Determination of Essential Employee Status

The scope of authority between the federal, state and local governments is complicated. Additionally, there are myriad laws that determine the authority to regulate in the context of communicable diseases in an emergency, and they vary from state to state. When a state declares a "state of emergency," it is typically declared to release certain resources into impacted areas, set aside regulatory standards as needed to allow commerce to continue, and prevent price gouging.

Declaring a "public health emergency" has increased across states to include state health officials and other emergency management directors. Local governments also have the authority to declare an emergency and activate their own emergency authorities (U.S. Department of Health and Human Services [HHS], 2020). Often the local directors have isolation/quarantine authority over individuals (not necessarily large groups) without declaring an emergency. Emergency powers are not limitless, but often the only way to trigger a shelter in place order is through first declaring a local emergency.

On the other hand, governors can issue executive orders based on authority granted by statutory law, and this was the means by which many shelter-in-place orders were delivered. "Shelter in place" orders during the COVID-19 outbreak required businesses not deemed "essential" to close physical operations but allowed them to continue with employees working remotely. Early on, many local authorities issued "shelter in place" orders, as well with a similar directive towards "nonessential" businesses. There was minimal direction in defining what type of business should be considered "essential" until the federal agencies started to provide guidance.

The Cybersecurity and Infrastructure Security Agency (CISA) is a relatively new government agency that receives its authority from the DHS. The obvious role of the CISA is to enhance cybersecurity across all levels of government. It replaces an agency created in 2007 called the National Protection Programs Directorate

(NPPD), which served a similar role with an emphasis on critical infrastructure risk management (Humphries, 2019). The agency is also charged with the "protection of the Nation's Critical Infrastructure and Key Resources," including "financial services" (CISA PPT, 2020).

On March 16, 2020, President Donald Trump issued updated guidance stating "[i]f you work in a critical infrastructure industry, as defined by the Department of Homeland Security, such as health care services and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule." The CISA created a list of "Essential Critical Infrastructure Workers" intended to be advisory versus directive in order to assist state and local officials in crafting their own guidance related to COVID-19.

The first version of that list was published on March 19, 2020. The next day, local governments started signing shelter-in-place and stay-at-home orders. These orders required numerous businesses to close for an undisclosed amount of time with the exception of those classified as an "essential business," which were often defined by the CISA's list. There are 14 to 16 categories of essential businesses covered in the CISA list (Krebs, 2020). One of those categories includes "financial services," which includes insurance. However, many municipalities struggled with the early interpretation of financial services. Pennsylvania was one of the first states to distinguish the business of insurance from the role of certain insurance employees (Pennsylvania Press Room, 2020). For example, the underwriting, claims and sales aspects of insurance may be essential, but the role of the front desk receptionist may not be deemed as essential.

Agents in essential employee identified states quickly adjusted. Insurance agents in Colorado were immediately deemed essential. Although they had the option of going to an office, many chose to work remotely and operate with fewer people in the office. Agencies appear to have met the needs of their clients from a remote standpoint so far, mainly fielding coverage questions regarding business interruption. Restaurant operations were specifically noted as an active topic due to their increased delivery. The response from carriers has varied, which is not surprising. Carriers have consistently made accommodations to allow those who are struggling with premium payments.

Agents in South Carolina were also included in the essential employees classification early on, which provided necessary protection for agents to continue serving their clients. Coverage questions related to workers' compensation were common. The National Council on Compensation Insurance (NCCI) made a quick adjustment to accommodate employers that were still paying employees who were staying home. Insurers temporarily eliminated that payroll from the workers' compensation premium charge. As in other states, extensions for customers to renew or pay premiums were provided.

For the future, it is imperative that insurance professionals are explicitly named in the definition of essential businesses so agents can remain open on executive orders or clearly incorporated in the definition of financial services. While not a challenge in every jurisdiction, it was difficult to provide national guidance with so many variations of executive orders. It was perhaps more challenging for agents

who worked in multiple states. Guidance from the Big I (both nationally and locally) became key in supporting agencies through the transition by not only working with the agencies directly, but also by working preemptively with the regulatory bodies on categorical recognition and order clarification. Insurance is a highly regulated business and varies from state to state. Therefore, the next challenge became how to shift the agency business model, including agency operations, policy maintenance, and customer support to the remote and virtual space.

