



EASTERN ALLIANCE INSURANCE GROUP

**TESTIMONY OF
JOHN S. HANLON
DIRECTOR OF SPECIAL INVESTIGATIONS AND
CLAIMS COMPLIANCE
BEFORE THE PENNSYLVANIA HOUSE
INSURANCE COMMITTEE
JANUARY 28, 2010**

GOOD AFTERNOON AND THANK YOU FOR THE OPPORTUNITY TO SPEAK TODAY. MY NAME IS JOHN HANLON. I AM THE DIRECTOR OF SPECIAL INVESTIGATIONS AND CLAIMS COMPLIANCE FOR EASTERN ALLIANCE INSURANCE GROUP. WE ARE A WORKERS COMPENSATION CARRIER LOCATED IN LANCASTER, PENNSYLVANIA. MANY OF MY FRIENDS ASK ME WHAT I DO. THE RESPONSE I GIVE IS THAT I AM PART OF A COLLABORATIVE TEAM OF INDIVIDUALS WHO WORK TO MAINTAIN THE INTEGRITY OF THE WORKERS' COMPENSATION CLAIMS ADMINISTERED BY OUR COMPANY. THAT COMMITMENT IS WHY I AM SPEAKING WITH YOU TODAY. WE APPLAUD CHAIRMEN DELUCA AND MICOZZIE, AND THE SUPPORT GIVEN BY THE ATTORNEY GENERAL, FOR RECOGNIZING THE IMPORTANCE IMMUNITY ISSUES HAVE ON MAINTAINING THE INTEGRITY OF INSURANCE CLAIMS SYSTEM.

THE INTRODUCTION OF HOUSE BILL 2154 CONTINUES TO SUPPORT AND PROTECT THE INSURANCE DEPARTMENT AND THOSE INDIVIDUALS WHO COOPERATE WITH THE GOVERNMENTAL AGENCIES. IT ALSO CONTINUES TO PROTECT THE REPORTING ORGANIZATIONS THAT COMPILE INJURY AND OTHER LOSS DATA, WHICH ARE USED IN THE FIGHT AGAINST INSURANCE FRAUD. ADDITIONALLY, WE BELIEVE HOUSE BILL 2154 RECOGNIZES THAT NO INDIVIDUAL CARRIER CAN WIN THE BATTLE AGAINST POTENTIAL INSURANCE FRAUD ON THEIR OWN.

TO UNDERSTAND THE IMPORTANCE OF SUPPORTING A COLLABORATIVE APPROACH TOWARDS FIGHTING FRAUD, YOU NEED TO UNDERSTAND WHERE WE WERE 20 YEARS AGO, COMPARED TO WHERE WE ARE TODAY.

WHEN I STARTED MY CAREER IN INSURANCE CLAIMS 20 YEARS AGO, IT WAS A MUCH DIFFERENT WORLD. THERE WERE NO HIPAA LAWS, AND PRIVACY CONSIDERATIONS, ALTHOUGH A CONCERN, HAD NOT YET TRANSFORMED COMPANY PRACTICES. THE INTERNET WAS NOT YET IN USE IN THE INDUSTRY. WHEN A CARRIER RECEIVED AN INJURY CLAIM, WE WOULD RUN AN ISO REPORT TO DETERMINE IF THERE WERE ANY PRIOR INJURIES OR ACCIDENTS THAT COULD IMPACT THE HANDLING OF THE CLAIM. IF SO, WE COULD CALL THE OTHER CARRIERS TO OBTAIN INFORMATION ON WHO THE DOCTORS WERE FOR THOSE CLAIMS, WHAT THE INJURIES WERE AND ASK IF THEY WERE AWARE OF OUR CLAIM. THROUGH INDEX INQUIRIES, WE COULD OBTAIN A HIGHLY DETAILED FORM WITH ENOUGH INFORMATION TO DETERMINE IF ANYTHING INAPPROPRIATE INDICATED A NEED FOR FURTHER INVESTIGATION. WE COULD CALL A DOCTOR'S OFFICE AND SPEAK WITH A DOCTOR OR NURSE REGARDING THE CLAIMANT'S TREATMENT, MEDICAL HISTORY AND OTHER ACCIDENTS. WE COULD ALSO SHARE INFORMATION ABOUT OUR CLAIMS WITH OTHER CARRIERS.

TODAY THAT IS NOT THE CASE. AS ACCESS TO INFORMATION IMPROVED, SO DID CONCERNS WITH PROTECTING THE PRIVACY INTERESTS OF INDIVIDUALS AND OF COMPANIES. EVERYONE HERE HAS SEEN PRIVACY STATEMENTS FROM

THEIR CREDIT CARD COMPANIES, BANKS AND OTHER FINANCIAL INSTITUTIONS. INSURANCE CARRIERS HAVE ALSO CHANGED THEIR PRACTICES TO PROTECT PRIVACY INTERESTS. HOWEVER, THERE HAVE BEEN UNINTENDED NEGATIVE CONSEQUENCES OF IMPLEMENTING THESE PROTECTIONS..

