

# nolhga journal

A Publication of the National Organization of Life and Health Insurance Guaranty Associations

## A Stronger Safety Net

Functional uniformity will benefit policyholders as well as the guaranty associations and regulators that work to protect them

By Merle T. Pederson

How would you answer the following questions?

*My cousin and I have the same policy with the same company. Why would she get more coverage than me if our insurer goes out of business?*

*My insurance company is in rehabilitation. If I move and it goes out of business, am I risking my guaranty association coverage?*

Whether you're a member of the guaranty community, the industry that supports the guaranty system safety net, or a state regulator overseeing that industry, these questions probably give you pause.

### Top Priorities

NOLHGA's Guaranty Association Laws Committee has identified the key provisions in the new Guaranty Association Model Act that are vital to developing functional uniformity among the state associations. Some of the most important include:

- Benefit limits for life, health, and annuity policies
- Triggering provisions
- Definitions of insolvent and impaired insurers
- Coverage of non-residents and citizens living outside the United States
- Payee coverage for structured settlement annuities
- Covered products



There are answers to them, and to the hundred other questions like them that consumers, justifiably concerned by the Great Recession, are now asking on an increasingly frequent basis. But it's difficult to argue that greater consistency among the state guaranty associations wouldn't lead to better answers—answers that would reassure people that the guaranty system provides a truly national safety net.

That's why the NOLHGA Board of Directors recently established the Guaranty Association Laws Committee, charging it with providing leadership and direction in bringing about greater consistency in guaranty association laws. This consistency will allow guaranty associations to provide benefits to their "customers"—policyholders of insolvent insurers—more effectively and efficiently, but it

will do more than that. It will boost public confidence in the strength and credibility of the safety net, and in the industry that supports it.

#### Local & National Focus

The NAIC adopted the most recent version of the Guaranty Association Model Act in April 2009, and the Guaranty Association Laws Committee is using that version as it works to achieve what we call "functional

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## Looking Ahead to an Insurance Career

Several months ago, I received a note from a young friend; let's call him Tom. This recent graduate of an outstanding university in the Midwest had just begun a career in the life insurance industry. He was enjoying his early experiences, thought he might want a career in the industry, and wanted to learn as much about the industry as possible. The

questions he put to me were these:

- How does someone just starting in this field acquire and develop an insurance industry knowledge base?
- If you could go back to the beginning of your career, what resources would you have used from the start?
- What books would you recommend reading, or what other

Dear Tom,

Careers are funny things. We all try to plan them, but I suspect serendipity has more impact on the careers of most people than even the best-laid plans. To me that's a positive, not a negative. By that I mean that unforeseen opportunities have a way of coming at people in the course of ordinary work life. The keys are to be able to evaluate the opportunities wisely when they arise, to be prepared to take advantage of them, and to be brave (but not foolish) in deciding which to pursue. A little good luck doesn't hurt either.

I didn't plan my own career; in fact, I knew very little about the insurance industry (and nothing about insurer insolvency or the guaranty system) when I finished school. My undergraduate degree was in philosophy, which qualified me for entry to law school and not much else. I do think law school was essential training for me, since it introduced me to a lot of core knowledge, principles, and skills that made many things possible later. But a legal training is only one foundation for an insurance career. Other people use accounting, or finance, or marketing, or management, or actuarial science. Having some validated professional "platform" does provide something of a starting boost, though.

My law degree led me to my first job in Chicago at a large firm that is still around; after three years I took the opportunity to move to another large firm that now exists (after several mergers) as the Chicago office of a huge, multinational firm. While at that second firm, some contacts I had made in and out of business led me to my third job as the insurance receiver for the State of Illinois. That position introduced me to NOLHGA. Serendipity!

I can say now that there were good and sufficient reasons for each of the career changes I decided to make, but I had doubts about each decision when I made it. Changing positions inevitably entails a flying leap into the unknown. In most regards, though, I was lucky and would change little about how things transpired.

Back to your questions, though.

I've always tried to view my own career development as involving two main aspects: first, building a base of substantive knowledge in my field that might be transferrable to other

positions; and second, developing a set of skills that permit me to bring that knowledge to bear, delivering value to the people for whom I work.

