

# BERMUDA CAPITALIZING ON HEALTHCARE REFORM

Captive Review speaks to Oceana Yates, vice-president of R&Q Quest Management Services, and William (Butch) Agnew, vice-president of Dyna Management Services, about developments in Bermuda's healthcare industry

**Captive Review (CR):** What are the factors that generally precede the push or rush to source alternative risk financing?

**Oceana Yates (OY):** Risk factors include a hard market – it's difficult to find the coverage needed at a 'reasonable' price point, either due to poor industry results or lack of market capacity. The marketplace is currently in flux, as a result of shocks from changing regulations or poor industry results stemming from large, unexpected events.

**CR:** Which markets is Bermuda targeting for expansion?

**OY:** We're looking at the US, Canada and Latin America. Canadian healthcare does not seem to be having a crisis in coverage or rapidly-changing regulations. It has been a pretty stable professional indemnity environment (usually the main driver for healthcare setting up captives). Latin America is just starting to really come to grips with the captive concept, with some nations further advanced than others with the concept). The interest is really coming from the multinational companies that have the premium volumes and financial wherewithal to work through various countries' bureaucracies. Healthcare in many of these countries is not necessarily provided as cohesively or in the same legal environment as it is in North America.

**CR:** What is happening in the American healthcare space?

**OY:** The US has been the traditional healthcare consumer on the risk-financing side, due mainly to the highly litigious environment, with little or no tort reform in most states causing the cost of professional indemnity cover in the commercial marketplace to be either very expensive or not available. Healthcare systems, hospitals and physician groups historically, sponsored captives to provide cover in this underserved market and added some other small coverages such as GL. The healthcare



**Oceana Yates**

With more than 15 years' experience in the Bermuda market, **Oceana Yates** manages a team at R&Q Quest Management Services responsible for operations of Class 1, 2, 3 and 3A captives and segregated accounts companies. With expertise in both onshore and offshore domiciles, she has experience in all stages of the captive lifecycle.

market has undergone significant change in the last few years with the introduction of the Affordable Care Act (ACA) Obamacare. This has caused a shift in how healthcare is being delivered (and funded). The traditional fee for service is being replaced by single payments to cover all procedures performed for a person. This is causing strain on the traditional hospital model of filling beds and performing many procedures. Revenues are decreasing, and hospitals are looking for ways to turn that around. Individual or group physician practices are feeling the same revenue strain and increased costs for complying with ACA. This is leading to significant merger and acquisition (M&A) activity across health systems and between physician groups, and we're witnessing wholesale activity of acquiring physician groups by health systems. Some estimates put the employed physician percent as high as 70% because of this activity, compared to the historic average of 30%.

**CR:** How is consolidation affecting the US sector?

**Butch Agnew (BA):** A number of the sponsoring healthcare clients continue to entertain M&A activity. We are seeing the potential for combined entities that have both Bermuda and other domiciled insurance subsidiaries. With this consolidation and the



**Butch Agnew**

**Butch Agnew** is a vice-president with Bermuda-based Dyna Management Services, responsible for the delivery of management and consultancy services commercial reinsurers and captive clients. He has over 17 years' experience in the Bermuda, Cayman and London markets, including a substantial amount of work with healthcare clients.

creation of larger financially secure healthcare systems, their ability and appetite to retain more risk is greater than the former stand-alone institutions. In addition, the consolidation has created a broader view of the risk that may be appropriate for retaining within a captive. We believe continuing dislocation in the healthcare industry will create the potential for further growth in the captive arena, and the need for access to Bermuda reinsurance.

**CR:** Statistics show Bermuda captives and insurance carriers support a quarter of the US medical insurance and reinsurance market. What role are they playing?

**OY:** With this great change in the healthcare space in the US, plus pressures on parent-company bottom lines, existing captives are being re-evaluated to help reduce parent costs. There are additional lines such as medical stop loss – now that the employed population is increasing and employers are no longer able to cap lifetime payments, captive owners are increasing deductibles in order to get cover in the commercial market for the higher layers. They are also looking at non-traditional covers, such as cyber and medical billings error and omissions insurance. As these covers are expensive and have high deductibles, owners of captives are looking at funding deductibles for these lines through captives.



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**BA:** Healthcare systems are looking at ways to incentivize the new acquisitions and new joint ventures in ACOs to risk management best practices. With these new and expanded risks, we are seeing changes to the license class for captives and interest in segregated accounts legislation. In a lot of situations where the parent wishes to safeguard its capital, but doesn't want the expense of another captive to fund or manage, the segregated account concept makes sense. Bermuda is leading the

way on segregated accounts legislation that fulfils robust regulatory requirements as well as industry need.

**CR: What's new on the healthcare product scene?**

**OY:** Industries that have not traditionally been considered 'healthcare' are increasingly looking into hybrid healthcare products. As spas and gyms, for example, are providing more cosmetic surgery-type procedures,

they are not able to find cover easily in the commercial marketplace. Reinsurers, however, understand the intricacies and novelties of these less conventional types of cover and provide solutions.

**BA:** Over the past couple of years we have seen a heightened awareness among our clients of the potential liability and other negative impacts from IT breaches, and unauthorized access to private information and data, both electronic and paper records. The continuing introduction of new technology in areas such as electronic medical records, and a number of high-profile instances of data breaches have helped draw attention to this area. The changing landscape in the healthcare environment that results in more satellite locations, increased digital communications, and the integration of physician practice groups increases the challenges of maintaining data security and integrity.

The risks in the healthcare setting are obviously not merely confined to the potential loss of financial and personal related data gathered and maintained as it pertains to patients. The potential unauthorized release of, or illegal access to, personal health information related to a patient can be equally devastating to the individual whose data has been compromised. In these circumstances the added risk, at both the institutional or patient level, of possible extortion by those who may have accessed such information illegally cannot be overlooked.

**CR: What solutions help mitigate against cyber-risk?**

**BA:** Many of the commercial markets active in this line of coverage provide extensive added value services to clients, including assistance with systems and controls reviews, and enhancing protocols designed to minimise the potential for internal breaches. Many of our clients have taken advantage of these resources. At the client institutional level, we have seen increasing use of biometric security being applied to further reduce the potential for internal data breaches.

The Bermuda reinsurance market is active in providing coverage for these exposures. The market is already active on many healthcare-related professional liability excess of loss programmes, making them a trusted partner to help healthcare organisations manage this exposure. Bermuda underwriting expertise and experience is significant and provides the island with an in-depth understanding of the risks faced by healthcare organisations. 