



# Office of Insurance Regulation

## Talking Points – Update PIP/No-Fault House Insurance Committee October 18, 2005

- Mr. Chairman, members, thank you for the opportunity to provide you with some comments today. Mr. Chairman your staff did an excellent job with the Committee packet and hand-out materials of providing a succinct overview of the history of No-Fault and current statutory provisions. Without being redundant, I hope to give you some added background from a regulatory point of view.
- No fault auto insurance can be defined as an auto insurance program that allows policyholders to recover financial losses from their own insurance company regardless of who is at fault. The first benefit coverage is known as Personal Injury Protection. Currently 12 states and Puerto Rico have No-Fault auto insurance laws.
- Prior to 1967, Florida had what was referred to as “Prior Approval” for rating auto insurance premiums. Insurance companies could not raise rates without the prior approval of the State Treasurer/Insurance Commissioner.
- In 1967, the Florida Legislature adopted the “California Open Rating Plan”. Under the California Plan, it was the express Legislative purpose to permit and encourage competition between insurers on a sound financial basis. The enactment indicated that the rating law

was not intended to give the Insurance Commissioner the power to fix and determine a rate level for auto insurance.

- At that time, proponents believed the California Plan would cut insurance costs through competition and allow consumers to shop for the best rates. Opponents; however, felt companies would raise their rates in concert and thus not lower insurance costs.
- In 1970, the Florida Legislature enacted a rate freeze on automobile insurance rates (Chapter 70-989, Laws of Florida). In doing so, the Legislature cited an alarming rise in automobile insurance rates since the adoption of the California Plan. Ultimately, the California Plan was repealed and Florida returned powers of rate regulation of motor vehicle insurance rates to the Insurance Commissioner.
- In 1971, the Legislature made Florida the second No-Fault state in the country. The reform was contained in the adoption of Florida's first automobile no-fault law, the "Florida Automobile Reparations Reform Act" which took effect on January 1, 1972 (Refer to Chapter 71-252, Laws of Florida).
- Under the initial no-fault law, the Personal Injury Protection limit was \$5,000. Today it is \$10,000. Under the initial no-fault law the descriptive or verbal threshold was: \$1,000 in injury treatment damages or any of the following:
  - permanent disfigurement, in whole or in part.

- a fracture of a weight hearing bone.
  - a compound, displaced or compressed fracture.
  - loss of a body part.
  - permanent injury within.
  - permanent loss of a bodily function.
  - or death.
- From a national perspective, verbal thresholds tend to eliminate the incentive to inflate claims that may exist when there is a monetary threshold for medical expenses.
  - In the early 1970's, Florida motorists were required to carry liability limits of 10-20-5 (in layman's terms that was up to \$10,000 for Bodily Injury to or death to one person; \$20,000 for two or more persons in an accident; and \$5,000 for property damage). In 1973, the Legislature increased the liability limits to 15-30-5 (Refer to Chapter 73-180, Laws of Florida). The increased limits had a delayed effective date of July 1, 1975. The delayed increase in the liability limits coupled with the \$1,000 no-fault law verbal threshold led to a full-blown 1976 motor vehicle insurance crisis.
  - Reacting to the crisis, the 1976 Legislature decreased the liability limits to back to 10-20-5 (Refer to Ch. 76-266, Laws of Florida). In 1976, the Legislature deleted the dollar portion of the verbal threshold and further tightened the verbal threshold standard. The Division of

Fraudulent Claims was also established at the Department of Insurance.

- The new verbal threshold was:
  - loss of a body part, or
  - permanent loss of a bodily function, or
  - permanent injury within a reasonable degree of medical probability other than scarring or disfigurement, or
  - a serious non-permanent injury which has a material degree of bearing on the injured person's ability to resume normal activity and life-style, or
  - death.
  
- The verbal tort threshold was once again further tightened in 1978. Five states have verbal thresholds - Florida, Michigan, New Jersey, New York and Pennsylvania. Seven states and Puerto Rico use a monetary threshold – Hawaii, Kansas, Kentucky, Massachusetts, Minnesota, North Dakota and Utah.
  
- More recent reforms have occurred in Florida in 2001 and 2003. In 2001, limitations were placed on the scope of PIP benefits to services that were “medically necessary”; PIP medical service providers were required to provide specific care related information when requested in writing by insurers, etc. In 2003, the law was strengthened to discourage fraud and the creation of a dedicated PIP prosecutor within the Miami-Dade County State Attorney's

Office has made a significant impact on shutting down fraud rings and staged accidents.

- Mr. Chairman, Committee staff also asked me to provide a brief update on the current state of Florida's auto market - the Office believes the current auto market is very competitive for a number of reasons:
  1. Florida has approximately 300 companies licensed to sell private passenger automobile policies
  2. The Top 10 Companies (based on the National Association of Insurance Commissioners 2004 data) comprise 55% of the market share, while the Top 50 Companies derive approximately 89% of the market share
  3. In 2002, the average Private Passenger Auto Rate Change was a positive 7.26%
  4. After the enactment of the 2001 and 2003 reforms and the addition of a special PIP prosecutor, in 2005, the Private Passenger Auto Rate Change has only been a 2.72% average increase
  5. In 2004, none of the Top 10 carriers had an approved rate change of more than 6% and three carriers filed for decreased rates
  6. To this date in 2005, none of the Top 10 auto carriers have had an approved rate change over 10% and two large carriers filed for decreased rates.
  7. To this date in 2005, for the Top 50 Carriers or 89% of the entire market, only two carriers had a rate change that was more than

10% and twelve of the 50 insurers filed for and received decreased rates.

Lastly, Mr. Chairman another key indication of a healthy, competitive insurance market is the state of the residual market – in this case the Florida Automobile Joint Underwriting Association. In 1978, the Association had a private and commercial vehicle count reaching close to 1 million at 817,000 vehicles in-force. As of June 2005, the Association has approximately 6,400 in-force vehicles.

The Office of Insurance Regulation looks forward to working with you, the members, your staff, and all interested parties through the Interim meetings and Session to provide any input and background information necessary.