Agency Operations, Policy Maintenance and Customer Support

As the spread of COVID-19 increased and additional restrictions were ordered, agencies had to focus both internally and externally. Internally, essential employees needed a safe environment to work and a system to perform their job remotely, if needed. Externally, customers were experiencing unprecedented levels of government-ordered shutdowns and related coverage questions.

Given the personal nature of the insurance profession, there was legitimate concern over the ability to assist the policyholders without physical interaction. Agents and support staff working remotely also had to navigate limitations with technology in their home, reliable internet access, and space with limited noise and interruptions. Those living in rural areas struggled with high-speed internet access and poor cell coverage.

Commercial customers who attempted to remain in business quickly changed their operations. The changes frequently required revisions to their insurance coverage. For example, facilities were closed or modified in an attempt to serve the customers in a way that complied with social distancing standards, fleets were idled, and employee job duties were changed or eliminated. The impact on the coverages and premiums needed prompt responses.

In order to better understand the recent experience of agents, the authors conducted interviews with leadership at several state independent agent and broker trade associations, as well as with the IIABA. The following are summaries of the main issues they reported.

In Arizona, much of the focus was on the changing nature of the policyholder's organization and the impact on coverages. For example, when restaurants reduced their onsite dining and instead focused on delivery, some insurance carriers started waiving the exclusions on their personal auto policies. Given the complications, many agents enrolled in the educational seminars on coverages and exclusions that the Independent Insurance Agents and Brokers of Arizona (IIABAZ) offered.

In Virginia, Florida and Texas, the most common questions were related to business interruption. Most insurers have initially denied these types of claims based on the lack of physical damage, as well as virus exclusions. Policyholders wanted to know what is covered, what is not and why. There were also numerous questions regarding auto coverages, both personal and commercial. For example, on the

personal auto, a policyholder who was previously a waiter may now be delivering food for the restaurant using his or her own automobile. On the commercial side, restaurants that added delivery options needed to know if this would be automatically covered or excluded. Lastly, as policyholders that transitioned to work from home, many questions arose regarding workers' compensation. For example, employers wanted to know their responsibility if an employee is injured in their residence while performing work-related duties.

In North Carolina, the experience of large-scale disruption to usual business operations has generally been associated with damage caused by hurricanes. Physical damage to an agency following a storm necessitates adaptation (since customer claims need adjusting even if an agency's own offices are filled with floodwater), and often customers are prevented by downed trees and flooded roads from reaching the agent's office. The complications arising from COVID-19 presented similar challenges but, unlike a storm, the impact was felt by every agency everywhere in the state and provided less certainty around a timeline for returning to normal. Even with the "essential" issue resolved, agencies continue to struggle with identifying how best to operate—if closing the office and working remotely, how best to communicate that to customers; if remaining open, how best to accommodate social distancing and frequent cleaning guidelines provided for businesses that have walk-in business, and whether employees need some way to prove they were "essential" if stopped by law enforcement in transit to and from work.

Two interesting consumer issues arose: 1) the insurance commissioner's authority in a declared emergency to temporarily set aside cancellation or non-renewal for nonpayment; and 2) the desire on the part of auto insurers to offer customers, stuck at home and thus not driving their vehicles, a break on premium. Generally, the application of non-cancellation is following a natural disaster when it is simply impossible for some insurance customers to get to the agency office to make premium payment due to fallen trees or flooded roads. In this situation, it was apparent the immediate economic impact from COVID-19 was making payment harder for financial reasons, not logistical ones, as the authorizing statute was intended to address. The North Carolina Department of Insurance (DOI) grappled with this internally before deciding to issue a non-cancellation order.