The substantive knowledge that matters in my current field involves a number of different areas, many of which overlap to an extent. Some I acquired through formal training, but most I picked up on street corners along the way. The substantive areas include economics, finance, law (mostly insurance law, corporate law, and litigation), regulation, legislation, a bit of accounting, and a bit of tax.

The skills that I rely on most are listening and reading critically, writing (both expository and persuasive), and analyzing materials of all sorts (technical, public policy, legal, and financial). Those seem like pretty basic skills that can be picked up in any walk of life, but the day doesn't go by when I don't spot some shortcoming in my abilities to listen and read, to write well, and to analyze complex situations. I try to get better at all of those skills every day.

It would seem to me that someone your age, just entering this field, might do well devoting some study to three areas: where insurance fits in the overall financial plan of a consumer; an overview of the life industry and the insurance industry as a whole; and how insurance fits into the broad financial services industry.

In the first category—insurance from an individual consumer's perspective—you might want to find a highly regarded book on personal financial planning (you can find the books I mention on Amazon.com, except where otherwise noted). One that made an impression on me when I was younger, and that has been fairly recently updated by the author, is *The Only Investment Guide You'll Ever Need* by Andrew Tobias. He's a witty writer and a pretty clear thinker, though I confess I don't remember what he says about insurance (probably, "Buy term and invest the difference").

Jane Bryant Quinn, who writes for *Newsweek* and Bloomberg, is also a respected personal finance writer. See, e.g., *Making the Most of Your Money Now*, which has just been released. (She interviewed me a few times for the book and for columns she wrote about the recent financial crisis.)

The second category—general reading on the insurance industry—actually stumps me the most. I'm not sure what to

sources should be consulted, to become better educated on the history of the industry?

I was surprised how hard it was to respond to those very good questions, but after some struggling, I sent back a response generally as follows. Since much of my attention lately has

focused on the recent financial crisis, the references I cite are, I admit, weighted in that direction. Still, if anyone has other books or resources to recommend for a young person just starting a life insurance career, please let me know!

recommend, but I know that an organization called LOMA (<http://www.loma.org>) does some good life industry training programs and publishes some materials that are spoken of highly. As for materials I've actually consulted, Professor Robert Klein wrote a book for the NAIC called *A Regulator's Introduction to the Insurance Industry* that is the best short, one-volume overview of the insurance industry for generalist readers that I have personally consulted.

When I taught Insurance Law at the DePaul University College of Law, I used an excellent textbook by Professor Kenneth Abraham, *Insurance Law and Regulation*. I should warn you, though, that most legal texts assume that the reader is familiar with the vocabulary of the law. For that reason, some sections of this book may be more helpful to you than others.

On the third category—insurance within the financial services sector—some of the recent books on the financial crisis provide some sense of the issues, but you might also find interesting a “blueprint” for reforming regulation of the whole financial services sector released in early 2008 by the Paulson Treasury Department. It's not light reading, but it's interesting and not written for technical specialists. You can access a copy here: <http://www.treas.gov/press/releases/reports/Blueprint.pdf>. I've also taken the liberty of attaching *The Safety Net & the Financial Crisis of 2008–2009*, a “white paper” about the insurance guaranty system that I wrote last summer for the American Bar Association; it can also be found in the *Facts & Figures* section of the NOLHGA Web site.

Several of the recent “crisis” books are quite good, though their focus is much more on commercial and investment banking than insurance (other than AIG). The best is *New York Times* writer Andrew Ross Sorkin's *Too Big to Fail* (referred to unfairly by some wags as “Too Long to Read”). Also worthwhile is *Wall Street Journal* writer David Wessel's book, *In Fed We Trust*. I've recently finished Henry Paulson's memoir, *On the Brink*, and I would also recommend it. One more recent overview of the crisis that's worth reading is

Unforeseen opportunities  
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Roger Lowenstein's *The End of Wall Street*.

