



EXPECT THE BEST

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Travel Health Insurance Legal Update

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Presentation Overview

- ▶ **Litigation Update**
- ▶ **Legislative & Regulatory Developments**

Litigation Update

- Trends
- Claims Litigation
- Privacy
- Tele-Medical Treatment

Trends

- ▶ In 2004 reported that there were few litigated disputes in connection with travel insurance
- ▶ 2004 - Indicated a trend that litigation seemed to be increasing but volume still very low
- ▶ 2007 - Volume was more significant than it was and litigation appears to be more frequent
- ▶ 2008 to 2010 - Very few new reported cases

Claims Litigation

- ▶ *Falvo v. Allstate Insurance Co. [2009] O.J. No. 1670 O.C.A*
- ▶ *Co-operators Life Insurance Co. v. Gibbens,*
2009 SCC 59

Privacy

- ▶ *State Farm Mutual Automobile Insurance Co. v. (Privacy Commissioner) Canada* [2010] F.C.J. No. 889 F.C.T.D

Federal Regulatory Developments

- ✓ **Part XIII of the Insurance Companies Act**
- ✓ **Reinsurance**

Provincial Regulatory Developments

- ▶ Provinces have jurisdiction over the product and how it is sold
- ▶ Insurance agent licensing remains problematic in most Canadian jurisdictions for travel insurance
- ▶ Licensing requirements remain varied and difficult to comply with

Provincial Regulatory Developments

- ✓ **Amendments to BC & Alberta Insurance Acts & Related Consultation**
- ✓ **Sask. Incidental Selling of Insurance**
- ✓ **Adjuster Licensing Enforcement in Alberta**

Provincial Regulatory Developments

- ✓ **Regulation Under the Act Respecting Insurance (Quebec) & The Act Respecting the Distribution of Financial Products & Services**
- ✓ **Canadian Counsel of Insurance Regulators Questionnaire Regarding Third Party Administrators**

Other Legislative Developments

- ✓ **Competition Act**
- ✓ **Misleading Advertising**
- ✓ **Telemarketing Rules**
- ✓ **PIPEDA Bill C-29**
- ✓ **Alberta's Personal Information Protection Act & Health Information Act**

Conclusion

- ▶ **Litigation is not the legal threat**
- ▶ **Regulatory exhaustion is the legal threat**
- ▶ **Landscape is not being shaped by travel insurance**
- ▶ **Can be difficult if not impossible to comply with some requirements as law makers and industry reacts**