Burand's Insurance Agency Adviser

Resources and Information for the P&C Insurance Industry

Vol 31, No 10 **July 21, 2026**

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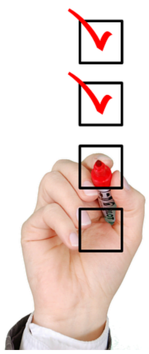

Standard of Care

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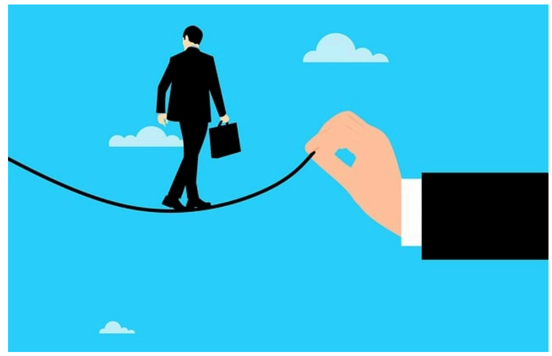
Read more...



Severity Claims

I had a socialist professor for some business class or another as an undergraduate. Like most of my undergraduate courses, it was a fairly expensive waste of money, especially given that he was a socialist, but he said one thing of value that has stuck with me because he was 100% correct: Bankers will always need bailouts.

Read more...

A Great Opportunity for Industry Leaders

Join us Feb 25-26, 2027, in Breckenridge, CO, for the **2027 Rocky Mountain Agency Management Meeting**!

This meeting brings together a small group of industry professionals who meet in the morning, leaving the afternoons free to enjoy the slopes, other resort activities, and the breathtaking Colorado Rockies.

Discussion topics include AI, industry trends, and critical agency management issues, as well as attendees' ideas,

This meeting is a tremendous opportunity to network with a select group of industry professionals. Seating

roundtable topics, successes, questions, and concerns.

is very limited, so if you're interested, don't wait! Contact me today for a registration form!

A. M. Best TV

Paul Borup and I had the privilege of appearing on A.M. Best TV to discuss our Insurance Banter Podcast. We enjoyed the opportunity to share how our long-running podcast delivers real-world insights from industry insiders.

The A.M. Best episode can be viewed here: Insurance Banter Podcast: Cutting Through Industry Noise With Candid Conversations: www.ambest.com/v.asp?v=burandborup626&AltSrc=182

Podcast Episodes can be found here or wherever you listen to podcasts: www.burand-associates.com/insurance-banter

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There is also the CA case that increased the standard of care there far above what it was.

Then, more recently, I saw an article regarding a case that decreases the standard of care to the bottom in Delaware and Illinois. The court ruled that an insured must sue an agent for failure to procure coverage within the state's statute of limitations, and the clock starts at policy delivery, not the time of the claim.

Besides being the epitome of asinine, this is a huge change in the standard of care in case law in those states. In this scenario, the insured cannot sue an agent for failure to procure or offer coverage after a given time, even if the insured has no idea they need the coverage, that the coverage exists, or that they have a claim. In other words, the insured should have anticipated an uncovered claim and, I guess, sued the agent for failing to provide adequate coverage for that anticipated claim. Ridiculous.

At first, this might seem a win for agents, and it is for transactional, amateur agents and all other distributors racing for the bottom. Insureds need to take several steps now to protect themselves in these states. First, per Fred Fisher's suggestion, the insured might be able to obtain a Declaratory Judgment that, should an uncovered claim arise in the future due to the agent's failure to procure or offer applicable coverages, the agency will be responsible. This is a very legal and proactive approach.

Another option is for the insured to require the agent to use a thorough coverage checklist annually to verify they will not find themselves without coverage and without E&O recourse a few years down the road. This option requires that the insured and the agent do a coverage checklist and exposure review annually because the statute of limitations, at least in theory, should start anew with the delivery of every renewal. A key element is that the clock begins ticking at the time of policy delivery, not the renewal date, so for surplus lines policies delivered six months late, the insured gets a little more time.

The insured and, perhaps, the agent need to be extremely careful now when switching agencies to ensure that a comparison of expiring and new coverages is conducted.

