

BRANDED CONTENT

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STATE OF INSURANCE

POINTS OF VIEW FROM THE INSURANCE LEADERS' DESKS



WITH THE UNIQUE AND UNCHARTED SCENARIOS THAT WE HAVE FACED OVER THE LAST THREE YEARS, BUSINESS owners, C-suite professionals and investors have realized – perhaps more than ever before – the importance of having trusted advisors to work with as they navigate the various forms of insurance they need. In this special section, we turn to the expertise of some of the top business insurance thought leaders in the region to gain insight and perspective on the state of insurance today and what businesses need to know.

STATE OF INSURANCE

Insurance Costs Will Rise – A Good Consultant Can Help

By JU ANDERSON

The insurance industry has incurred no shortage of obstacles over the past three years, especially concerning the employee benefits market. COVID-19 and inflation have exerted significant strains on employers' financial and operational functions while also threatening to accelerate cost increases from the carrier side of the insurance market. In addition to these economic challenges is the evolving role that employee benefits insurance plays for employers; benefits – traditional and new emerging types of benefits – have become an even more significant part of employers' recruitment and retention efforts. Are benefits consultants and brokers continuing to provide the solutions that employers need?



JU ANDERSON
EMPLOYEE BENEFITS PRACTICE LEADER



to control benefit costs for their clients, such as establishing narrow networks, modifying plan design, or offering high deductible health plans (HDHP). All of these could address the cost control aspect of insurance but risked placing an undue burden on the employee. Benefits programs must ease the overall financial obligations for these employees; by reducing day-to-day expenses for employees related to their health plans, the value of the pay component of their compensation increases.

While those traditional cost control approaches are still valid, other options have a greater return on investment for employees and employers. Once thought of as a solution for only large employers, self-insured programs are now flexible enough to be a viable solution for mid-sized employers. Self-insured programs can also be applied to only part of the overall benefits program through carve-out dental, vision, or prescription programs.

BENEFITS INSURANCE CONSULTANTS ARE KEY

The solution for controlling overall employee benefits insurance costs is partnering with an insurance consultant that has access to all available solutions and who is creating a program that addresses the specific needs of the employer and their employees. From network, plan design and alternative funding strategies to identifying valuable discounted new voluntary coverages (e.g., LTC, pet, legal, and commuter coverages, etc.), a professional benefits consultant can help mitigate the fiscal impact that rising insurance costs will have on employers.

Ju Anderson is the Employee Benefits Practice Leader at AP Keenan, with more than 20 years of benefits and management consulting experience. Ju works with clients to create an effective strategy to address the health and welfare benefit needs, including alternative funding strategies, implementation, efficacy, and performance management of benefits programs. Learn more at Keenan.com.

RIISING COSTS ALL-AROUND

Employee benefits premiums continue to rise at a significant rate. Some employers have multi-year rate guarantees with health insurance carriers which delayed increases during the past few years; however, as carrier contracts renew, that could result in a steeper increase in costs as health insurance carriers look to rebalance premiums based on their financial conditions.

While employers' insurance costs are rising, so too is employee compensation. To address these financial strains, employee benefits consultants must continue identifying cost-saving methods without removing value from the benefits programs.

ADDITIONAL PAYROLL TAXES

Nationally, many states have passed or are looking to pass payroll regulations requiring a payroll tax to cover state-funded long term care (LTC) benefits. Employers have rushed to implement group LTC options to protect their employees from further taxes related to LTC. In light of national economic inflationary pressure, employers are now seeking voluntary benefit LTC solutions to mitigate further payroll taxes for their employees who are already burdened by inflation and for employers who are equally challenged with salary pressures.

THE NEW ENHANCED ROLE OF EMPLOYEE BENEFITS INSURANCE

Employee benefits have always included consideration of supporting the recruitment and retention of a qualified, motivated, and productive workforce. However, recent conditions such as "The Great Resignation," a renewed focus on mental health and self-care, and the compensation desires of the employees have shined a spotlight on the role that employee benefits insurance, and overall benefits programs, play in that recruitment and retention efforts.

Simplified, employees just cost more. Employee pay must stay competitive, and employee benefits must be rich enough to attract new and retain existing employees. Cost savings must come from somewhere for all of this to be sustainable for employers.

