



**PCI COMMENTS
INTERIM COMMITTEE TO STUDY ISSUES RELATED TO PINNACOL
SEPTEMBER 4, 2009**

WHO WE ARE?

- PCI is composed of more than 1,000 member companies, representing the broadest cross-section of insurers of any national trade association.
- Member companies write 37.4 percent of the U.S. property and casualty insurance market, 35.1 percent of the commercial property and liability market, and 41.7 percent of the private workers' compensation market.
- Many of our members, including Pinnacol, provide worker compensation insurance to Colorado employers.

PCI's MISSION

- To foster a competitive insurance marketplace for the benefit of consumers and insurers.
- To provide a responsible and effective voice on public policy questions affecting insurance products and service.

GOAL

- Our primary goal today is to provide you with a brief outline of the basic options that are available with regard to Pinnacol's structure. We understand that any change(s) would require significant discussion and study. As you go further down the road on this issue, please view PCI as a resource for you.

PINNACOL'S CURRENT STRUCTURE

- Pinnacol's structure has been described in many different ways.
 - ✓ State-chartered workers compensation fund;
 - ✓ State-run/state-owned entity;
 - ✓ Quasi-governmental agency.
- By statute, Pinnacle is a political subdivision of the state and operates as a domestic mutual insurance company.
- From PCI's perspective, Pinnacol's current structure is a hybrid (quasi-state agency & domestic insurer). Because Pinnacol operates under laws and rules that make it unlike most state agencies and elements of Pinnacol's operations differ from private insurer.

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- Pinnacol is unlike a state agency in that
 - ✓ Pinnacol's board establishes general administrative policies and procedures, as described in CRS 8-45-101.
 - ✓ Pinnacol's financial obligations are not officially obligations of the state government.
 - ✓ Pinnacol is not required to pay its executives according to state standards.
 - ✓ Pinnacol pays dividends to policyholders (CRS 8-45-112) and per statute assets belong to the policyholders, not the state (CRS 8-45-102).

- Pinnacol is unlike a private insurer in that
 - ✓ Pinnacol's board is appointed by the Governor.
 - ✓ Pinnacol is exempt from federal and state taxes.
 - ✓ Pinnacol is exempted from assessments to the Colorado Insurance Guaranty Association.
 - ✓ Pinnacol is limited to writing only workers compensation insurance, and it is limited to Colorado.

THREE STRUCTURAL OPTIONS FOR CONSIDERATION

There are three basic structural options that could be considered by the Interim Committee in regard to Pinnacol's structure.

- ✓ Maintain the status quo
- ✓ Pass legislation converting Pinnacol to a state agency
- ✓ Pursue full privatization of Pinnacol

Maintain the status quo.

- Today, Colorado has a efficient, low-cost workers compensation system compared to other states. There are many things contributing to this:
 - ✓ Coloradoans are not prone to excessive litigation.
 - ✓ Per the Division of Workers Compensation, the cornerstones of the medical policy programs (the treatment guidelines, the fee schedules, and the utilization standards) work together in controlling costs. Colorado's medical treatment guidelines have been used as a model for other states
 - ✓ Legislators and other policy makers continuously work to maintain an effective and efficient workers compensation system.

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- Pinnacol plays an important role in Colorado's workers compensation system.
 - ✓ It acts as a competitive force in the voluntary workers compensation market by creating rate competition.
 - ✓ It acts as an insurer of last resort – a place where companies that cannot obtain workers compensation in the private market.

Change from the status quo.

If this committee wants to consider positive change from the status quo, a key question to consider:

- Is the state of Colorado, and its tax payers, the best provider of workers compensation insurance?
 - ✓ The Colorado General Assembly established the State Compensation Insurance Fund (SCIF) (Pinnacol's predecessor) in 1915, along with the enactment of the state's original workers compensation laws. The fund was established to help employers cover the cost of compensating injured workers or their dependents at a time when no private market existed for workers compensation coverage.
 - ✓ Government provision of services is normally justified only for situations where there is limited competition. Today, there is a strong viable private workers compensation market.
 - ✓ The core mission of government generally does not include operating profit-making enterprises.

