

BERMUDA SEES HEALTHCARE MARKET GROWTH

Jereme Ramsay of BDA talks to *Captive Review* about Bermuda's diverse healthcare industry

From terrorism and aviation to casualty and cyber risk, Bermuda's insurance market has long prided itself on devising innovative solutions to the world's most pervasive risks. Increasingly, healthcare coverage is proving to be among those. With local capacity in the jurisdiction to write up to \$400m for any single risk, a solid track record of paying claims, and some 40 professionals writing healthcare insurance and reinsurance for a full spectrum of entities, the island has seen substantial growth in the sector over the past five years.

One of the key drivers of that trend has been America's Affordable Care Act (ACA) – 'Obamacare' – which was signed into law in March 2010, effectively expanding Medicaid coverage to millions more Americans and by doing so, creating greater demand for healthcare captives to offset the upsurge in potential risks.

"The ACA has caused people to evaluate the use and capacity of existing captives," says Oceana Yates, vice-president, captives, for Bermuda-based R&Q Quest Management Services Limited. "We're definitely seeing expanding use of captives in the healthcare field. Notably, there's been a growth of interest in the use of segregated accounts to separate new risks from the traditional healthcare core lines written through captives. As a result

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of this legislation, there has been an increase in hospitals employing physicians who were traditionally self-employed, buying physician groups, and entering into joint ventures with other entities to help manage healthcare costs. The expansion of the reach of hospitals and other healthcare facilities is driving this growth."

Diverse healthcare insurance options

The island provides a diverse menu of healthcare risk solutions, catering to everything from standalone hospitals and long-term care, to fully integrated healthcare delivery systems, and countrywide, for-profit hospital chains. Indeed, Bermuda has become the market of choice for healthcare liability insurance buy-

ers because of its capacity, contract certainty, and ability to create new products in response to the market's needs. Other distinguishing facets include terms and conditions such as affirmative punitive damage and integrated occurrence coverages. Carriers remain flexible and able to write on a variety of policy forms, including lead insurance, follow form insurance, reinsurance of a captive or risk retention group (RRG), London slip wording, and Bermuda form (excess liability) policy.

Bermuda has thus become a domicile of choice for healthcare-sponsored captives, with a premium volume of more than \$1.3bn by the end of 2014. The jurisdiction counts some of the largest acute care healthcare systems and prestigious university-sponsored programmes among the population of Bermuda captive insurers. Through Bermuda-domiciled captives and excess reinsurer participation, the island's captive industry and the Bermuda Monetary Authority (BMA) have developed a specialised knowledge of the healthcare industry and the healthcare-related professional liability cover provided to these entities. Bermuda captive managers, lawyers and audit firms are well-versed in the unique needs and challenges faced by healthcare organisations, being well positioned to offer leading, bespoke solutions with the backing of a sophisticated, comprehensive infrastructure. "The breadth

and depth of Bermuda's service providers and regulatory environment places the island well to assist US healthcare clients utilise the Bermuda risk market most advantageously," says Butch Agnew, vice president of Dyna Management Services Ltd., which counts among its client base a portfolio of healthcare-sponsored captive insurers with annual premium volumes in excess of \$200m and total client assets in excess of \$2bn.

Historically, the Bermuda market has distinguished itself, with pioneers like ACE and XL in the mid-1980s stepping in to provide innovative solutions in the area of multi-year, loss-sensitive programmes for the long-term care market. Since then, the island has remained the largest supplier of healthcare liability insurance capacity, writing hospital business, long-term and managed care, and physicians' practices risks.

Bermuda's general jurisdictional advantages are responsible for this growth in the healthcare risk space as well. The island is the global captive leader, with nearly 900 companies generating more than \$20bn in annual gross written premiums. Its well-established business environment offers world-class choices for captive management and other service-providers, from auditors and bankers to IT and legal professionals. Regulation is pragmatic and respected. A global leader on financial transparency issues, Bermuda has more than 80 treaty partners around the world, including 41 bilateral Tax Information Exchange Agreements (TIEAs) and 76 co-signatories of the Council of Europe's Multilateral Convention on Mutual Administrative Assistance in Tax Matters. The island was the first offshore jurisdiction elevated to the OECD's white list for compliant jurisdictions.

Healthcare reinsurance

Access to reinsurance is another big selling point. With 15 of the top 40 reinsurers, Bermuda can provide captive owners and operators with direct access to billions of dollars in open-market underwriting capacity. This reinsurance market is a significant participant on many healthcare-related professional liability excess-of-loss programmes and access to these carriers by Bermuda-domiciled captives is an unparalleled advantage for clients. Moreover, Bermuda underwriting expertise is significant, providing the island with an in-depth understanding of the risks faced by healthcare organisations. The convergence of capital markets and reinsurance is an added bonus, helping to engineer creative, custom solutions to risk management challenges.



A growing number of organisations use Bermuda captives primarily as risk-financing vehicles, or as a means to access the international reinsurance market – a key attraction of captive insurance structures. Captives created and owned by healthcare sponsors represent 10% of Bermuda-registered captive. Healthcare-related professional liability, often referred to as medical malpractice liability, is a significant line of business underwritten by these companies, with more than 42% of healthcare captives writing medical malpractice cover.

"Bermuda healthcare-sponsored captive insurers, as well as captives from all domiciles, continue to access the Bermuda medical malpractice market, which today remains a significant segment of the Bermuda risk market," says Agnew. "Due to consolidation in the US healthcare industry, a number of the sponsoring healthcare clients continue to entertain merger and acquisition (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 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, consolidation has created a broader view of the risk that may be appropriate for retaining within a captive. We believe continuing disclosure in the healthcare industry will create the potential for further growth in the captive arena, and the need for access to Bermuda reinsurance."

Changes in the US healthcare landscape – and the industry's response to them – is

ongoing and far from complete. However, observers agree that captives can be used to provide an effective tool in the integrated risk-management solutions needed to address the new and emerging risks and exposures that result from the continuing evolution. With mandated health insurance now a fact of life in the US, for example, many companies are evaluating the costs of employer-sponsored programmes and are looking at funding deductibles for medical stop loss programmes through captives. Medical stop loss is a layer of coverage that provides insurance for employers who decide to self-fund health benefit plans to reduce costs and maintain control over their reserves.

"North American healthcare organisations will find a depth of experience and expertise in the Bermuda captive and insurance market," says Philip Cook, CEO of Toronto-based Omega Insurance Holdings Inc., whose subsidiary Omega General Insurance Company is a Canadian insurer set up in 2004 that also provides risk management support for a major Canadian nursing home chain with an extensive network of US-based long-term care facilities. Omega's client writes \$100m of coverage through its Bermuda captive with \$95m (excess of \$5m) placed by way of reinsurance behind the captive.

"Whether placing primary 'risk transfer' coverage, utilising a captive structure to fund general/professional liability exposures, or seeking catastrophic protection to preserve capital in an existing captive," says Cook, "the Bermuda insurance and reinsurance market provides a wide variety of unique products and customised financial solutions." 