Carriers, anxious to appear sensitive to their auto insurance customers' plight, started pushing out advertising about providing premium refunds before actually securing permission from the DOI. Agents were flooded with calls from policyholders who saw the ads and wanted to know when they could expect the check. In the end, the DOI did offer carriers a couple different options to pursue, so as to keep within existing anti-rebating laws. Further discussion of premium adjustments and rebates appears later in this paper. Also, in light of the issue relative to business income loss claims under standard business interruption policies (which generally excluded pandemics) that heated up nationally, communications were sent to all agents who used Independent Insurance Agents of North Carolina's (IIANC) errors and omissions (E&O) program to remind them to file any claims a customer asks for and to allow the carriers to determine eligibility.

In anticipation of future needs, agents should make sure they have adequate investment in technology and training to work from home. Some employees do fine with independent working environments, while others need more structure. States like North Carolina and Virginia were somewhat prepared because systems were put in place to ensure that they could operate in the case of a hurricane. In other states, the mandatory office closings were unprecedented.

Licensing and CE

Individuals wishing to work as an insurance agent must satisfy state requirements before producing. In most cases, they must pass an exam, satisfy background checks along with fingerprinting and complete CE in order to renew their license. In about half the states, applicants are also required to complete prelicensing coursework prior to taking the exam. In order to assess the impact of COVID-19 restrictions, interviews were conducted with producers, independent agent and broker trade associations, and the leadership at the NIPR.[3]

In approximately half the states, the first step towards becoming a producer is completing prelicensing education that must be completed prior to attempting to take the licensing exam. There is some commonality in prelicensing requirements, but there is no genuine consistency. The requirements vary by state and by line of insurance. For states that require prelicensing, some allow online, and some are mandated to be completed in a classroom environment. Due to COVID-19 restrictions, in-person prelicensing courses were cancelled, leaving only online options if allowed. If the student was able to complete an online prelicensing course, there was still no place to actually take the exam if the state required it to be taken at a proctored location. In addition to taking the exam at an approved location, applicants may have to submit proof of a background check. Unfortunately, background checks were impossible in some areas because sheriff departments were unable to offer fingerprinting for non-criminal activities.

Licenses are required for agents and brokers based on their state of residence. Non-resident licenses are required if selling out of state. Producers also require an appointment from the insurer who the agent represents. As with prelicensing, there is some commonality, but not consistency. Three vendors are primary exam administers (Pearson VUE, PSI and Prometric), though some states use their own system. Pre COVID-19, Washington was the only state that allowed online proctored exams in insurance. All other states required in-person proctored exams.

3. NIPR is a not-for-profit technology company that provides cost-effective, streamlined and uniform licensing data and compliance services for insurance professionals. NIPR was incorporated in October 1996 and is an affiliate organization of the NAIC, but it has an independent board of directors. Fifty-four of the 56 member jurisdictions participate. (American Samoa and Northern Mariana Islands do not.) NIPR serves as a single hub to gather and process data, regardless of where licensed. NIPR manages the vast majority of requirements processing electronically.

Thirty-one states currently require fingerprinting as part of the background check before receiving the license. The COVID-19-related shutdowns made it nearly impossible for new employees to obtain a license given the restrictions. Exams could not be proctored due to stay-at-home orders and social distancing. In response, state insurance regulators in 30 states began allowing temporary licensing, requiring no exam and limited fingerprinting. Those with the temporary license can only work in that resident state. The temporary license is to be issued for a limited period of time. Agents are required to take an exam when the stay-at-home order is suspended and testing centers reopen.

All producers are required to complete CE requirements. The NAIC Uniform Licensing Standards (ULS) best practices calls for 24 hours in CE, with three in ethics, reported on a biannual basis.[4] Most, but not all, states are compliant with the standard. There is variability between the states in the acceptance of online education. All states allow a portion, but not all, of the requirements to be completed online. Continuing education (CE) and license renewals were adversely affected for the same reasons mentioned earlier. In-person CE courses were cancelled, hindering the ability of agents to satisfy requirements and renew their license. Given the urgent need to assist the policyholders and continue operations, some state insurance regulators were willing to approve waivers and offer temporary, provisional licenses. Online CE courses were allowed in most, but not all, cases. The majority of states (33 as of June 1) specifically allowed delayed reporting requirements for CE and allowed delays in filing for license renewals.