A race to the bottom hiding behind this ruling is not the solution. With the announcement on the same day of a new broker who already possesses contracts with good admitted carriers, carriers who have filed rates with significantly reduced commission rates (likely the third such broker) using agentic AI and the *WSJ*'s expose on State Farm's new agent contracts, pure transactional and AI driven insurance sales/service will hide behind this ruling because at 8% commission, not much money is available for sitting with clients and completing coverage reviews and checklists.

This is the time and opportunity to set yourself apart as a true professional. The insurance distribution industry as a whole will run out of money to provide true service. This is not bad because many agents and brokers have been grossly overpaid for decades, pretending to provide professional services yet failing to do so. Between the buy-out firms, with debt up to their teeth, not being able to afford anything but lipstick-on-a-pig levels of "elevated" services, decreased commissions (which, if reductions carry through, will ruin their models and stock prices), and agentic AI, take a step up forward and be that true professional.

A professional will educate insureds on how they can be taken advantage of under these rulings and ask whether they want to be that vulnerable. They will step up and meet the GA and CA case law. For a professional, these rulings just provide more opportunity to separate themselves from all the peddlers.

I love helping professional agents separate themselves from peddlers. The opportunity to benefit clients and increase profits simultaneously makes for very good days. If you are ready to step up, call me. At the very least, stay on top of the fast-changing standard of care case law.

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I had a socialist professor for some business class or another as an undergraduate. Like most of my undergraduate courses, it was a fairly expensive waste of money, especially given that he was a socialist, but he said one thing of value that has stuck with me because he was 100% correct: Bankers will always need bailouts.

The Federal Government will always be bailing out banks because bankers cannot accept that banking is boring and generates a relatively low ROI in a safe environment. Bankers will create a risky environment to juice their ROI and to make people think they are geniuses by turning a low-return business into a high-return business. Because banking is so fundamental to the economy, the government will not have any choice but to bail them out.

He said this just after the S&L crisis in the 1980's, and he's been proven correct ever since. I think the solution is to bail out the bank's customers and put the executives in jail. Insurance is supposed to be boring, too. People trust boring when they put a ton of their money in a bank or buy insurance. Try selling a policy while wearing flashy clothes, like a classic used-car salesman.

To make insurance exciting, executives take extraordinary risks. How is this most easily achieved? With leverage, just as in banking. The industry today is highly leveraged. Adjusted for Berkshire Hathaway's surplus, which at the end of 2024 accounted for almost 28% OF ALL SURPLUS in the entire industry, the surplus to net premiums written was less than 0.9. Even with Berkshire Hathaway's surplus included, it was only 1.2.

Severity claims, catastrophes, etc., hurt much more when skating on the edge. There is nothing complex about this, just like there really isn't anything complex about insurance in general, other than reading mind-numbing forms. Instead, execution is hard.

One carrier in particular is loudly complaining about large plaintiff-driven awards. That carrier used to have a huge balance sheet. In other words, they had a lot of surplus. Some consultants might advise they had "excess" surplus. Excess surplus is expensive. The return on investment on excess surplus is, by conventional measures, miserably low. This is the same as banks carrying extra reserves, and it is why banks do not like this reform post credit crisis. The expense of running a financial institution with "extra" reserves/surplus is materially higher, so its ROI to shareholders is lower, all else being equal.

But what happens when an insurance company, like this one, eliminates all that “extra” surplus? This particular company cut the extra surplus, including forgoing most reinsurance, as far as likely possible without injuring its A.M. Best rating. From a solvency perspective, it's fine. But from an operating perspective, it has very little room for mistakes or for severity claims.

Another perspective is that if a carrier is run with the minimum surplus, it can return more profits to shareholders. If they must stockpile surplus, their balance sheet grows safer at the expense of the shareholders.

One reason so many articles focus on severity claims, third-party litigation, catastrophes, and so forth is that carriers simply don’t have the cushion for these claims they once had. In other words, the problem is not the claim but the carriers’ balance sheets. As of 12-31-25, it is a fact that their balance sheets are weaker than they were 10 years ago. <u>That is an undeniable truth</u>.