To put the crisis in historical perspective, I recommend *The Panic of 1907*, the 2009 *Financial Times* prize-winning book, *Lords of Finance*, and Roger Lowenstein's *When Genius Failed*. These three books illustrate how much the recent crisis has in common with a series of earlier financial crises.

But to my mind, all reading is good reading. I'm not sure any book has taught me more about management intelligence marshalling and decision-making than John LeCarre's *Tinker, Tailor, Soldier, Spy*, which has the added virtue of being one of the most engaging novels I've ever read.

My concluding suggestions would be these: For now, keep your eyes and ears open on the job for new and engaging experiences, trying always to make yourself useful to the company; take advantage of chances to do new things and work with smart, experienced people, inside the company and outside it; read as much as you can, both on the job and on your own; and do as much writing as you can.

In the intermediate term, you might also want to consider some further professional education, whether it be through LOMA courses, business school, law school, or specialized training like actuarial science. (If I were smarter I might have liked to be an actuary.)

If you want to kick any of this around, please feel free to let me know. I'm glad you're enjoying your introduction to the industry. It's a great business that does real good for consumers, and the industry can always use another Chicago graduate.

Best regards,

Peter





BROADWAY

## The 2010 Legal Seminar—One Singular Sensation

### Opening Night

July 15–16 (an MPC meeting will be held July 13–14)

### Location

New York Marriott Marquis | New York City

Reservations: 800.266.9432, or online at  
[www.nolhga.com/2010LegalSeminar.cfm](http://www.nolhga.com/2010LegalSeminar.cfm)

Room Rate: \$259/night plus tax

### Tickets

\$725 — Register online at  
[www.nolhga.com/2010LegalSeminar.cfm](http://www.nolhga.com/2010LegalSeminar.cfm)

### Meet the Cast

There will be a Welcome Reception on Wednesday evening (July 14) at 6:00 p.m. for Legal Seminar attendees and their guests (guest registration is required). The reception will be held in the Sky Lobby of the Marriott Marquis.

**Brian Gardner**, KBW Asset Management;  
**Ernest Patrikis**, White & Case LLP;  
**Douglas J. Elliott**, The Brookings  
Institution; **Nick Latrenta**, the newly  
installed General Counsel at MetLife;

**Betsy Pelovitz** of AHIP; Connecticut  
Insurance Commissioner **Tom Sullivan**;  
and **Lee S. Attanasio** and **Jeff S.  
Liebmann**, both with Sidley Austin.

### Gripping Drama

New York City is more than simply the  
home to Broadway. It's also the financial  
capital of the world, which makes it the  
ideal host city for this year's seminar.

After weathering the Great Recession, the financial services industry faces massive regulatory changes, and the seminar program addresses these changes and their likely impact in great depth. We'll touch on systemic risk regulation, "too big to fail" companies, the lasting effects of the recession, and the future of the insurance industry and guaranty system under a

more active federal regulatory regime.

The program will also address the coming changes in the health-care industry and what these changes could mean for policyholders and the industry. Other presentations will tackle risk management for guaranty association board members, what the guaranty system might learn from prepackaged

bankruptcy plans, and ethics. CLE credit, including ethics, will be applied for in all states that recognize CLE (in past years, attendees have received from 8 to 10 hours of CLE credit).

To register or learn more about NOLHGA's 2010 Legal Seminar, visit [www.nolhga.com/2010LegalSeminar.cfm](http://www.nolhga.com/2010LegalSeminar.cfm). ★

# Program Highlights

## **The Great Recession & Its Aftermath**

The seminar will kick off with an interview of H. Rodgin Cohen, one of the nation's foremost financial services lawyers and someone who has been at the epicenter of a financial sector in turmoil not seen since the Great Depression.

## **Financial Services Reform: Implications for the Economy & the Financial Services Sector**

The U.S. House and Senate, with leadership from the White House, have rewritten the rules governing how financial services firms are regulated, how they are handled when they have financial problems, and how consumers will be treated by the firms with which they do business. What will the new regulatory regime look like?

