

Mary Jo Hudson — A Voice of Public Service, Insurance Regulation, and Advocacy For Consumers

The Demotech Difference had the opportunity to speak with Mary Jo Hudson, partner at Squire Patton Boggs and former insurance commissioner for the state of Ohio.

The Demotech Difference (TDD): Mary Jo, thank you for agreeing to share some thoughts on yourself, your career and the insurance industry with the recipients of The Demotech Difference. Given the breadth, depth and scope of your experience and expertise, we will need to do this again in the future. Let's get started!

Before we get too far, we noticed that you are a graduate of Miami University and the University of Cincinnati, and admitted to the state of Ohio bar. Our review of the publications you have written, speaking engagements you have had, and leadership roles you have filled show that they have taken you all over the world. What is it about Ohio that keeps you among us?

Mary Jo Hudson: (MJH): Family has always come first for me, and Ohio is where my family is located. Through technology and travel, I have had the privilege to work

Throughout my life, I have always looked for opportunities to help others in my community, and to create opportunities for others without a voice or support. Community service is a bedrock value for me, and it always has led the rest of my life.

with many interesting clients and insurance-related issues across the nation, while also living in Ohio near my family. In addition to my professional work, Ohio has provided me with numerous opportunities to serve my community in numerous non-profit, public service and social justice leadership roles. My community service is an important part of my life, instilled in me from my Western Ohio, rural roots. My path has included many service opportunities, and I am grateful for each and every opportunity.

TDD: You have a distinguished and long career in public service, insurance and advocacy of consumers. Would you

describe how you were introduced to each of these facets of service? Were there specific circumstances? Mentors?

MJH: From my early experience with insurance regulation, I learned that it was a great combination of corporate law, organizational strategy, public policy and public service — and I enjoyed the challenges and opportunities that insurance regulation brought to my work.

I was introduced to insurance, via public service, in 1989 when I responded to an advertisement for a staff attorney position with the Ohio Department of Insurance. My first Department mentor was Neil Rector, then the deputy director at the Department. I quickly developed other mentors at the Department, including Assistant Directors Dana Rudmose and Peg Ising, plus many members of the Department's financial regulation division (then "Examination Audit Division" and today, the "Risk Assessment Division"). At that time, we were working on several insurance company solvency challenges created downstream from the Mission Insurance Company failure. The Department only had a couple attorneys, and just over one year after graduating law school, I found myself in the deep end of insurance regulation — and did not sink. Instead, I worked on numerous delinquency proceedings with Neil, Dana and our team, including several onsite assignments at insurance companies placed into liquidation. Neil and Dana were thoughtful mentors who had great confidence in me and helped elevate me to some challenging experiences. Additionally, I worked with a tough and smart chief deputy liquidator, Lynne Hengle, who was a key mentor and taught me many invaluable lessons about being a good attorney and regulator.

Throughout my life, I have always looked for opportunities to help others in my community, and to create opportunities for others without a voice or support. Community service is a bedrock value for me, and it always has led the rest of my life. In my experience, I cannot look to my work alone to feed my soul. As I noted above, Columbus has been a great place to live and work, and has afforded me with many opportunities to become involved in community and public service. Over the past 30 years, I have served on many local boards, including the United Way of Central Ohio, the Women's Fund of Central Ohio, the Greater Columbus Arts Council, and in local elected public service on Columbus City Council and the Columbus Board of Education. In each of these service opportunities, I was fortunate to





Mary Jo Hudson serves as a strategic adviser, regulatory advocate and thought leader for global, national and regional insurance companies, trade associations, businesses and litigants in insurance law, regulatory compliance and unclaimed property audit defense matters.

As a former insurance commissioner for the state of Ohio, she understands regulators' perspectives and provides insurance company leaders with keen insights and trusted strategic advice and counsel on a wide range of matters, including:

- *Formation and licensure of insurance companies.*
- *Insurance company financial regulations, examination responses, holding company act filings and requests for approvals, including regulator review of mergers and acquisitions.*
- *Insurance company internal investigations and analysis.*
- *Multistate and single-state market conduct examination defense.*
- *Unclaimed property audit defense.*
- *Service for trade associations, providing strategic advice and representation.*
- *Monitoring and advocating on matters before the National Association of Insurance Commissioners.*
- *Corporate governance.*

Hudson is often sought out to serve as an expert witness on insurance regulation/regulatory framework, and insurance product and claims issues.

