Burand's Insurance Agency Adviser

Resources and Information for the P&C Insurance Industry

Vol 30, No 13 **October 28, 2025**

In This Issue...

Hard Market Upfront Underwriting: Agencies Yesterday and Today

Historically, the P&C market rode a seven-year wave, give or take. The market would be soft for around seven years, hard for around two to three years, and repeat.

Read more...

Legal Standard of Care

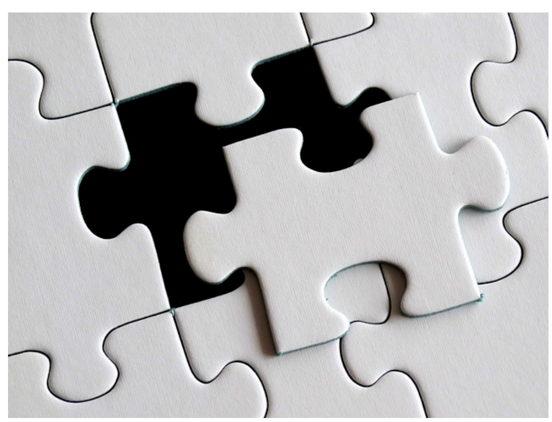
The legal standard of care requiring that insureds read and understand their insurance policy is absurd. The typical standard for written communications with the average consumer is to write at an 8th-grade level *or lower*.

Read more...

Tidbits

A Great Read
The article, "The hidden risks of self-funded health plans: a stark warning at ReSource Pro Summit," features insurance expert Frank Pennachio and is well worth the read!

theinsurancelead.com/the-hidden-risks-of-self-funded-health-plans-a-stark-warning-at-resource-pro-summit/



Minimize your Pain and Increase your Success

A Valuable Service
I've had the pleasure of recently speaking with Noelle McCall, Director of Contract

Many agents are feeling powerless with today's markets. Rather than feeling helpless, contact Chris for his **Carrier Relations Expertise** to regain control and gain leverage with your carrier relations.

Chris has conducted in-depth research of carrier operations and financial stability for over 30 years. He's been instrumental in assisting top agents and brokers increase profits, avoid costly surprises, build competitive advantages, and decrease E&O exposures by identifying the most effective carrier strategies.

Chris offers a full complement of services, including his proprietary Key Strategy Metrics (KSMs), explicitly designed to improve agents' and brokers' carrier relationships.

No more floundering in the dark. Contact Chris today to learn more at chris@burand-associates.com.

Risk Management at Peoples First Insurance.

Noelle has developed the Contract Risk Academy, which helps insurance agents/brokers, risk managers, and lawyers know what to do with insurance requirements in contracts regardless of which side of the negotiating table you (or your client) may sit on.

The academy also offers contract review tools (to simplify and streamline the review process), insurance requirement templates based on best practices for contractual risk transfer (to require of downstream vendors), contract review training (to help you learn how to do contract review from an insurance and risk-related perspective), coaching calls, and consulting solutions.

Please check out their services at: contractriskacademy.com

Chris Burand
Certified Business Appraiser (CBA)
Certified E&O Auditor and Instructor
Burand & Associates, LLC
HC 66 Box 605
Mountainair, NM 87036
719/485-3868
chris@burand-associates.com
Visit us at: burand-associates.com

Hard Market Upfront Underwriting: Agencies Yesterday and Today

Historically, the P&C market rode a seven-year wave, give or take. The market would be soft for around seven years, hard for around two to three years, and repeat. During the soft market phase, the carriers who had plenty of surplus and were unwilling to compete on price wrote the accounts that came their way and waited for the hard market. When the hard market arrived, they had the surplus, the capacity, to write everything at their price. They would grow significantly and profitably at this stage.

The soft market companies would inevitably run out of surplus, which facilitated the next hard market. Hard markets are ALWAYS caused by surplus shortages, not a lack of profit, and a lack of profit does not necessarily drive surplus shortages. These companies would then sit on the sidelines watching their book dwindle, which they wanted to happen because by losing premiums, it was easier for their capacity to catch up. When they had enough surplus to chase price again, they would and the market would enter a soft stage.