Although the impact of COVID-19 restrictions was faced in every state, the approach varied. The following is a summary of interviews of leaders of trade associations from a sample of states throughout the country.[5]

Arizona

The IIABAZ and other industry representatives made a request to Gov. Doug Ducey and the Arizona DOI to address licensing issues from COVID-19. Both responded in a very timely manner. Gov. Ducey issued an executive order (Continuity of Work) in March allowing licensed professionals to maintain their licenses and offering provisional licenses in Arizona. The next month, the Arizona DOI released its temporary license process for those new producers who had completed the application and just needed to pass the exam and submit fingerprints through NIPR. The temporary licenses are valid for six months. Once Prometric opens exam sites for insurance producer licensing exams, temporary producer

4. Per page 59 of the 2018 NAIC *State Licensing Handbook*: "Under the ULS, producers are to complete 24 credits of CE for each biennial compliance period. Three of the 24 credits must be in ethics." *https://www.naic.org/documents/prod_serv_marketreg_stl_hb.pdf*

5. Interviews were supplemented using material from the the National Insurance Producer Registry's *Producer Licensing Bulletins Issued by Departments* (revised April 1, 2020).

license holders have 20 days to pass the exam and 30 days to submit their fingerprints to the DOI.

Colorado

The leadership of the Professional Independent Insurance Agents of Colorado (PIIAC) worked closely with state insurance regulators and legislators. The Colorado Division of Insurance chose to allow temporary licenses to be issued without testing for a period of six months. At that time, the applicants for the licenses will need to take the class and the exam.

North Carolina

North Carolina has a prelicensing requirement that includes instruction and the completion of a prelicensing exam prior to taking the state exam. As an exception to the normal requirement of an in-person classroom setting, the North Carolina DOI allowed the IIANC to offer education via webinar/virtual classroom. The courses are required to be interactive, so instructors conduct ongoing monitoring throughout the live streaming course and put in "polling questions" to ensure that students are actively listening and participating in the course. The IIANC submits attendance records at the conclusion of the course. Additionally, the IIANC ensures that students take and pass the prelicensing exam with specified security measures in place. Students are informed that in order to obtain a North Carolina license, they will need to pass the state exam (using PearsonVUE) and then be fingerprinted within 120 days for review before the permanent license is issued. Attempts to allow provisional licenses were unsuccessful, as the DOI had public policy concerns over the impact on the quality of the agency force. There were delays issuing new licenses in process because of the fingerprint requirement. Sheriff's offices suspended services for occupational licenses, and the North Carolina DOI Agent Services Division (ASD) was not allowed to waive the statutory requirement for fingerprinting new applicants. All North Carolina licensed insurance producers whose CE compliance period expired between March through May were granted an extension through June 30 in order to meet the state-mandated CE requirements. Previously approved classroom CE was allowed to be delivered via webinar/virtual classroom.

South Carolina

The South Carolina DOI allowed temporary licensing for those unable to take exams or get fingerprinted. The temporary license requires an insurance company sponsorship. It would actually seem to make more sense to allow another licensed agent (in the agency of the new employee) to be the sponsor for that temporary license. The challenge would be sharing the same physical space. The DOI also

extended the license renewal deadlines for agents, which was important at the outset when in-person CE classes were halted.

Texas

Texas does not have a prelicensing requirement. There is a temporary license, which requires that the sponsoring agency certify that the applicant will receive 40 hours of training within 30 days of the date of the application. The Texas DOI waived the fee and allowed the temporary license to remain active until further notice.

Utah

The adjustment for the licensing and CE requirements varied in Utah. The Utah Insurance Department allowed provisional licenses and temporarily waived background checks while testing centers were closed. Applicants simply had to apply and pay the fee, and the license was granted. This is somewhat surprising given Utah does not have a prelicensing requirement. New agents must pass the exam by Aug. 1 to maintain the license. The Insurance Department was less receptive to requests to delay CE requirements until 2021. Given the number of online options, the request was denied, and agents must continue to complete CE as before.