Hudson is active defense counsel for a number of multistate unclaimed property audits, working on behalf of holders on privileged internal analysis, responding to auditor demands, and assisting holders with VDAs and providing strategic advice on unclaimed property law compliance. She wrote the definitive white paper on life insurance and unclaimed property, published by the American Council of Life Insurers.

As Ohio's director of insurance from 2007 until 2011, Hudson served as a member of the NAIC Executive Committee, chair of the Ohio Health Care Coverage and Quality Council, and chair of the Interstate Insurance Product Regulation Commission. She also has prior experience as general counsel for the Office of the Ohio Insurance Liquidator and as a Special Services attorney for the Ohio Department of Insurance.

Hudson is a former board member of the Association of Life Insurance Counsel, and is currently working ALIC's Annual Meeting Planning Committee. She is also a member of the Unclaimed Property Professionals Association and participates in its Holders' Coalition.

Hudson has extensive and unique board and community service experience. She has served as an independent member of the board of directors and Audit Committee member for AIG Property Casualty Inc., and as a board member of the American Academy of Actuaries. Her community service includes having served as member of Columbus City Council, as a board member and chair of the Audit and Finance Committees of the Columbus Board of Education, and a board and Executive Committee member of each of the United Way of Central Ohio, Greater Columbus Arts Council, Women's Fund of Central Ohio and Human Rights Campaign.

work with some tremendous public servants and provide support for many initiatives and programs that helped many people in Columbus and Central Ohio.

Personal to my service efforts has been my social justice work in the LGBT community. In my experience, when we bring our full selves to our work and our community work, the results of our work are strongest. I began this work when many colleagues and friends could not be out and open. I am grateful for the supportive environment that I worked in at the Department in the early 1990s to help set me on solid ground and create a path for me to serve others in the LGBT community. For many years, I served in leadership roles with the Ohio Human Rights Bar Association, the Human Rights Campaign and Human Rights Campaign Foundation and as a liaison to the LGBT community for Columbus Mayor Michael Coleman. For almost 10 years, I worked with a group of committed volunteers to lead a \$10 million capital campaign to renovate and expand the Stonewall Columbus Community Center.

TDD: Have there been any recent regulatory changes or interesting developments?

MJH: Over the past several years, we have seen many new entrants to the insurance market, trying new methods of distribution, new forms of traditional products, and new business models. These new entrants have encouraged existing market participants to dedicate significant resources to innovation and new methods of growth. The result is a growth of new regulatory initiatives and dialogue associated with data use, sales incentives and cybersecurity.

Complex companies and products, combined with a continuing tight

labor market are forcing a shift in how states are staffing and conducting their insurance regulation responsibilities. Today, many states rely heavily on third party contractors and the National Association of Insurance Commissioners for their basic examination and other regulatory analysis. Historically low pay rates and decreasing support for public service employment are making already thin benches at state insurance departments thin further.

TDD: How would you contrast the current regulatory environment versus that when you oversaw the state of Ohio Department of Insurance? What are some of the major opportunities, situations or incidents that prompted those changes in the regulatory environment?

MJH: Significant losses due to climate issues are increasing annually in more markets. When I served, these losses were more contained. In the past, regulators in limited markets would suppress rates or tighten market existing requirements to keep carriers in their markets. Today, the size of these losses is well beyond the extreme regulatory tools of the past, due to the extreme nature of the events. Regulators will need to work with policymakers to create alternative risk management programs, and to explain when a market or risk may no longer be able to be insured.

Additionally, we are now seeing many more “manufactured” losses resulting from legislated risk (for example, Florida’s property market and laws favourable to the plaintiffs’ bar) and claims from “social inflation-based actions” (for example, the business interruption claims of the lockdown). These claims increase overall insurance risk in a manner that is less predictable than covered losses, with a heavy thumb on the scale against insurers and added stress on everyday insurance markets. As a result, competition in many markets is threatened, which could make insurance less available and affordable for consumers. In many of these circumstances, litigants (and legislators) are running roughshod over matters tied directly to the regulation of insurers and the oversight conducted by regulators. Unfortunately, it seems that regulators are not fully aware of how these outside influences are affecting their markets. More importantly, regulators are not aware of how these outside influences are eroding the strength of the insurance regulatory framework.