TODAY, CLAIMS ADJUSTERS CANNOT CALL ANOTHER CARRIER TO OBTAIN INFORMATION. OUR ADJUSTERS CANNOT CALL A DOCTORS OFFICE TO GET INFORMATION OVER THE PHONE. THERE ARE TIMES WHEN WE CANNOT GET ANY INFORMATION, EVEN WITH A WRITTEN REQUEST.

I AM NOT SITTING BEFORE YOU TODAY ASKING FOR BLANKET INSURER IMMUNITIES, NOR TO SUPPORT A POSITION THAT ANYONE WORKING FOR AN INSURER SHOULD BE SHIELDED BY EXPANDED IMMUNITIES. WHAT MY COMPANY DOES SUPPORT IS THE IDEA OF PROVIDING SPECIFIC INSURANCE COMPANY EMPLOYEES WHO ARE CHARGED WITH THE INVESTIGATION AND DISPOSITION OF POSSIBLE FRAUDULENT CLAIMS THE IMMUNITIES THEY NEED TO DO AN EFFECTIVE JOB. WE BELIEVE THAT HOUSE BILL 2154 DOES JUST THAT BY SUPPORTING THE INDIVIDUAL EFFORTS OF INSURANCE COMPANIES AND THE COLLABORATIVE EFFORTS OF THE INDUSTRY.

A MAJOR IMPEDIMENT TO OUR ABILITY TO INVESTIGATE THE INJURY HISTORY OF A CLAIMANT IS OUR ACCESS TO MEDICAL INFORMATION. TODAY, I AM OFTEN TOLD BY CARRIERS AND MEDICAL PROVIDERS THAT IF I CAN PROVIDE A MEDICAL RELEASE, MAYBE THEY WILL PROVIDE ME WITH SOME INFORMATION.

OF COURSE, I DO ASK FOR AND RECEIVE THOSE MEDICAL AUTHORIZATIONS. UNFORTUNATELY, I AM THEN OFTEN TOLD BY CARRIERS THAT THE AUTHORIZATION DOES NOT MEET THEIR OWN REQUIREMENTS, AND BY MEDICAL PROVIDERS THAT THEY CANNOT HONOR THE AUTHORIZATION BECAUSE THE HIPAA LANGUAGE WE USE IS NOT WHAT THEY BELIEVE IS REQUIRED. EVEN WHEN I POINT OUT THAT THE LAW SPECIFICALLY STATES THAT THE HIPAA PRIVACY RULE DOES NOT APPLY TO ENTITIES THAT ARE WORKERS' COMPENSATION INSURERS, THEIR POSITION USUALLY DOES NOT CHANGE.

ALLOW ME TO PROVIDE AN EXAMPLE OF THE VALUE IN PERMITTING FRAUD INVESTIGATORS TO SHARE AND DISCUSS MEDICAL INFORMATION WITH EACH OTHER. I WAS INVESTIGATING AND DEFENDING THE WORKERS COMPENSATION CLAIM OF A SELF-EMPLOYED CLAIMANT. SHE WAS CLAIMING OVER \$200,000 IN EXPENSES ASSOCIATED WITH AN ALLEGED WORK-RELATED AUTO ACCIDENT. OUR INVESTIGATION DETERMINED THAT THE MEDICAL EVIDENCE DID NOT SUPPORT THE CLAIM. WE ISSUED A DENIAL AND FLAGGED IT AS POTENTIALLY FRAUDULENT. HER AUTO POLICY PROVIDED \$200,000 IN COVERAGE AND THE AUTOMOBILE CARRIER PAID THE CLAIM. WE WERE ULTIMATELY SUCCESSFUL IN DEFENDING THE WORKERS COMPENSATION CLAIM, AND THE AUTO CARRIER THEREFORE DID NOT RECOVER ANY MONEY THROUGH SUBROGATION. THE CLAIMANT WAS LATER CHARGED WITH INSURANCE FRAUD FOR A THIRD NON-RELATED ISSUE.