## **Financial Services Reform: Implications for the Insurance Industry**

What will financial services reform mean for the insurance sector and the guaranty associations? We'll take a look not only at the changes that are coming, but also at the studies that a new federal insurance office in the Treasury Department would be directed to conduct, touching all aspects of an industry that for generations has only had to deal with state regulators. The industry leaders on this panel will be talking about the business lives of every person attending the seminar.

## **Health-Care Reform: What It Means for Health Insurance Providers**

The health-care/insurance reform legislation signed by the President in March will touch the lives of all 300 million Americans and bring changes to one-sixth of our economy. It will affect health insurers the most, but it could portend changes in the federal government's relationship with other insurers as well. We'll hear from

regulators and others struggling to make sense of a new statutory framework whose implementation is right around the corner.

## **Risk Management Guide for Board Members**

Recognizing the regulatory and market changes taking place, this panel will focus on risks facing board members, particularly guaranty association board members. The presentation will consider how the risks can be managed, transferred, and minimized, along with focusing on common exposures and mistakes by board members.

## **Prepackaged Bankruptcies**

The insurance insolvency and guaranty systems may be able to learn something from the experiences of non-insurance firms that make it in and out of bankruptcy quickly and efficiently under pre-negotiated reorganization plans. This segment of the seminar will put a few bankruptcy examples on the table for closer examination to see if there are lessons to be learned for large, complex, insurance company receiverships. The discussion will be guided by accomplished bankruptcy and insurance insolvency practitioners.

## **Legal Risks & Rundown**

Another year has brought new court decisions, new regulatory and legislative initiatives, and new challenges facing the insurance insolvency and guaranty systems. Leaders of the guaranty system will highlight issues in the crosshairs as we face an uncertain economic picture and a regulatory matrix that is changing to meet public demands for a response to the recent economic meltdown—and a legislative climate more open to stiffer state regulation and some kind of federal regulation.

[“Stronger Safety Net” continues from page 1]

uniformity”—the adoption by the states of key Model Act provisions that will result in (A) enhanced policyholder benefits being delivered in a timely, consistent, and more rational manner; and (B) significant operational and cost efficiencies for the guaranty system.

Why target key provisions instead of pushing for wholesale adoption of the Model Act? Putting aside the difficulty of getting 52 legislatures to pass identical legislation, the truth is that some provisions of the Model Act are not critical from a national perspective, and therefore it is not necessary to slavishly adopt the act in its entirety. Moreover, local conditions may suggest that some variations from the Model Act be considered. In these cases, the committee takes its lead regarding appropriate legislative amendments from local guaranty association administrators, legislative leaders, the state insurance department, and local industry.

Other aspects of the Model Act, however, call for a more national approach. The committee has identified key provisions (see “Top Priorities”) that, if adopted by all state guaranty associations, would improve the performance of the safety net in a variety of ways. More-uniform benefit levels, triggering provisions, and specifications of covered products, for instance, are all important for the fair and consistent treatment of policyholders from state to state. They can also help guaranty associations provide benefits more quickly and, of course, uniformly.

This last point is vital as Congress debates significant financial services regulatory reform and takes a close look at all

financial services safety nets, including the guaranty system. Lack of uniformity could be a significant roadblock to Congress accepting the state associations as the best possible guaranty mechanism for the insurance industry. A system that is actively working to bring about that uniformity will be in a much better position to demonstrate that consumers will be best served by a national insurance safety net that is expertly run by local guaranty associations, close to their constituents but working within a national framework.

### Identifying Opportunities

To bring about this national framework, the committee has worked with NOLHGA’s Legal Committee, guaranty association administrators, and the ACLI to identify states in which there is a good opportunity to have legislation introduced in 2010 or the following year. The committee has also analyzed the laws of all 52 guaranty associations to pinpoint where each state’s law varies from the key provisions in the Model Act. This analysis will help the states in drafting legislation to bring their acts into accord with these provisions.

When it comes to introducing and moving legislation, the ACLI and others will take the lead. This is a high-priority project for the life insurance industry, which recognizes the value of the current guaranty system and wants to improve and preserve it. The ACLI, which has a network of representatives in the Nation’s Capital and almost every state capital, has been actively working with the committee, local guaranty associations, state insurance departments, local trades, and others in drafting and introducing legislation.