Most businesses don’t go bankrupt because their liabilities exceed their assets, per se. They go bankrupt because they lack adequate working capital. They cannot pay their immediate bills. This is why working capital is a critical balance sheet measure. Extra surplus provides the same kind of cushion.

Berkshire Hathaway has so much surplus it can handle just about any foreseeable series of shock losses. They have a gigantic safety margin. This makes for a boring company because there is no drama. There is no worry about being able to pay the next nuclear verdict. But when a carrier loses its rating or must sell off parts of its business after paying a nuclear verdict, drama is everywhere.

Sometimes carriers have a minimal operating surplus due to bad luck, but mostly it is due to poor management. The most recent cause was bad investment decisions prior to the increase in interest rates. However, I am seeing more carriers choose to minimize their surplus so they can be more exciting for shareholders. Those with excellent operating ratios and strong financial acumen can probably make this work.

But the others who mimic this strategy, likely after hiring expensive consultants who are good in theory but insufficiently appreciative of execution, will fail. This low surplus/higher leverage strategy requires far better operating ratios than 80% of carriers have any hope of achieving.

As with any leverage strategy, the key is higher than normal operating profits. In insurance, the maximum operating ratio is 95% for a carrier to remain healthy. While a higher operating ratio does not mean immediate death, the analogy is more like a heavy smoker slowly dying, but the “cigarettes can’t be all that bad because I haven’t died yet” thought process.

An operating ratio better than 95% is critical because some portion of profits must be returned to surplus, especially if a carrier is already running high leverage. Otherwise, they cannot grow, and to support stock prices, the sweet spot is a triangulation of growth, profit, and risk. A good combination currently is 8% growth, a 55%-60% loss ratio, and a very low risk rate. The industry average growth rate over the last 10 years is 6.5%, with an unweighted 62.4% loss ratio and a risk rate approximately 25% too high.

A carrier with marginal to poor execution can live a long death march, but not if they have high leverage. They are like trust fund kids. If they have a large surplus to slowly waste away, carriers with poor execution can last a long time. But that same model fails quickly without the trust fund.

Very few carriers consistently achieve operating ratios of 90% or better. Even fewer grow at 8% consistently, especially at 90% operating ratios. These are the kinds of numbers required, mandatory in fact, for the exciting and drama-filled high-leverage strategy to succeed.

The next time you hear a carrier complaining about nuclear verdicts and high-impact storms, look up their leverage ratios. If they are like Berkshire Hathaway, these are not material issues. If they are highly leveraged, they might have a true concern. The best way to alleviate the stress is to carry a stronger balance sheet. It's a boring strategy, but no one needs high-priced consultants if they possess a stockpile of surplus

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Chris Burand is president and owner of Burand & Associates, LLC, a management consulting firm that has been specializing in the property/casualty insurance industry since 1992. Burand is recognized as a leading consultant for agency valuations and helping agents increase profits and reduce the cost of sales. His services include: agency valuations/due diligence, producer compensation plans, expert witness services, E&O carrier approved E&O procedure reviews, and agency operation enhancement reviews. He also provides the acclaimed Contingency Contract Analysis® Service and has the largest database and knowledge of contingency contracts in the insurance industry.

Burand has more than 35 years' experience in the insurance industry. He is a featured speaker across the continent at more than 300 conventions and educational programs. He has written for numerous industry publications including the Insurance Journal, American Agent & Broker, and National Underwriter. He also publishes Burand's Insurance Agency Adviser for independent insurance agents.

Burand is a member of NACVA, a department head for the Independent Insurance Agents and Brokers of America's Virtual University, an instructor for Insurance Journal's Academy of Insurance, and a volunteer counselor for the Small Business Administration's

SCORE program. Chris Burand is also a Certified Business Appraiser and certified E&O Auditor.

Burand & Associates, LLC is an advocate of agencies which constructively manage and improve their contingency contracts by learning how to negotiate and use their contingency contracts more effectively. We maintain that agents can achieve considerably better results without ever taking actions that are detrimental or disadvantageous to the insureds. We have never and would not ever recommend an agent or agency implement a policy or otherwise advocate increasing its contingency income ahead of the insureds' interests.
