TRIA Reauthorization Bill Dies Due to One Retiring Republican Senator

The U.S. Senate adjourned yesterday without passing the bill that would reauthorize the Terrorism Risk Insurance Act (TRIA), which is set to expire December 31st.

In other words, TRIA will not be passed this year.

And I am shocked. The general anticipation in Comp Land was that TRIA would pass but with more financial burden on insurance companies.

TRIA is very important to the economy. The reason for TRIA is to help businesses afford terrorism coverage after 9/11 because insurers quit offering it or it was just too expensive.

The rules are a bit different for workers' compensation carriers. They must cover all work-related occupational illnesses, injuries and deaths and cannot make an exception for those caused by terrorism. For this reason, the risk of losing carriers or risking high premiums can cripple state economies should a terrorist attack occur.

It is unreasonable to ask insurers to foot the bill for terrorist attacks when it is the federal government that handles risk mitigation.

How could this happen when terrorism threats seem to grow on an almost a daily basis and the current political environment seems to be more concerned with ideals rather than reality? The insurance industry says it cannot absorb another 9/11. Given the low investment income and other challenges, this is quite possible.

Passage was looking promising last week when the U.S. House of Representatives agreed to reauthorize TRIA by a vote of 417-7, reflecting amazing bipartisan support. The seven house members who voted against it were all Republicans.

Blockages this time was also due to a Republican. Retiring Sen. Tom Coburn (R-OK) kept the bill from passage because it lacked a provision for states to opt out of a program unrelated to TRIA. U.S. Senate Majority Leader Henry Reid (D-Nev.) would not agree to add the measure, according to **Politico**.

That's right, TRIA did not pass due to an opt-out provision being demanded from one senator who is retiring anyway.

Since I am not a beltway insider, I don't know where this notion came from, but I suspect it had little to do with TRIA's merits. My guess is this has more to do with growing political tensions about states rights due to unilateral actions made by the Obama Administration. TRIA was re-authorized twice before.

Coburn might not realize a very significant fact that makes terrorism insurance different from any other. That is, insurance companies, which can encourage risk management to curtail potential losses in other lines, are dependent on government security and action to do the same. It is unreasonable to ask insurers to foot the bill for terrorist attacks when it is the federal government that handles risk mitigation.

TRIA has had its challenges all along. Lawmakers wanted the insurance industry to carry a greater financial burden with higher deductibles. Some conservative Republicans did not like it on the principle that the government should not be expanding its reach. Others viewed it as a form of corporate welfare. Last week, the bill was pulled from cromnibus negotiations, because Republicans wanted revisions to the 2010 Dodd-Frank Act. Sen. Chuck Schumer (D-New York), who had introduced the most active TRIA legislation, refused to compromise.

The concept of government-sponsored terrorism coverage and/or backstop is nothing new. Several countries, including Britain, France, Spain, The Netherlands and Germany, offer some type of terrorism backup or fund, according to a report by **Willis**.

As sure as the day is long, TRIA will be introduced in the next Congress. Hopefully, the new Congress will be more sensible.

To learn more, check out my Actuarial Review article by clicking **here**.

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Doctors More Likely to Dispense Unnecessary, Stronger Opioids For Profit

When doctors prescribe strong opioids to injured workers, the assumption is the workers need them.

But when Florida banned physicians from selling strong opioids to injured workers, this did not translate into more scripts for pharmacies to fill.

Instead, doctors distributed weaker pain medications, according to a Workers Compensation Research Institute (WCRI) study, The Impact of Physician Dispensing on Opioid Use released today.

“When we compare pre- and post-reform prescribing practices, it appears that physician-dispensers not only reduced their dispensing of strong opioids, but also reduced prescribing of strong opioids,” Richard Victor, WCRI’s executive director, said in a statement.

“This raises concerns that a significant proportion of pre-reform physician-dispensed strong opioids were not necessary, which means injured workers in Florida were put at greater risk for addiction, disability or work loss, and even death,” he added.

