PINNACOL PROBLEMS

Our state workers compensation fund, Pinnacol, insures 57% of the market, 55,000 businesses and covers 1.5 million employees in the State of Colorado.

The committee has heard testimony and received documents revealing the following problems:

* **Extravagant Spending.** Perks, Junkets. (hundreds of thousands of dollars in Pinnacol expenses on golf outings, retreats at luxury hotels, trips and lavish meals that included a $2,500 dinner with $144- per-plate lobster and $115 bottles of wine, paying for CEO's wife for retreats where CEO wasn't present for business). (See Receipts).

* **Executive compensation packages that are far in excess** of those typical for state compensation insurance funds (2002 avg = $268,000, Pinnacol = $419,000), far exceeding the state's usual pay scale and not in compliance with the 2003 audit. . The current CEO pay at Pinnacol is at $448,812.64. (See Pinnacol Annual Financial Statement and 2003 Audit Report)

* **The rating entity by the insurance industry NCCI is regularly setting rates higher than those recommended** by independent actuaries (by ~ 10%!). (2006 NCCI +5.9%, Independent Actuary -5.9%, (2007 No changes), 2008 NCCI - 0.6%, Independent Actuary -16%, 2009 NCCI - 9.7%, Independent Actuary -19.8%. (See Attached Rate Chart).

* **Pinnacol’s Surplus** was 1,224% of Risk Based Capital ($773 million). (Other state funds average 929% and other Colorado funds average 673%.. Surpluses are over and above operating expenses and reserves ($1.2 billion) to pay claims. The growth rate of $100 million per year is indicative of premiums being too high or underpayment of benefits to injured workers. (Dept Reg Agencies)

* Medical providers reported difficulty in getting treatment approved, bills paid, and getting access to all of the necessary documentation to review claim. (See Physician Testimony)

* Injured workers had difficulty with denied claims, denied medical treatment and prompt payment of reasonable and necessary medical care. Some workers testified that Pinnacol's non-payment led to foreclosures, bankruptcy. We heard from workers who had been crush victims, amputees, fire victims some blinded or in wheel chairs who reporting having to fight Pinnacol at every step of the way. (See Worker Testimony, Letters)

* Pinnacol has a bonus, compensation and financial incentives to deny of claims and medical treatment. Some of the problematic bonus structures include basing bonuses on "net income" - total minus claims paid, the number of days prior to medical discharge (MMI), time for claim closure. These financial incentives exist for everyone but most problematically claims managers, nurse case managers and even the Medical Director. This is a direct financial conflict of interest with the statutory purpose of Pinnacol and workers compensation. (See Pinnacol MBOs, Gainsharing Reports)

* Injured workers also reported frequent harassment with surveillance and while Pinnacol spent $4.7 million in surveillance on thousands of workers, only 10 (out of 50,000+ claims) were actually convicted of fraud (0.02%). (See Witness Testimony, Pinnacol Document on Surveillance).
BILL PROPOSALS

Rate Reduction Act (Ryden - Tochtrop):
- Lower Rate of NCCI or Independent Unless Good Cause
- Transparent Rate Filing – Open to Public for Review
- Dividend Trigger 800% RBC

Workers Bill of Rights (Miklosi – M. Carroll):
- Notice to Injured Workers Upon filing of Claim Rights Under WC

Pinnacol's Board Transparency Act (Miklosi - Hodge):
- Add injured worker, 2/3 employees non-management, Dir. DOL
- Public Notice, Publicly Posted, Opportunity for Public Comment
- Board Compensation X$ Amount –
  - Reimburse Reasonable, Business Related Expenses

Injured Worker Privacy Act (Pace – M. Carroll):
- Requires reasonable basis to suspect fraud prior to triggering surveillance
- Gives injured worker right to expedited hearing to challenge
- Gives injured worker right to all materials

Transparency Act (Hodge - Ryden):
- Restore Annual Report
- Division of WC Complaint Process Online
- Exit Survey Satisfaction Injured Workers, Results Posted Publicly

Conflicts of Interest (M. Carroll - Miklosi):
- No Financial Incentives to Delay / Deny Claims / Medical Bills
- Disclosure of Financial Interests in Division IME Panel:
- No Reversionary Interests to Self (Pinnacol / Carrier)
- No ex parte 3rd Party communications with physicians unless in writing or in presence of patient

Penalties (Tochtrop - Pace):
- Changes permissive up to $500 / day to
- Upon finding of WC Act / Interference Medicine shall up to $1,000 / day
- Changes Willfully to Knowingly re unpaid bills