WE WERE NOT ABLE TO SHARE INFORMATION WITH THE AUTO CARRIER AND THEY IN TURN COULD NOT SHARE INFORMATION WITH US. IF THE AUTO CARRIER AND EASTERN HAD BEEN ALLOWED TO HAVE THEIR FRAUD INVESTIGATORS SHARE INFORMATION, IT IS POSSIBLE THAT THE OTHER CARRIER WOULD NOT HAVE PAID WHAT THEY DID FOR THE CLAIM. IT IS ALSO POSSIBLE THAT THE COSTS AND USE OF VALUABLE AND LIMITED RESOURCES ASSOCIATED WITH FIVE YEARS OF WORKERS COMPENSATION LITIGATION COULD HAVE BEEN AVOIDED.

LET ME PROVIDE YOU WITH ANOTHER EXAMPLE WHERE THE ABILITY TO SHARE AND DISCUSS MEDICAL INFORMATION WOULD BE OF GREAT ASSISTANCE IN IDENTIFYING FRAUD. WE HAD A CLAIMANT WHO HAD BEEN OUT OF WORK SINCE JULY 2005. AN ISO REPORT DISCLOSED SEVEN TOTAL CLAIM MATCHES FOR THIS SAME INDIVIDUAL. WE HAVE NOT BEEN ABLE TO OBTAIN ANY INFORMATION FROM ANY OF THE OTHER INSURANCE CARRIERS REGARDING THE MEDICAL ISSUES ASSOCIATED WITH THOSE CLAIMS. AFTER OUR ATTORNEYS ISSUED SUBPOENAS FOR ANOTHER CARRIER'S FILE, WE ONLY RECEIVED A COPY OF AN INCIDENT REPORT. THE ISO REPORT CLEARLY SHOWS MORE INFORMATION THAN WAS PRODUCED. ALLOWING EACH CARRIER'S FRAUD FIGHTERS TO DISCUSS THE CLAIM DETAILS COULD HAVE SAVED EASTERN AND THE OTHER CARRIERS TIME, EFFORT AND SIGNIFICANT SUMS OF MONEY.

HOUSE BILL 2154 ALSO SUPPORTS THE IMMUNITIES OF OTHER INDIVIDUALS WHO MAY HELP US IN OUR INVESTIGATION OF CLAIMS. I WOULD LIKE TO PROVIDE AN EXAMPLE ILLUSTRATING WHY THIS THIRD-PARTY IMMUNITY IS INVALUABLE TO FRAUD INVESTIGATION. WE INVESTIGATED A CASE INVOLVING A WORKER WHO WAS ON TOTAL DISABILITY. WE FOUND THAT THIS PERSON WAS TAKING SKY DIVING LESSONS. THE SKY DIVING SCHOOL HAD TAKEN A VIDEO TAPE OF THE INJURED WORKER TO PROVIDE THEM WITH CONFIRMATION THAT THE INDIVIDUAL WAS FREE FROM INJURIES AND COULD MEET THE PHYSICAL DEMANDS OF SKYDIVING. WHEN WE ASKED THE SCHOOL IF WE COULD OBTAIN A COPY OF THE VIDEO, THE OWNER REFUSED, STATING THAT THEY HAD BEEN SUED BEFORE AND DID NOT WANT TO RISK GETTING SUED AGAIN. IF THE OWNER HAD KNOWN THAT HE AND HIS BUSINESS WERE IMMUNE FROM ANY CIVIL LIABILITY FOR ACTIONS TAKEN IN COOPERATION WITH INDIVIDUALS IDENTIFIED IN SECTION 349.1, WE WOULD HAVE BEEN ABLE TO OBTAIN VALUABLE EVIDENCE SUPPORTING OUR FRAUD INVESTIGATION.

IN CLOSING, I WOULD LIKE TO SAY THAT WE ARE VERY APPRECIATIVE OF ANY AND ALL LEGISLATIVE EFFORTS TO MAINTAIN THE INTEGRITY OF PENNSYLVANIA'S INSURANCE MARKET. IN THESE TROUBLING ECONOMIC TIMES, THE INDUSTRY HAS EXPERIENCED AN INCREASE IN INSURANCE FRAUD. IF THIS BILL SHOULD FAIL TO PASS, THE EXISTING IMPEDIMENTS TO THE ABILITY OF INSURANCE CARRIERS TO FULLY INVESTIGATE FRAUDULENT CLAIMS WILL ULTIMATELY HAVE A DRASTIC IMPACT ON BOTH CARRIERS AND THEIR POLICYHOLDERS. PASSAGE OF THIS BILL WILL PROVIDE THE NECESSARY

IMMUNITY TO FRAUD PERSONNEL AND COOPERATING PARTIES WHO TOGETHER
HAVE THE POTENTIAL TO PROTECT THE DUAL INTERESTS OF INSURERS AND THE
PUBLIC IN DECREASING INSURANCE FRAUD.

THANK YOU FOR THE OPPORTUNITY TO ADDRESS THIS ISSUE. I AM HAPPY TO
ANSWER ANY QUESTIONS.