*Lack of uniformity could be a significant roadblock to Congress accepting the state associations as the best possible guaranty mechanism for the insurance industry.*

## Off to a Great Start

The following states have either already updated their acts this year to conform with some or all of the key provisions of the new Guaranty Association Model Act or have introduced legislation to do so (states in bold have enacted legislation):

- |                      |                      |
|----------------------|----------------------|
| California           | New Jersey           |
| <b>Colorado</b>      | <b>Ohio</b>          |
| <b>Delaware</b>      | <b>Oklahoma</b>      |
| <b>Florida</b>       | <b>Oregon</b>        |
| Illinois             | <b>South Dakota</b>  |
| <b>Iowa</b>          | <b>Tennessee</b>     |
| <b>Kentucky</b>      | <b>Utah</b>          |
| <b>Maryland</b>      | <b>Vermont</b>       |
| Michigan             | <b>Virginia</b>      |
| <b>Minnesota</b>     | <b>West Virginia</b> |
| Missouri             | <b>Wisconsin</b>     |
| <b>New Hampshire</b> |                      |

## GA Laws Committee

- Merle T. Pederson: Chair  
*Principal Financial Group*
- Maureen E. Adolf  
*Prudential Insurance Company of America*
- Janis B. Funk  
*Indiana Life & Health Insurance Guaranty Association*
- Frank Gartland  
*Ohio Life & Health Insurance Guaranty Association*
- Charles D. Gullickson  
*South Dakota Life & Health Insurance Guaranty Association*
- John C. Kelly  
*The Northwestern Mutual Life Insurance Company*
- John R. Mathews  
*Allstate Life Insurance Company*
- George Nichols III  
*New York Life Insurance Company*
- Timothy J. Ring  
*Metropolitan Life Insurance Company*
- William P. O’Sullivan  
*NOLHGA Staff*

Fortunately for us, it's a good story to sell. The new Model Act has a number of changes that greatly benefit consumers (such as increased benefits for annuities and long-term-care products, and greater uniformity in coverage if you move from one state to another), and that's an argument that insurance departments and state legislators like to hear.

The committee is already at work, and as you can see in "Off to a Great Start," a number of states have either already adopted key provisions of the new Model Act or are in the process of doing so. These early successes are vital to the project, creating a momentum that will help us expand the effort to more and more states. While we don't have a specific timeline of when we expect various states to come on board (passing legisla-

tion is a tricky business, to put it mildly), we expect to see significant progress by 2012.

### **Moving Ahead**

As the country struggles to emerge from the Great Recession, the safety net has never been more important. We in the guaranty community are determined to maintain the well- and hard-earned confidence of policyholders—if we don't have that, we've lost everything. We have a chance to bolster that confidence by making some very positive changes in the safety net. If we're successful, these

changes will pay dividends—for policyholders, the guaranty system, the industry, and state regulation—for decades. We on the committee encourage all of you to join in this project, and to share in the great legacy it will leave. If you haven't already made this legislative effort, let us know when your state is ready to move ahead. ★

*Merle T. Pederson is Vice President and Counsel, Government Relations, with Principal Financial Group. He is also the Chair of the Guaranty Association Laws Committee and a former Chair of the NOLHGA Board of Directors.*

### **More Information**

*If you would like more information about the Guaranty Association Laws Committee or would like to assist the committee, please contact Bill O'Sullivan (bosullivan@nolhga.com) or Meg Melusen (mmelusen@nolhga.com).*

## NOLHGA Calendar of Events

2010

- July 13–14 MPC Meeting  
New York, New York**
- July 15–16 NOLHGA's 18<sup>th</sup> Legal Seminar  
New York, New York**
- August 14–17 NAIC Summer National Meeting  
Seattle, Washington
- October 4 MPC Meeting  
Seattle, Washington**
- October 5–6 NOLHGA's 27<sup>th</sup> Annual Meeting  
Seattle, Washington**
- October 17–19 ACLI Annual Conference  
Baltimore, Maryland
- October 18–21 NAIC Fall National Meeting  
Orlando, Florida



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