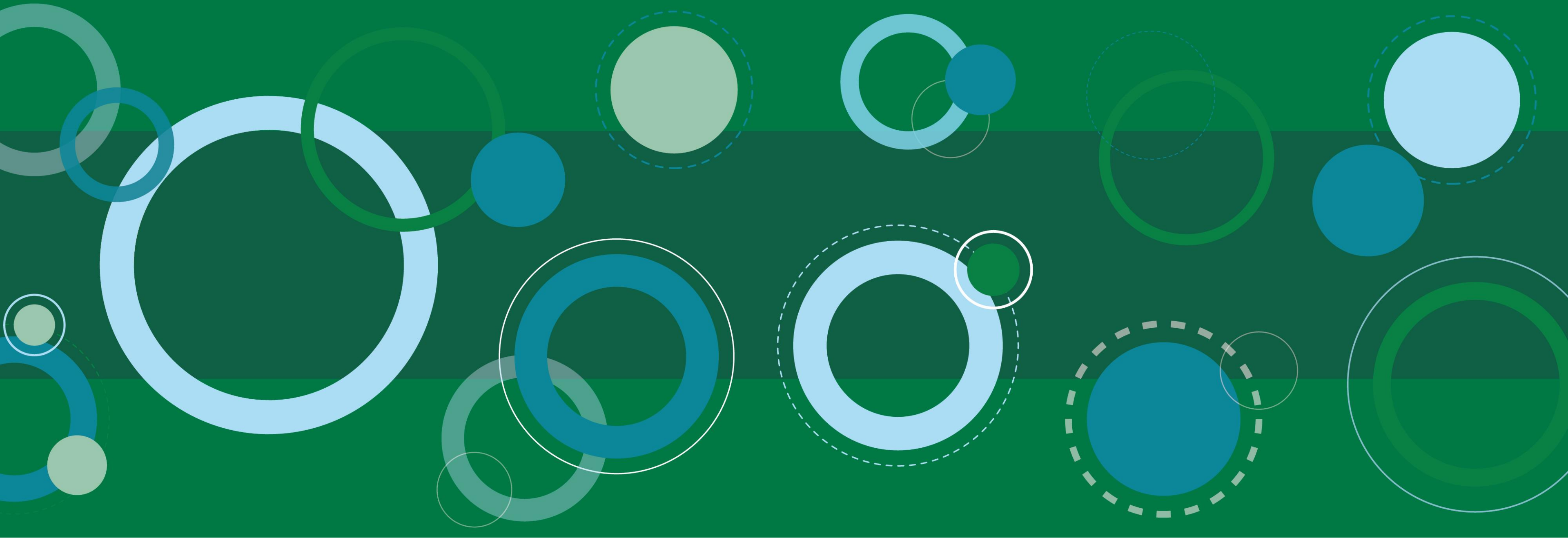


2024
**SUPPLEMENTAL
HEALTH, DI & LTC
CONFERENCE**

The Winning
Trifecta

Federal Regulatory Trifecta





Federal Regulatory Update





Hunter Sexton, JD, MHA
Sr. Compliance Consultant
Sydney Consulting



Rikki Pelta, JD
Senior Counsel
ACLI

Finalized Triagency Rule

- Initial Proposed Rule Raised Serious Concerns
 - Changes to Tax Treatment
 - Blunted Innovations in HI Product Design
 - No “Treatment” benefit triggers, No “Severity Distinctions”
 - Did not acknowledge that many of these policies are guaranteed renewable/non-cancelable
 - Onerous “90 days after promulgation” effective date
 - New Federal Notice Requirements
- Implications to HI Were Devastating

Finalized Triagency Rule

- Final Rule Only Included New Notice Requirements
 - Notice applies to both Individual and Group HI products
 - Notice applies to both new business as well as renewal business
 - Notice applies to marketing and advertising
- ACLI Efforts to Coordinate What is Required to Comply
- No Express Changes to Tax Treatment*
- No Express Benefit Design Changes*

Finalized Triagency Rule State Implementation Issues

- Application of notice to other fixed-indemnity products
- Objections to inclusion of benefits based on proposed version of the rule
 - Per service objections
 - Objections to certain benefits in Accident Only products
 - Objections to varying benefits based on severity in Specified Disease
- Readability certification
- Making changes to notice