Pass legislation converting Pinnacol to a state agency.

- When the SCIF was under the direction and control of the state in the late 1980s and early 1990s, significant deficits were incurred. In 1990, the deficit was over \$500 million. During this period, a specific surplus level was not defined in statute.
- If legislation is drafted converting Pinnacol to a state agency, the state could have the power to raid Pinnacol's assets to offset budget deficits. In turn, state taxpayers would be exposed to any financial losses. If this should occur, significant imbalances in the workers compensation system could result, adversely impacting injured workers and overall costs.
- The history of state funds is checkered with financial difficulties exemplified by the solvency issues of the state run workers compensation funds in Montana, Nevada, Ohio, and West Virginia in the early 1990's. Today, Montana employers

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pay the second highest workers compensation premium costs in the country. In the early 1990's when the fund went insolvent, the legislature closed the fund (now known as the "old fund") and put them in run-off. For years after the insolvency business and taxpayers had to pay additional monies to the state to cover the liabilities of the old fund and to capitalize the new fund. Then, this past session, there was legislation to appropriate \$10 million to cover ongoing liabilities of the old fund.

- Currently, Pinnacol is responsible for its own liabilities. Per statute, taxpayers do not have a responsibility for any deficits. Also, Pinnacol does not participate in the Colorado Insurance Guaranty Fund. But, as a state agency, those liabilities could be the responsibility of Colorado taxpayers.
- Other considerations to move Pinnacol from its current operating structure to a state agency:
 1. Since it would be a state agency and not an insurance company, it would not be licensed through the Division of insurance.
 2. As a state agency, it would not be subject to the same regulation as an insurance company including rate and financial regulation. For example, the Montana Workers' Compensation State Fund is not subject to regulation by the Commissioner of Insurance. It is reviewed by the Legislative Audit Committee; the Montana Commissioner of Insurance does not have regulatory oversight of the Fund's rates or financial solvency.
 3. Currently Pinnacol sells its product directly to businesses and through agents. If it became a state agency, it is likely the product would only be sold directly. This would impact hundreds of Colorado agencies, which are small, independent businesses.
- When looking at trends across the country, converting Pinnacol to a state agency would be going backwards and could cause significant imbalances in the workers compensation system, adversely impacting injured workers and overall costs.
- No other state has taken this type of step.

Consider full privatization.

- Private companies are generally more flexible than state-run businesses. It is in the interest of private insurers to offer more specialized medical care to injured workers because by providing excellent medical treatment, private insurers get an injured claimant healed and back to work, which ultimately will reduce overall costs.

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- Privatization is the transfer of assets or services from the tax supported public sector to the competitive market of the private sector. Privatization has been identified in several other states as the means of improving financial performance and creating a more stable and balanced system for all workers compensation stakeholders.
 - ✓ Michigan, Nevada and West Virginia successfully privatized their respective workers compensation state funds. These states provide excellent models for the Interim Committee to review and study.
 - ✓ There are different paths to privatization including selling to a third party or to convert Pinnacol to a private mutual insurance company.
 - ✓ In Michigan, the Accident Fund was sold to Blue Cross/Blue Shield of Michigan. In Nevada and West Virginia, the former state-run insurance funds were converted into private mutual insurance companies.
 - ✓ West Virginia Insurance Commissioner Jane L. Cline says her state's one-year old privatized workers' compensation system is offering better claims administration, lower costs for employers and better treatment of injured workers.

- With privatization, there are many issues that need to be considered including the residual market and the Colorado Insurance Guaranty Association.

Conclusion

It was our intention to provide a basic outline of some of the options available for this committee to consider when evaluating Pinnacol's structure. Those options include:

1. Maintaining the status quo;
2. Legislation to convert Pinnacol to a state agency;
3. Pursue full privatization of Pinnacol.

With any changes there are numerous details to study and we hope you will consider PCI as a resource.