Virginia

Virginia has prelicensing, licensing and CE requirements, as well as background checks. Licensing was additionally complicated by a transition in vendors during the spring, moving from PearsonVUE to Prometric on June 1. PearsonVUE initially closed testing centers but reopened by early May, along with third-party test centers, in an effort to accommodate additional test takers. Testing centers could only operate at 50% capacity, so there was limited availability. After June 1, Prometric began administering tests, allowing an online option. The Virginia Bureau of Insurance's requirements for CE reporting has a fixed date of Dec. 31. This is one of the few remaining states with a date certain reporting period. After this year, it will move to birth month/year renewal like the other states. Given the current end of year reporting model, CE reporting has not been an issue.

States should consider developing a robust system to provide and support a non-classroom experience and testing for prelicensing, licensing, background checks and CE. Increased availability and approval would allow more agents to professionally support their policyholders. The main barriers to obtaining a license was the lack of testing center and inability of law enforcement to conduct background checks. Many of the exam vendors could not administer examinations because they had essentially no capacity built into the system for online experience for exams. License renewals and completing CE requirements were also restricted. There were limited online

options in some cases for prelicensing and CE, but not for licensing exams. This effectively shut down the ability of producers to obtain their legally required licenses. As a result, states responded with a variety of regulatory bulletins and orders providing exemptions and waivers. Overall, online exams would alleviate a number of challenges.

Premium Adjustment and Rebate Issues

Agency Bill/Account Current Issues

In most states, agents are required to exhibit a fiduciary duty when receiving premiums as custodians of the funds. Most codes require that the agency retain those funds in a "trust" bank account separate from their operating accounts (*Producer Licensing Model Act* [#218]). The unilateral contract is still between the insurer and the insured. If the insured has not paid the premium, the insurer will cancel or non-renew the insured for nonpayment.

On April 3, 2020, the Illinois DOI issued a bulletin concerning the suspension of cancellation, non-renewal and premium payment for consumer automobile and home insurance policies and commercial property/casualty (P/C) insurance policies other than fidelity/surety and ocean marine policies issued in Illinois retroactively back to March 9, 2020, and asked insurers to voluntarily comply.[6] Other states issued similar orders.

Many insurers implemented a moratorium on cancellations and non-renewals for non-payment of premiums during the early part of the COVID-19 crisis. This removed some of the burdens from the agent as if they were to cover the premium even in a gratuitous way, they would be in violation of several laws and regulations.

Premium Refunds

Rebate laws have been the subject of much debate over the last few years (Parson et. al., 2017). A significant part of the insurance sector has called for the modernization of insurance laws. Of particular interest has been the call to modernize rather antiquated rebating laws. While many constituents acknowledge the laws are out of date, some have grappled with the impact rebate modernization has on existing agency business models and practices.

With fewer drivers on the road due to "stay-at-home" orders across the nation during the earlier stages of COVID-19, many auto insurance companies offered policyholder refunds. According to the Insurance Information Institute (I.I.I.) (2020), these refunds could total in excess of $10 billion. While putting money back into the hands of the policyholders sounds like the ideal philanthropic action to take in the midst of a global pandemic, the process created a lot of confusion around

6. Ill. Bulletin 2020-12 (April 6, 2020).

existing rebate laws. The existing laws are relatively clear to define a rebate as a return of premium. Maine has one of the most recent modernized rebate laws and reads as follows:

> "No property, casualty or surety ***insurer*** ... and no ***broker***, agent or solicitor ... ***shall pay***, allow or give, or offer to pay, allow or give, directly or indirectly ... ***any rebate***, discount, abatement, ***credit or reduction of the premium*** named in a policy of insurance ... not specified or provided for in the policy, except to the extent provided for in an applicable filing with the superintendent as provided by law (emphasis added)."[7]

There are two major policy reasons for anti-rebating laws: 1) to prevent insolvency; and 2) to prevent unfair discrimination. While a premium refund that equates to almost $10 billion seems like a large figure to the average person, it equates to about 5% of overall personal auto premium collected, which was around $222 billion in 2019 (NAIC, 2019). Additionally, somewhat blanket reimbursement models do not seem to suggest unfair discrimination on its face. Companies appear to offer premium refunds or credits to all customers assuming the customer is residing in a state that allows the return of premium.