STRATEGY AND COST SAVING INSURANCE SOLUTIONS

There is no way around the fact that insurance costs are going to continue to rise for the foreseeable future. Historically, insurance consultants have leveraged several solutions

Ransomware Attacks Surge

Why qualifying for cyber coverage may be more difficult than you realize

By HEATHER WILKINSON

The September 1 assault on Texas-based OakBend Medical Center where more than a million records were claimed to be stolen and the recently reported cyberattack on LAUSD prompting an unprecedented shut-down of its computer systems and subsequent ransom demand, are only a few stark reminders that ransomware attacks continue to be a major threat to organizations across all sectors. This is particularly true for small businesses that lack the staff, skills and resources for prevention and remediation.

According to cyber security firm Sophos, ransomware attacks spiked 78% and the proportion of victims paying ransoms of \$1 million or more increased threefold over the previous year. Further, an alarming 90% of those hit by ransomware said the attack impacted their ability to operate, with 86% reporting a loss of business revenue. Compounding these losses are the millions of dollars in potential legal fees, losses due to business interruption and reputational damage that often result from exposing sensitive customer information.

The dramatic rise in ransomware claims, starting early on in the pandemic when the switch to remote work opened new network and process vulnerability for companies, has had a significant impact on the availability of cyber insurance and how carriers underwrite the risk, not to mention rates. At Lockton, we've seen an average 83% rate increase on cyber policy renewals through July 2022.

More importantly, companies that neglect to deploy specific and meaningful measures to prevent, detect or mitigate the threat of ransomware are almost...*uninsurable*.

Carriers are not only asking insureds whether controls are in place but seeking to verify those controls exist and that insureds are continually applying more rigorous controls at the appropriate endpoints.

Insurers are scrutinizing cyber policy applications and reserving their rights to assert that potential misrepresentations bar coverage for claims.

While ransomware remains their chief concern, contingent business interruption is emerging as a renewed threat for insurers.

Underwriters are seeking to limit their exposure to systemic cyber risks, including by clearly delineating policy limits for losses stemming from IT and non-IT providers.

While claims activity related to the Russian invasion of Ukraine is limited to date, insurers are concerned about increased threats of cyberattacks and possible future claims emerging from the conflict. Multiple carriers are currently revising their war exclusions, with many redrafting or seeking to clarify language in their policies.

Considering annual global cybercrime costs are estimated to reach \$10.5 trillion USD, anticipating cyber threats and managing cyber-risk should be a top priority for businesses.

SOME IMMEDIATE ACTIONS

What can companies do immediately? Proactive measures to ensure compliance with evolving regulatory regimes along with sound cybersecurity systems, protocols and procedures will be vital to mitigating risk, reducing the impact of loss and safeguarding profitability.

Improved security infrastructure: Companies should regularly perform a comprehensive



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UNCOMMONLY INDEPENDENT

assessment of risks and threats in their IT environment as standard protocol, then have tools and procedures in place to detect threats as well as respond in the case of an incident. Key controls cyber insurers look for to determine coverage eligibility include:

- Encryption of sensitive information
- Multi-factor authentication
- Endpoint intrusion detection capabilities
- Frequent, remote, air-gapped and encrypted or immutable backups
- Patch management
- Recognizing & replacing unsupported software
- Email scanning & filtering
- Authenticating email
- Remote desktop protocol
- Restricting administrative privileges

Additional recommendations include:

- Regularly consider technological improvements, compliance assessments and implementations, and risk transfer mechanisms to improve your complete cyber risk posture
- Implement regular cybersecurity audit protocols for your company and supply chains
- Commit to and allocate sufficient resources for preventive measures, technological improvements and cyber insurance
- Establish adequate measures to take in the event of a supply chain cyberattack
- Partner with a trusted insurance broker with (1) proven cyber insurance and claims expertise; (2) direct access to every major insurer in the cyber marketplace and the market share to drive buying leverage; and (3) a strategic, long-term approach to managing your cyber insurance program for stability and value over time.

As cybercrime grows, businesses need to deploy enterprise cybersecurity strategies and systems that evolve with it. Lockton's Cyber & Technology Practice of subject matter experts provides made-to-measure, reliable risk transfer and insurance solutions for companies looking to manage their cyber risks and improve their cyber resiliency.

Heather Wilkinson is SVP, National Cyber Practice at Lockton. Learn more at global.lockton.com.

Reviewing Single Payer Health Care For California

By TOBIAS KENNEDY

When California introduces measures like AB1400, it's important to know what it's aiming to accomplish. This was not The Affordable Care Act 2.0. This was a complete overhaul of the health care system. The measure sought to move California to "Single Payer" healthcare. Single Payer completely eliminates all options for health insurance as we know it—no employer insurance is allowed, no individual health plans, no alternative choices or options for anyone, period. What you get instead is a government plan that sets rules under which citizens can receive medical care—what's covered and what's not, what frequencies are allowed, what doctors and providers are permitted to do—and then citizens receive their medical attention according to those new rules.