The exact timing depended on how fast these carriers decreased rates, who was cheating or simply incompetent in their reserving, and luck. The luck could be good or bad.
The timing changed after 9-11. The industry entered both the longest soft market likely in history and, for three years following the credit crisis, the most severe soft market. Now, the hardest market since at least around 1990 seems to be slightly moderating.

In the old days, there were also soft market agencies and hard market agencies. Hard market agencies were generally better underwriters. They would consistently achieve loss ratios in the 30s and 40s. These agencies were the best upfront underwriters. The offset was they grew slowly, if at all, except in the 24- to 36-month hard markets every seven or so years. And that was acceptable to smart carriers because those agencies subsidized the bad upfront underwriting agencies enough that carriers still profited.

This is not the case today. The number of good upfront underwriting agencies has significantly decreased, but they still exist, and 100% of the ones I know would like to toss their carriers into Dante's hell for the way they're treated. Most carriers, regardless of what they say, really could not care less about excellent loss ratios today (unless the carrier has financial problems). Insurance companies cannot come right out and say this, but their contingency agreements generally do not pay all that well for good loss ratios. That about says it all.

Why wouldn't a carrier care about great loss ratios? Because loss ratios are only one factor in determining a company's health and future. Looking at the bigger picture, the combination of growth and loss ratios must be considered, at the very least. Especially important is identifying the best intersection of growth and profit. Carriers and agencies with the best loss ratios generally grow more slowly. Carriers have generally identified the optimal loss ratio is around 55% because that is where they will grow at the right pace to optimize their value. At a 45% loss ratio, they will grow too slowly. They will lose too much market share, which is happening because out of 1,100 P&C carriers, nine now account for 53% of all the premiums. The other 1,091 carriers cannot afford to lose more market share because a high profit margin at $0 premium is not much profit. Yet, at a 65% loss ratio, they'll not be adequately profitable. As in all things, balance is good.

Historically, too, insurance company actuaries and models were inadequate to aim precisely for the bull's eye. The carriers that now possess the highest quality predictive models (and some companies seem to possess rather poor algorithms because not all predictive models are equal) can hit that bull's eye over and over. They no longer need the agency with a 45% loss ratio subsidizing the agency with a 65% loss ratio.

Historically, agencies that were great upfront underwriters had huge profit margins, and they did not need to grow as quickly as carriers did. These agencies were, in Professor Michael Porter's famed nomenclature, Cash Cows. They made so much money from contingencies and their retention rates were so high, they really did not need to write much net new business. The model carriers have now adopted is killing these cash cows. Whether those agencies are dying quickly or slowly, the market does not have room for Cash Cows, or at least not for agencies that generate high profits from contingencies while growing at a snail's pace. I sympathize with these agencies, and I understand their frustration.

The old ways are dying. Either adapt or die. Or become really creative because a market does exist for high-profit books. That market is in alternative risk. The alternative risk market is designed for low loss ratio business. It is folly to believe you can talk sense into the heads of admitted carriers' executives to settle for a 45% loss ratio and 4% growth. But if you want to develop this book in a captive environment, you might create a gold mine.

Developing a captive, especially in this manner, is 10 times easier said than done. However, this is the remaining part of the insurance world that truly puts their money where their mouth is when it comes to rewarding quality upfront underwriting. The first step in making this a reality is the psychological acceptance that your only option is to go down a radically different path if you are committed to upfront underwriting and being justly rewarded for it.

The second step is meeting the people who can guide and coach you. This is a sophisticated and complex part of the insurance world. Fire everyone who tells you they have an easy solution, or at least laugh at them, because other than convincing people who do not know better that this solution is simple, nothing about it is simple. And there are many people willing to take advantage of agents who want the solution without the work to vet the vendors. You must learn enough to do the initial vetting and then hire people who will do the rest of the vetting. Don't trust anyone without verification in this space.