The WCRI study is important because it confirms what many of us in Comp Land have been suspecting all along.

Specifically, patients receiving physician-dispensed weaker pain medications – non-steroidal anti-inflammatory medications such as Ibuprofen — went up from 24.1 to 25.8 percent. The percentage of injured workers who received weaker but legal opioids increased from 9.1 to 10.1 percent.

The study defines “strong” opioids as those on the U. S. Drug Enforcement Administration’s Schedule II (i.e. Codeine, Hydrocodone) and Schedule III opioids, (i.e. products containing no more than 90 milligrams of codeine per dosage unit such as Tylenol with Codeine® and buprenorphine (Suboxone®). “Weaker” opioids are Schedule IV drugs that include carisoprodol (Soma®) and diazepam (Valium®).

Only two percent of injured workers taking weaker physician-dispensed pain medications in the first six months received stronger opioids from the pharmacy afterwards.

Physician dispensing of medication is a huge workers’ comp pet peeve of mine, as I covered in previous blogs.

This WCRI study is important because it confirms what many of us in Comp Land have been suspecting all along. When doctors can make money on stronger opioids, they will dispense them to injured workers even when safer alternatives work just as well.

Given the danger of opioid use and our nation’s opioid epidemic, I can only hope that this study gets the attention of lawmakers who have the guts to put injured workers before physician profits.

Oh, and here’s the fine print. The study is based on data concerning the medications dispensed for injured workers under the Florida workers’ compensation program. The claims were divided into two groups: pre-reform, with dates of injury from January 1, 2010 to June 30, 2010 (prior to the July 1, 2011, effective date of the ban) and post-reform, with dates of injury from July 1, 2011 to December 30, 2011 (immediately after the ban). The data included 24,567 claims with 59,564 prescriptions in the pre-reform group and 21,625 claims with 52,747 prescriptions in the post-reform group.

For more information about this study or to purchase a copy, visit http://www.wcrinet.org/result/PD_opioid_result.html

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TRIA Re-Authorization Could Be in Jeopardy

Update 12/10/2014 5:12 p.m.: House passes TRIA by 417-7 votes. Total support from Democrats; 7 nays from Republicans. It’s off to the Senate….

With Congress having 21 days to re-authorize the Terrorism Risk Insurance Act (TRIA), passage has been stalled and removed from cromnibus budget negotiations, putting the program at risk.

Some fear the move could jeopardize TRIA re-authorization, which would adversely affect workers’ compensation and other commercial insurance.

As of yesterday afternoon, TRIA was one of the major remaining roadblocks in cromnibus negotiations, according to Politico. (For those who do not live inside-the-beltway politics, cromnibus refers to measures Congress has approved to keep the federal government funded to avoid a shutdown.)

At issue is Republicans’ desire to revise the 2010 Dodd-Frank Act, which created the Federal Insurance Office and financial regulations. House Financial Services Chairman Jeb Hensarling (R-

Texas) is pushing changes to Dodd-Frank, while Sen. Chuck Schumer (D-New York), who introduced the most active TRIA legislation, is resisting such changes.

In response, House Republicans created a standalone bill they hope will force the Senate's hand by passing TRIA with their Dodd-Frank changes, according to Politico. The House Rules Committee posted TRIA bill language yesterday as well.

Some fear the move could jeopardize TRIA re-authorization, which would adversely affect workers' compensation and other commercial insurance.

As I wrote about in previous blogs, without passage, workers' compensation faces financial liabilities because it must cover work-related terrorism exposure, which could result in premium increases in states where the unthinkable occurs.

No passage will also make other types of commercial insurance, including property coverage, much more expensive and difficult to obtain. As I covered in Actuarial Review, terrorism insurance is difficult to price because there have been few terrorist events on American soil (thank God) and future terrorism treats are difficult to anticipate.

