

A View From The Far Side

Regulators are people too!

I spend a lot of focus in this column on problems with excessive, pointless, redundant and counter-productive insurance laws and regulations. In the process, however, many of those individuals responsible for interpreting and enforcing the rules are often unintentionally caught

their dealings with regulators are mostly grumbled in water cooler conversation out of earshot of the regulators. These complaints center mostly on frustrations dealing with a rigid, inflexible, plodding “bureaucratic” mindset largely unresponsive to the needs of the industry. But what about the view from the other side of the

vide the necessary response in a timely manner. In sum: don’t accuse regulators of dragging their feet when your filing is incomplete or untimely or both!

Please don’t insult our intelligence with gamesmanship! Closely related to the issue of timely and complete filings, and often overlapping, is the regulators’ perception of gamesmanship by industry representatives. Submitting requests or filings that the filer knows is missing some key element, attempting to hide relevant or even required information or filing at the last minute in the hope that deficiencies will not be noticed, is not only insulting to the reviewers, but also needlessly slows the process and ultimately jeopardizes the desired result.

If there is a problem, talk to us! Despite the perception of many in the industry, most staff regulators take their jobs seriously and professionally, and if you have a problem with or a question about a particular matter, most regulators are quite willing to discuss the issue with you and see if there is a reasonable answer or solution. The worst course of action, however, is to try and avoid the issue through deception, incomplete information, delay - or unctuous charm.

Understand our role! Frustration with regulators can lead many industry representatives to lose sight of the fact that staff regulators do not make the rules. (*I know, I know! I hear the murmurs about “desk drawer” requirements not found in the laws or regulations that are imposed by regulators, but that is a different topic for another day. This column is about the regulators’ view.*) Furthermore, like many of us on the industry side, most staff regulators may have limited areas of expertise, and are knowledgeable only about the laws and regulations regarding their particular area.

The regulators’ job is to carry out the requirements of the laws and regulations of their jurisdiction and to ensure compliance by regulated companies, agents and others. They are not required to be apologists for rules and regulations that they did not make but are charged to comply

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in the crossfire. So I want to take a moment to take a look at the regulatory scene from the perspective of the many hard working, conscientious and productive regulators I have worked with and against over the past four decades.

First a distinction: just like in the private corporate world, there are the ivory tower set and the professional staff in the regulatory world. This column is about the latter – the civil servants who actually carry out the day-to-day work of ensuring compliance with the laws and regulations of their jurisdiction, and protecting the interests of policyholders, claimants, companies and agencies. It is not about the appointed or elected top of the regulatory heap who often arrive on the scene with little knowledge about the industry and have an eye down the road to their next appointment or position.

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Complaints by industry people about

mountain? What are the complaints by regulators of the industry representatives across the table? It may come as a surprise to many of these industry representatives that the regulators’ complaints are quite similar to their own complaints. Many of the same practices and perceptions that we have about them they have about us. So let’s look at some of the “rules” that regulators would most like to scold industry representatives about for failing to follow.

File on time and make sure your filing is complete! One of the most frequent industry complaints in dealings with regulators is their failure to respond to filing needs and approval requests in a timely manner, and their insensitivity to business deadlines. Regulators, on the other hand, counter that often these perceived delays or lack of responsiveness are a direct result of a filer’s own action or inaction. Too often filings are made at the last minute with unreasonable expectations about review and approval. Or the filings are incomplete and regulators’ requests for additional materials are inadequately or untimely addressed. These failures to properly address requests for complete information or clarification of submissions make it difficult if not impossible to pro-

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with and enforce. If you have a problem with the rules go to those responsible – the policymakers and lawmakers. Understanding the role of the regulator in the context of your issue or submission can be very helpful in working through the process. But remember that regulators are bound by existing laws and rules, and unless or until the rules are changed they are entitled to a reasonable expectation

that you follow the rules and understand their role in enforcement or compliance.

Respect the process! It is more than cliché that respect is earned. In my four decades of dealing with insurance regulators at all levels of the bureaucracy, there are those regulators that I respect and admire for their intelligence, knowledge of the business, fairness and communication skills. Even if there is disagreement on interpretation or compliance issues, at least you know that your position has received

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a full and fair hearing. On the other hand, I have also met a number of insurance department bureaucrats who lend themselves to the stereotypical rendition of an inflexible, robotic and exasperating civil servant lacking in common sense. Difficult as it may be at times – and we have all encountered those moments – it is essential to understand and respect the process.

Not surprisingly, many regulators I have talked to over the decades have the same view of us. They respect those who treat them professionally, are knowledgeable about and follow the legal and regulatory requirements, work with rather than against them, and do not try to game the process. That does not mean that the time-honored practice of grousing about incompetent or arrogant regulators will suddenly end. But it should be kept in mind that on the far side there is an equally time-honored grousing about incompetent and arrogant industry representatives. [A]

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