The equation for California boils down to evaluating how many uninsureds we're serving with a bill like this, and what's the cost. These two factors lay at the crux of what the average voter needs to know in order to form an opinion on bills like this. UCLA's Center for Health Policy Research shows 94% of Californians have health insurance and 6% are uninsured. Of the uninsured, 54% are eligible for subsidized health insurance but have waived coverage. Another 41% of California's uninsured population is made up of undocumented immigrants, who, importantly, just saw access to Medi-Cal expanded to all Californians—regardless of immigration status.



TOBIAS KENNEDY
PRESIDENT



fund it, additional major funding came from money captured by reallocating federal funds California receives via a proposed system of waivers—waivers that would be subject to White House approval. While you might be able to count on some Administrations granting waivers, passing legislation which requires financial favors from whoever happens to be in the White House at any given time is not a reliable long-term strategy.

While California promises to continue evaluating Single Payer as a healthcare strategy in the future, it is important to know what percentage of Californians are even uninsured under the current system, and, more importantly, to evaluate whether this massive and incredibly expensive undertaking is really the best way to redesign affordability in health care. Might there be more incremental and politically practical options that could move us along in the right direction with more realistic chances of implementation? This is not to say that Single Payer healthcare, in and of itself is an inferior system—more that, in the same ways biological evolution has a way of building upon and improving the existing entity, perhaps there is room for more legislatively palatable changes that might be aimed at more attainable improvements. There are ideas that wrap around the existing system and provide deeper premium subsidies, or even claims cost assistance (deductible/co-pay reduction) for example, that might merit deeper consideration.

All in all, a thoughtful approach to assisting Californians with the cost of healthcare is clearly on the horizon, but the question about total revolution versus building a better system brick by brick, is a big one—and while Single Payer legislation is attractive to some, there might be realities, once we really get into it, that make it just too big of a lift.

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Those are important notes regarding the uninsured population a Single Payer bill would seek to aid. For context on the costs, the one time a state sought to implement a Single Payer healthcare system, it was in Vermont, and it was scrapped before it ever came to fruition. They literally passed the bill, celebrated its passage, and then when it came time to work out the finances were "pretty shocked at the tax rates we were going to have to charge" (Vermont's Gov. Shumlin).

How expensive? Well, for perspective the entire budget for the State of California is currently about \$262 billion. That \$262 billion runs the entire state's budget—AB1400 called for another \$400 billion on top of the current \$262 billion. In order to raise that much money, not only were there a slew of new taxes proposed, but the legislation actually also called for Constitutional Amendments to permit the legislature to implement new taxes, as needed, without voter approval. This was because the price tag was so massive that, in addition to the new taxes needed to

State of the Insurance Market

By DAVID POMS

For the past three years, we have seen a hard market for insurance, and we are still in a hard market for the most part for nearly every line of insurance. This means that after two decades of largely flat insurance rates, premiums are increasing and capacity is decreasing, so it can be harder to get some things insured. Primarily, we have seen large increases in insurance payments for property damage as a result of natural disasters, for public entities after a rash of sexual abuse allegations and settlements, and in the area of cyber security with hacking and ransomware attacks.

When it comes to property and casualty insurance, catastrophic natural disasters and weather are the largest causes of damage for our clients. Overwhelmingly, the biggest event that has caused the most damage recently is hail – hail damage happens all over the country, and in many cases recently, in locations that had never seen hail before. Hail damage obviously affects both our personal property and auto segments, as well as our commercial customers. We have seen the biggest impact to our public entity clients – specifically schools.

While city and county buildings are usually maintained and in good order, school buildings are not always maintained as well as others, especially when it comes to roof repair. We recognize that schools often do not have the budget to replace the roof on every building when necessary, but the lack of roof replacement at the proper time results in the largest problems when natural disaster strikes. The number one thing that we recommend to our clients relating to preventing damage from natural disasters is to ensure that roofs are maintained. When a hailstorm hits, the roof takes the most abuse, and leaks in a roof lead to water damage, many times on gymnasium floors that are costly to replace. A recent hail damage payout in New Mexico was \$20 million for a roof that was not properly maintained.