The third step is to then work with the experts you hire to complete a feasibility study. The fourth step is building out the program, including taking a deep breath to assess your own risk-taking appetite. Done well, I don't think these are all that risky, but they are riskier than the traditional market because someone must initially invest capital. They are riskier because you may be asking clients to take on additional risk. These are riskier models, which is why greater care is required upfront; however, good upfront underwriting agencies are accustomed to applying considerable care.

Again, discussing this is much easier than executing it. However, if you truly believe in upfront underwriting, this is the only option today where you can get your just reward. And if your carriers were to become upset for moving all the good business to a captive, so what? Give them the option of paying you more for the business you're moving rather than them getting a disproportionate amount of the profits.

Back to top

Legal Standard of Care

The legal standard of care requiring that insureds read and understand their insurance policy is absurd. The typical standard for written communications with the average consumer is to write at an 8th-grade level *or lower*. Insurance policies, however, are legal contracts. To read and understand an insurance policy requires more than an 8th-grade level of reading ability.

It is unreasonable to place the burden on the average consumer that they must read (i.e., have a duty to read) and understand ("a duty to understand" makes no sense in and of itself) their policies versus licensed agents who have no duty in most states (unless they create a special relationship to read the policies they sell), much less understand and advise on the policies they are selling. This makes zero sense.

Evidence suggests that the average person does not understand their policies. In 2018, Which?, a British firm, tested volunteers to specifically, not optionally, read the fine print of an insurance policy (as documented in *The Economist*, July 27, 2019). The volunteers incorrectly answered a series of questions regarding what they'd read between 25% to 33% of the time. In other words, on a scale of 100%, they scored between 67% and 75%, a D+ to a C. Only 1/6th of the volunteers made an A. The Kaiser Family Foundation has documented similar difficulties specific to health insurance.

Furthermore, why require agents to take continuing education if they have no responsibility to know or advise on coverages? Requiring them to take CE at this standard of care is completely oxymoronic. If they have no responsibility to know, they have no need to know. They have a license to be true "Know-Nothings"! The existing standard benefits specific entities at a societal cost. Why stick to this oxymoronic situation? Who benefits?

Follow the money. State departments of insurance have high profit margins, partially subsidizing many other governmental entities that operate at a loss. Consider this: In most states, no standard of knowledge exists for insurance agents, and yet agents must spend (in theory) a lot of money and time getting educated.

Considering a person can get 24 hours of credit in less than eight hours today, all for $150. That must be awesome education! But state associations need money and the more revenue sources, the better.

E&O carriers and defense attorneys, in particular, appreciate this model because it is less likely to result in cases being lost with such a low standard.

Carriers win because they can appoint more agents, spend less on educating them, and they don't really care if the result is the insured does not have appropriate coverage. That is not their issue (though it should be because the profit margin is better when clients have better coverage because premiums are higher, but the losses do not directly correlate).

This creates the impression of looking professional without having, or even attempting, to be professional. Heaven forbid, per the defense attorneys, any agent ever described themselves as a "professional"!

Who loses with this current model? Truly professional agents lose because consumers cannot easily distinguish between amateurs and professionals. Consumers lose because it requires too much effort on their part to shop for agents who take real educational courses and take the time to provide advice. Advising is expensive because amateurs and professionals get the same commission rate.

The environment punishes agents who care the most and work the hardest to get clients the coverages they need. What is a good agent to do?

First, purchase 24 hours of CE for $150 to be completed in less than 8 hours. That is a good deal. Then go get a real education elsewhere, even if it does not offer CE.

Second, stop selling insurance. You cannot win a race to the bottom when every other entity in the environment is rewarding your ignorant competitors. You must stand out by selling something other than insurance, with insurance being only one aspect of what you deliver. Whether it be risk management, coverage reviews, claims management, TCOR, something else, or some combination of these benefits, provide something above and beyond an insurance policy. Charge fees so your clients understand you're not just selling insurance (fees are legal in all states if done correctly).

This success strategy requires more education, more effort, and a little bravery. If you do not know how to get started, contact me. You are at a fork in the road. One leads to benefiting yourself and your clients. The other is a dead end. Which fork will you take?

Back to top

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.