Advocacy Lessons Learned and Current Legal Action

- Formal Commenting During Proposal Period was Effective
 - Both volume of Comments as well as substance
- Lobbying Efforts were Persuasive
 - ACLI worked with Democratic Congressional Representatives to move the needles
- State Government/NAIC/Union Pushback was Helpful
- Legal Action Underway
 - Manhattan Life/Central United challenging notice requirements on “scope of authority”

Final Rule Signals Desire for Future Rulemakings



A Post-Chevron Deference Paradigm

- *Chevron Deference 101*
 - 1980's SCOTUS Decision holds Courts should “defer” to the subject matter expertise of Federal Executive Agencies when those agencies are interpreting their statutory mandates granted by Congress
 - Gave Federal Executive Agencies vast power to promulgate regulations as these regulations only needed to be “reasonable” in meeting some policy goal
- *Loper Bright Enterprises v. Raimondo* overturned *Chevron*
 - Current SCOTUS holds that Courts ought not defer to agency expertise, but rather apply independent judicial review to federal regulatory legal challenges

Implication of Disruptive Rulemaking

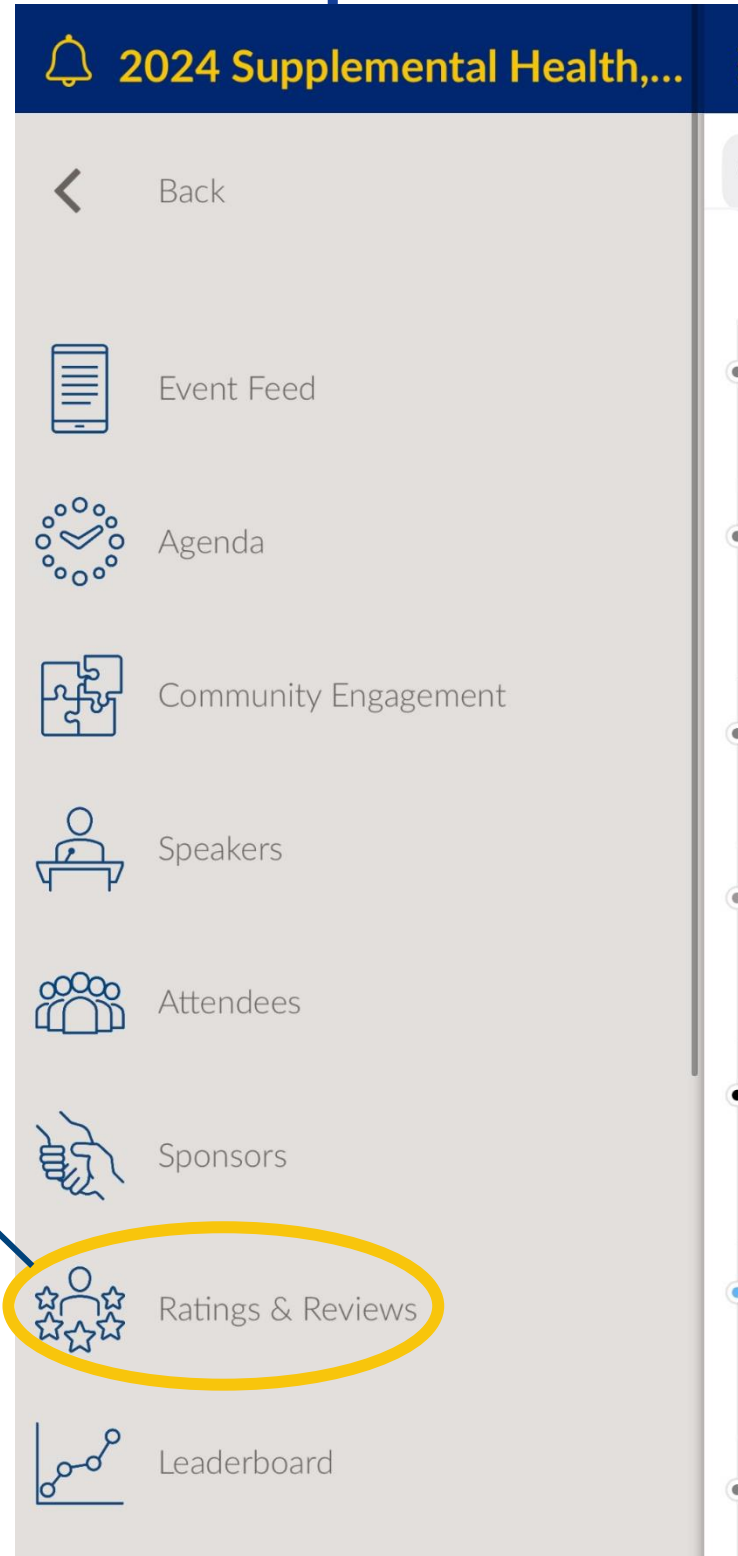
- Wellness
- Future of Long-Term Care post-Washington referendum