Interpretation of insurance company auto insurance refunds during COVID-19 varied from state to state. In North Carolina, the DOI crafted a three-option approach for insurers to process their request to provide insureds a premium refund (NC Department of Insurance, 2020). Option 1 allowed for the carrier to issue a dividend or unabsorbed premium discount without additional filings. Option 2 allowed the insurer to file an Optional Enhancement form, which provides carriers some premium flexibility in unusual circumstances.[8] Option 3 provided insurers an opportunity to file the benefit as a rate deviation. All three options are subject to the approval of the insurance commissioner. Another state ordered insurance companies to submit filings to provide an auto insurance refund to policyholders (Egan, 2020).

Company application of these premium refunds also varied from company to company. Some companies issued the refund in the form of a dividend to be applied to future premium payments with no ability to receive a payment by check, while other companies allowed the refund to be applied in the same manner premium was paid (i.e., if you paid by check, you could get reimbursed by check) (State Farm, 2020; Liberty Mutual, 2020). Some insurers took a hybrid approach by applying the specific dollar amount or percentage to an outstanding balance, with a refund of the remainder in the same way it was paid.

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7. 24-A MRSA § 2163-A(1) (1997).

8. Based on N.C.G.S. §58-36-43 (2015), authority granted to the insurance commissioner to provide special rating outside of the Rate Bureau authority. "The Commissioner shall review the proposed premium charges and approve them if the Commissioner finds that they are based on sound actuarial principles."

While the differing models may look very similar, the weight of the pros and cons and overall impact varies. Insurance companies' choices in managing the personal insurance refunds essentially acts as a non-cooperative game.[9] On one hand, it is fairly ambiguous as to whether insurance carriers are obligated by the contract to provide the refund. They likely did so because of the trust value it creates in customers. On the other hand, the differing ways of delivering the refund provide a utility value to their customers. Depending on how a company approaches the refund, it might entice persistence with the company if the refund is delivered on a future premium payment versus providing an immediate discount that provides an instant relief for the customer.

Oddly enough, some companies allowed this refund amount to be applied to new customers up until a certain point (Auto-Owners, 2020). It is difficult not to see this aspect as a violation of the rebating laws, as this refund could induce a potential customer to purchase the insurance policy.

Perhaps a more complicated issue is addressing how these issues may set the agent up for potential conflicts of interest at renewal. Because there are varying responses from carrier to carrier, if a customer has not received their premium refund directly, they may be conflicted as to whether or not they should switch carriers or stay with the current carrier. The following question then arises: What is the agent's duty to parse out these potential COVID-19-related premium reductions from the underline premium quote a customer receives? Imagine the scenario where company A has a more competitive overall premium, but company B has a premium reduction to apply, which makes its overall premium appear lower. Additionally, imagine a scenario where company C has a greater premium reduction but changes its multiline or other flexible discount program, which may affect its loss of revenue differently. While the temptation from a carrier perspective may be to push those premium reductions to future payments, they create great consequences for the agents servicing those policies and the regulating bodies that oversee rates.

Companies that decided to provide one-time premium reduction refunds upfront may have created fewer unintended consequences for the agent by protecting market behavior. While many companies have already created those commitments to customers, carriers should be mindful of changing discounts in the following year to avoid confusion and undoing the trust they have built.

