

# G-4: The Impact of Healthcare Reform

**Moderator:** Arthur Randolph

**Panelists:** Kevin Dyke, Heather McClure,  
John Mize

CAS 2013 Annual Meeting  
November 6, 2013



# CAS Antitrust Notice

The Casualty Actuarial Society is committed to adhering strictly to the letter and spirit of the antitrust laws. Seminars conducted under the auspices of the CAS are designed solely to provide a forum for the expression of various points of view on topics described in the programs or agendas for such meetings.

Under no circumstances shall CAS seminars be used as a means for competing companies or firms to reach any understanding – expressed or implied – that restricts competition or in any way impairs the ability of members to exercise independent business judgment regarding matters affecting competition.

It is the responsibility of all seminar participants to be aware of antitrust regulations, to prevent any written or verbal discussions that appear to violate these laws, and to adhere in every respect to the CAS antitrust compliance policy.



# Agenda

- ACA Overview
- P&C Market Implications
- Panel Discussion
  - Regulatory
  - MPL Insurer
  - Healthcare System
- Questions



# Affordable Care Act

- Enacted March 23, 2010
- Designed to promote quality, affordable health care for all Americans
- Creates various insurance “mandates” for both individuals and employers
- Reforms insurance markets by imposing minimum loss ratios, rating and underwriting limitations, and risk mitigation measures
- Promotes wellness and prevention



# ACA: Early Implementation

- September 2010: Immediate Market Reforms
  - Coverage for dependents under age 26, guaranteed issue for children, no cost sharing for preventative services, and imposition of annual/lifetime limits
- 2011: Minimum Loss Ratios
- 2012: ACO Incentives



# ACA: Final Implementation

- 2013: Coordinate Medicaid and Medicare reimbursement rates
- 2014: Final Market Reforms
  - Individual and employer mandates
  - Minimum essential coverage
  - Medicaid expansion
  - Rating reforms and removal of pre-existing condition limitations
  - Rate stabilization programs begin (reinsurance, risk adjustment, risk corridors)



# P&C Market Implications

- Health Insurance Market Reforms
- Promotion of Accountable Care Organizations (ACOs)
- Medicaid and Medicare payment reforms
- Comparative Effectiveness Research initiative to promote evidence based protocols
- Health Care IT



# Federal Initiatives: PPACA

- GAO March 2012 study: *Causes of Action under the Patient Protection and Affordable Care Act*
  - Studied 14 quality enhancement provisions under Section 3512 of the ACA
  - Found new guidelines and standards will likely not give rise to new causes of actions or claims
  - Left it open to courts to ultimately decide





# Federal Initiatives: PPACA

- PPACA funded \$23.3 million in demonstration grants provided to states to study medical liability reform and patient safety
- Goal is to develop models that:
  - Encourage patient safety and reduce preventable injuries (MN, MO)
  - Improve communication (IL, MA, TX, WA)
  - Ensure fair and timely compensation to patient while reducing frivolous lawsuits, e.g. Alternative Dispute Resolution (NY)
- Three year study completed June 2013
  - Report pending