DAVID POMS
PRESIDENT



children at risk. Every entity that is involved with children in their custody or control has a danger of sexual abuse happening. Poms & Associates conducts training for our clients – including schools – to try to prevent abuse from happening and to help identify abusers. We also worked with the Governor and Legislature of New Mexico to pass a bill to prevent school districts or other entities from so-called "passing the trash" actions, where accused abusers are not prosecuted and can then gain employment in other districts where they abuse more kids. California passed a similar bill in 2019, and many states currently have proposals to do the same.

When it comes to trends in the market for the next year, one of the largest areas of concern is cyber security. Banks, retailers, credit card companies, school districts

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The most high-profile general liability insurance settlements in recent times have been sexual abuse claims. One of the most celebrated claims were for U.S. Olympians who were treated for injuries by Dr. Larry Nassar – settlements were in the hundreds of millions. Closer to home, recent settlements between accusers and school districts in southern California have been upwards of \$100 million or more. All entities, whether it is the Boy Scouts of America, USOC, educational institutions, churches, etc., have all had to learn to manage sex abuse claims and do a better job educating employees and

and hospitals have all had ransomware and hacking attacks on their computer systems, having to pay money or bitcoin to hackers to regain control of their systems. As we review renewals for our clients this year, we have asked our clients to start the renewal process at least six months in advance of renewal, due to the extensive testing needed to ensure that information technology systems are impervious to attacks and all possible prevention actions have been taken.

David Poms is president at Poms & Associates. Learn more at pomsassoc.com.

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California Leads World with New Heatwave Ranking Law

With much of California in the grips of a record-breaking heat wave earlier this month, Governor Gavin Newsom took urgent action on September 9th by signing Assembly Bill 2238, sponsored by Insurance Commissioner Ricardo Lara and jointly authored by Assemblymember Luz Rivas, Eduardo Garcia, and Cristina Garcia.

AB 2238 will create the nation's first statewide ranking and early warning system for heat waves to help Californians prepare. The idea of ranking heat waves was first proposed by Commissioner Lara and his California Climate Insurance Working Group, which issued a new report in 2021 aimed at protecting Californians who are most vulnerable to the impacts of climate change.

"California is once again leading the world in fighting climate change and its deadly effects. Ranking heat waves will be a powerful new tool to protect all Californians alongside Governor Gavin Newsom's extreme heat action plan," said Insurance Commissioner Ricardo Lara, who sponsored Assembly Bill 2238 and issued the first California Climate Insurance Report. "I applaud the Governor's and the joint authors' continued leadership on these necessary extreme heat investments and policies that will save lives and close the protection gap for our most at-risk communities as we face more heat waves in the years ahead."

"I represent communities that are disproportionately bearing the brunt of extreme heat



weather events. Climate change is impacting all Californians in different ways. While climate change is escalating sea level rise along our wealthier and cooler coastal communities, it is also driving extreme heat in our lower income inland communities," said Assemblymember Luz Rivas, joint author of AB 2238. "We must prepare and plan accordingly to help everyone. I am proud of all my colleagues who have also introduced legislation this year to ensure the state is proactively addressing extreme heat. Thanks to the visionary leadership of Insurance Commissioner Ricardo Lara, and the Governor's

commitment to supporting legislation combating extreme heat, we will now be able to ensure residents are properly notified of the upcoming severity of a heat related weather system."

"When extreme heat strikes, it strikes deadly. Establishing a first-in-the-nation heat wave ranking and warning system will help California better protect environmentally vulnerable communities, like those in the Coachella Valley, and Imperial County areas I represent, and importantly help save lives," said legislation joint author, Assemblymember Eduardo Garcia. "We are grateful for the opportunity to collab-

orate with Assemblymember Luz Rivas and Insurance Commissioner Ricardo Lara on this lifesaving legislation as California continues to lead climate change policy action."

According to the text of AB 2238, "Heat waves and extreme heat are responsible for more deaths than all other extreme weather events, and disproportionately impact communities of color, persons with disabilities, seniors, and low-income communities." Under the bill, the California Department of Insurance will study the costs of extreme heat waves and the insured and uninsured costs related to past extreme heat waves in order to identify "insurance gaps" of uncovered costs and promote more effective risk communication and planning. The statewide heat wave ranking system will be in place by January 1, 2025.

"As a proud co-sponsor of SB 852, I commend Senator Dodd for authoring this important measure that takes a major step towards reducing community-wide risks by authorizing the creation of climate resilience districts across California, to help communities mitigate risk in advance of a disaster and promote their recovery," said Commissioner Lara. "SB 852 also promotes a recommendation from my Department's first-ever climate insurance report that would improve access to insurance for all, so that we can better prepare ourselves from increasing climate change-related threats."

Learn more at insurance.ca.gov.

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