Conclusions and Lessons Learned

In this paper, we discussed the impact of COVID-19 on agents and the major challenges they have faced. The generally successful cooperation between the agents, insurers and state insurance regulators has made an unprecedented situation

9. This competitive dilemma is based on the classic prisoner's dilemma, first introduced by Merrill Flood and Melvin Dresher at RAND in 1950 and formalized by Albert Tucker at Stanford University in 1952 for psychology research (Dresher, 1961). The illustration is widely utilized in teaching and research to describe social and economic problems.

more manageable, but significant challenges remain. Lessons have been learned from these brief experiences that could help reduce problems in future scenarios. The following recommendations are based on the experiences so far in 2020:

- Communicate with state insurance regulators early and often. Engage with legislators quickly to explain issues, and proactively engage to help with response.
- Confirm that insurance professionals are explicitly included in the definition of "essential businesses" so agents can remain open on executive orders or clearly incorporated in the definition of "financial services." In some jurisdictions this was not an issue, but in others, the definition varied locally and made it difficult for agents to comply
- Invest in technology and training to be prepared to work from home. In North Carolina and Virginia, they were somewhat ahead of the game because their systems were put in place to ensure that they could operate in the case of a hurricane. In other states, this was unprecedented. For those working from home, the lack of high-speed internet in rural areas or areas with limited cell coverage was crippling. The crisis has also exposed that the industry has lagged behind on technology and digitalization.
- Manage employee expectations and responsibilities. It is important for employers to realize which employees are disciplined and able to be efficient at home, and which employees need a more structured environment. Given the overall employee and client satisfaction, some agencies are questioning whether they need a large office anymore.
- Recognize the importance of communication from state associations and the IIABA. The agent associations and their websites became the access point for questions not just from their members, but all agents in the state. A special page dedicated to the COVID-19 resource page is helpful. The organizations assumed that if one member had a question, others likely did as well. To serve a wider audience, they posted questions and answers on their websites. The pages in Illinois and Virginia were particularly robust. The information they decided to post was available for quick access by both members and non-members.
- Develop a robust system to provide and support a non-classroom experience and testing for prelicensing, licensing, background checks and CE when allowed. Moving to an online prelicensing program, along with an option for online exams, alleviated the problems. There is support from many insurers and producers for an online proctoring option for exams.[10] As of October, 25 states allow for an online proctoring option.

10. Conversation on June 12 and Aug. 13, 2020, with Karen Hornig, NIPR CEO, and Laurie Wolf, NIPR Deputy Director. States offering remote online exams include: Alabama, Alaska, Arkansas, California, Colorado, Idaho, Indiana, Maryland, Michigan, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Virginia, Washington and Wisconsin. The list of states can be found on the NIPR website.

- Recognize the importance of uniformity and reciprocity. The lack of uniformity in the licensing and CE requirements exacerbated a difficult situation. The differences are highlighted in a situation like this because substantial amounts of additional, time-consuming efforts are required for compliance. For example, in some states, applicants could not pay for exams or CE because electronic payment is not an option. This crisis presents an opportunity to reemphasize the benefits of greater uniformity and how it could speed processing to stakeholders while lowering costs.
- Insurance companies need to assess the pros and cons to a one-time premium reduction refund versus dividend or credit on future payment to avoid creating unintended consequences for an insurance agent's fiduciary duties. State insurance regulators should consider clarifying issues related to renewals, such as the fiduciary responsibilities to compare pricing in the wake of these premium reductions.

The COVID-19 crisis is unfortunately far from over, but so far, the substantial cooperation between insurance professionals yielded benefits to the public. We believe the recommendations above could create additional benefits in the future.

Parties Interviewed for the Paper

Bryan Bernier, CEO, Professional Independent Insurance Agents of Colorado (PIIAC)

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Robert Bradshaw, President & CEO, Independent Insurance Agents of Virginia (IIAV)

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Jim Gavin, Director of Insurance Information Services, Independent Insurance Agents of Texas (IIAT)

Jeffrey W. Grady, President/CEO, Florida Association of Insurance Agents (FAIA)

Ken Hauck, Executive Vice President, Association of Wyoming Insurance Agents (AWIA)

Karen Hornig, CEO, National Insurance Producer Registry (NIPR)

Phil Lackman, CEO, Independent Insurance Agents of Illinois (IIA of IL)

Marit Peters, President & Executive Director, Independent Insurance Agents of Texas (IIAT)

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Joe Stewart, Vice President Governmental Affairs, Independent Insurance Agents of North Carolina (IIANC)

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