# Federal Initiatives: Pending MPL Legislation

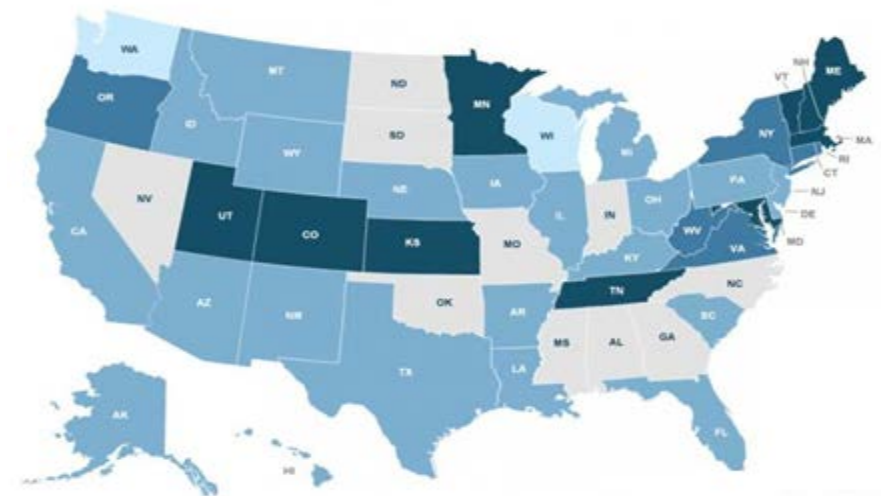
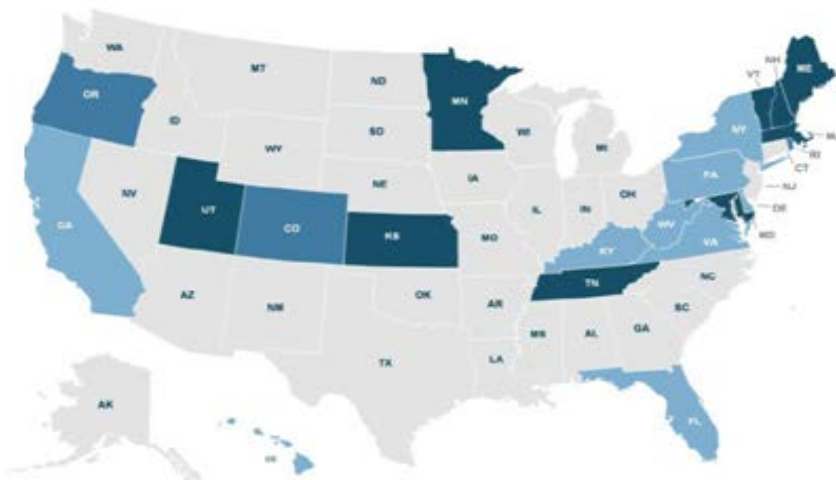
- HR 1473 – Standard of Care Protection Act (Gingrey – GA)
  - Asserts no standard or duty of care can be construed from ACA, Medicare, or Medicaid provisions
  - Has bipartisan support
- HR 99 - Health Insurance Industry Antitrust Enforcement Act (Conyers - MI)
  - Seeks repeal of McCarran Ferguson for health and medical malpractice insurers
  - No co-sponsors



# State Initiatives: All Payer Claim Databases (APCD)

December 2010

October 2013



# NAIC Initiatives

- NAIC formed Affordable Care Act MPL Working Group in April 2013
- Chaired by Superintendent Franchini of New Mexico
- Charge
  - Study the potential impact of the federal Affordable Care Act (ACA) on the professional liability exposures of medical providers, with particular attention to potential increases in such exposures as a result of provisions in the ACA that discourage the practice of defensive medicine; report on its findings at each national meeting.



# NAIC Initiatives

- Group has met several times and received testimony from PIAA and MGIS
- PIAA testimony
  - ACA implementation could “dramatically change the MPL environment”
  - Patient satisfaction and outcomes may be negatively impacted due to influx of new patients into system (30-50 million)
  - Value based medicine guidelines and payment incentives: Future standards of care?
- MGIS testimony
  - Believe there will be “more risk in the system”
- Future activity includes additional testimony and research on ACA impact



# Perspectives: Physician PL Insurer

- Policyholder base
  - Employment trend
  - Consolidation
- Result
  - More self-insurance
  - Increased competition
  - Buyer: Fewer physicians, more managers



# Perspectives: Physician PL Insurer

- Impact on frequency
  - Will care improve?
  - Will patients be happier?
  - Will reliance on extenders reduce quality?
  - Will employers settle more, drive frequency?
- Impact on severity
  - Consolidation eliminates contributing limits
  - Jury attitudes?



# Perspectives: Physician PL Insurer

- New causes of action
  - Denial of benefits
  - Credentialing
  - Privacy violations
  - Cyber
  - Other





# Perspectives:

## Multi-Specialty Academic Medical Practice

- Impact on Patient Population
  - Volume
  - Demographics
  - Medical Condition
  - Patient Satisfaction



# Perspectives:

## Multi-Specialty Academic Medical Practice

- Impact on Provider Population
  - More Physician Extenders
    - Scope of Practice Issues
    - Training Issues
  - More Family Medicine/Primary Care
  - Access to Specialty Care



# Perspectives:

## Multi-Specialty Academic Medical Practice

- Impact on Data Mining/Technology Requirements
  - Meaningful Use
  - Quality Metrics



Casualty Actuarial Society  
4350 North Fairfax Drive, Suite 250  
Arlington, Virginia 22203

[www.casact.org](http://www.casact.org)