Elections Have Consequences

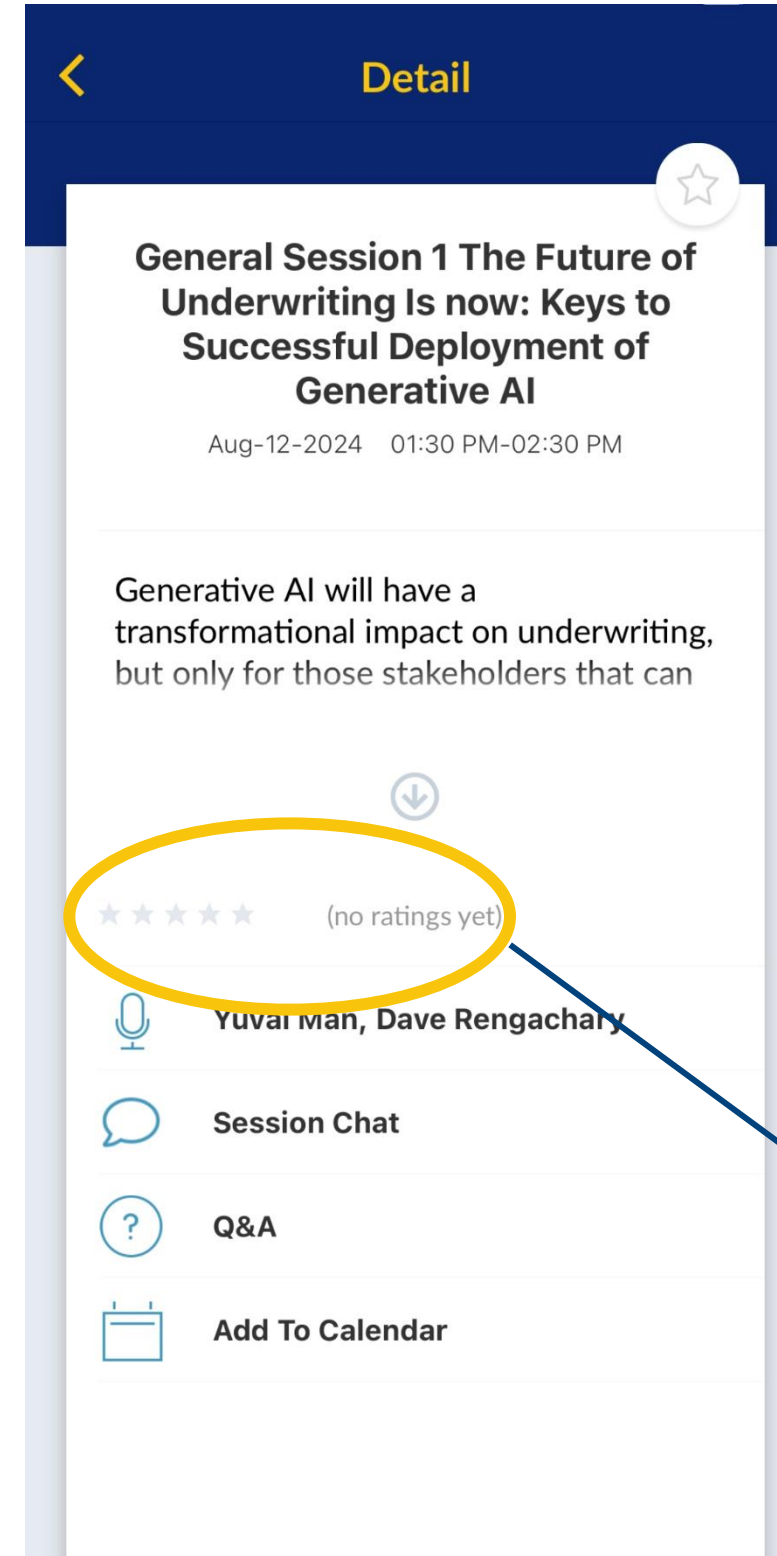
- Two different parties with vastly different political philosophies on regulatory power
- Appointment of judges
- Looming election affected advocacy

We Want to Hear From You. Leave a Rating & Review.

Module Option



Agenda Option



Thank You