No TRIA also means no Super Bowl because game organizers will not be able to obtain affordable terrorism coverage, according to BusinessWeek. The NFL has joined with other professional sports leagues and 80 business groups nationwide to form the Coalition to Insure Against Terrorism (CIAT) to urge Congress to reauthorize of TRIA legislation.

Not everyone is a fan of TRIA re-authorization. Conservatives view TRIA as a waste of taxpayer dollars. In a recent National Review blog, writer Mark Calabria called TRIA "no more than corporate welfare wrapped up in the flag."

Given the growing terrorism risks due to ISIL and other terrorist organizations, passing TRIA makes total sense. My hope is enough lawmakers agree.

Yeah! Employers Are Keeping Employee Health Care Coverage

Most organizations are continuing to offer health care coverage for their employees, according to a **survey** by Society for Human Resource Management (SHRM) and the Employee Benefit Research Institute (EBRI) released last month.

It's obviously a good sign for employees who fear finding insurance as individuals through state exchange programs (ObamaCare). Those of us who have avoided the bumps in the road during ObamaCare implementation are sympathetic to Americans who have gone through the arduous process.

And sure, it also means employers recognize that offering employee benefits is still key to attracting and retaining employees.

But I am hoping there is another important reason why employers will be compelled to continue offering coverage even in 2018 — when a 40 percent excise tax will apply to the value of more expensive health care plans.

My hope is that employers will see health care coverage as more than employee benefit, but as an integral part of investing in employee health to encourage productivity and presenteeism (or absence management.) By integrating medical insurance with wellness, safety, disease management and return-to-work programs — along with other initiatives — employers will see a return on their investment. Just think about how much it costs to pay a temporary worker or the stress it causes the rest of the team to share a person's job, not to mention loss of morale.

We've known this for a while. Even back in 2002, when I wrote a 16-page booklet for *Business & Health* magazine, there was evidence that investing in employee health and productivity saves more than double the costs of absence.

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The challenge is to educate employees about the costs of health care and absence in their own personal lives.

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In the booklet, the estimates were that the total cost of employee absence equals revenue capacity (assuming employee contribution is worth 150 percent of daily income for organizational profitability) plus wage replacement. So for a worker getting paid $20 per hour, using the formula and assumptions, it would be: ($20 X 1.50) + $15, which would make lost productivity cost about $45 hourly. (To see the article, "Selling the CFO," click **here** and go to page 7. Warning: it takes a while to load.) The formulas today are undoubtedly more detailed and complex, but this equation makes the point.

That said, health care costs are ever-increasing at a time when Americans are becoming more unhealthy. The trick is cracking the code of how to motivate people to live safer and healthier lives.

I believe part of the code is educating employees about the costs of health care and absence in their own personal lives. I don't think employers or insurers, for that matter, do this enough.

People need to see differences in annual claims costs. One comparison, for example, would be looking at a claims for two people of the same age and comparing the cost of individual co-morbidities. They need to understand that preventable contributors to health care costs make it difficult for employers to hire more people or offer additional benefits.

They also need to understand what obesity, for example, will do to their quality of life in the short and long-term. One obvious result is getting Type 2 Diabetes. People hear about the risk of diabetes, but do they know what it means in real life? My school-aged daughter, who has had Type 1 (non-preventable) Diabetes for nearly eight years, can tell you.

The diabetic lifestyle not only means pricking fingers and the risk of insulin dependency (which requires poking an insulin pump tube into the body every three days) but can also lead to organ failure (kidney dialysis anyone?) pain when walking (how about those diabetic nerve drug commercials?) and more difficult recoveries. Sure, this approach will not help everyone, but it at least a start.

They also need to understand that getting back to work as soon as medically possible is the best for them. Stay off too long and long-term income potential decreases.

Finally, I am thrilled that employers are continuing to offer health care. The real key in reducing the costs of health care, however, are up to us. And I say, the less we need health care the better off we are.