Finally, regulators are experiencing a crisis of confidence due to rapid changes in all areas of the insurance markets in which they regulate, and voices expressing concerns regarding financial stability when their real intent is to slow or limit competition. In my view, regulators should remain confident in their tools and authority, keep their eyes on the road and not be distracted from their work. I served in Ohio during the 2008-2009 financial crisis and its aftermath. After the financial crisis, state regulators added numerous analysis tools to their solvency regulation efforts. These tools strengthened financial regulation significantly.

Regulators may need to update some tools, but none of these tools are obsolete or weak. Today, regulators are facing complex investor structures and complex investments. Fortunately, the analysis tools that regulators put into place after the financial crisis remain strong and relevant in the face of these new complexities. Competition does not need to be limited in order to keep insurance regulation strong and stable.

TDD: Any predictions on the forces that will influence the regulatory environment in the future?

MJH: In my view, three “forces” could influence the future of our regulatory framework: regulatory support, social

Regulators will need to work with policymakers to create alternative risk management programs, and to explain when a market or risk may no longer be able to be insured

inflation and the long-term care (LTC) market. The first is insurance department staffing and support. Many insurance departments do not have the depth of experience that they enjoyed in the past. Currently, the NAIC serves as a back-office support for many states. At some point, insurance departments will likely need to alter their relationship with the NAIC to ensure transparency and appropriate due process protections are in place for regulated entities. The National Insurance Producer Registry (NIPR) is a great example of a public/private partnership that provides an efficient regulatory tool while also providing transparency and support to the producer/agent community. The Interstate Insurance Compact, utilized for life insurance and related products, is another great example of a regulatory tool that provides regulatory efficiency, solid consumer protection and significant support to the states.

The second issue is social inflation. Cases involving terms that wholly reinterpret the insurance policy terms and operation of the policy are increasing rapidly on court dockets across the country. As courts review these matters, they do not consider or choose to ignore regulator review of the policies, or the impact of their decision on the financial stability of the insurance marketplace. Reinterpreting a policy to provide coverage that did not exist when the insured purchased the policy has a real consequence to each affected insurance company because it did not ever establish reserves for the newly created coverage. Regulators will need to continue to monitor these cases and educate policymakers, courts and the public regarding the value of stability in our insurance regulatory framework.

The third issue is the long-term care market. Several large single LTC writers are under regulatory supervision or are already subject to delinquency proceedings. State insurance regulators are working hard to address issues associated with these companies, and the companies are protecting their consumers. States are also working to better stabilize the LTC insurance rate increase process. However, in at least one of these matters, at least three states' insurance departments (North Dakota, Iowa and New Jersey) are suing the Pennsylvania Department of Insurance for issues connected with rate increase disputes associated with a long-term care insurance company that is the subject of a delinquency proceeding. States need to find a way to stabilize these companies and the LTC market within their own regulatory framework, or risk federal involvement that would be necessary to protect consumers in the future. If federal involvement was necessary to stabilize the LTC market, it could be problematic for state-based insurance regulation.

TDD: What role can insurers have in driving improvement in cyber security risk management?

MJH: Cyber risks are everywhere, and no enterprise can eliminate them. Cyber risks can cause extreme harm to any enterprise, and can cost millions in lost time, resources and business. However, insured enterprises can mitigate or avoid cyber risks with proper controls and adoption of precautions — if they take them. Insurers can drive improvements in cyber security risk management by working with their insureds to provide training in the latest defense and mitigation to avoid such business losses. Historically, insurers were successful with mitigating broad risks such as automobile accident losses (e.g., seat belt laws) and life/medical claims (e.g., smoking bans). Insurers could and should work to influence public policy to encourage and fund cyber security defense.

TDD: How do you stay ahead of your competitors in a fast-paced business environment?

MJH: I have practiced law for over 30 years. I have found that hard work and dedication to clients often results in success. Our team works to do our best for our clients, and to make sure that we are available and able to assist at any time. We look for creative solutions for our clients and also ensure that we provide candid and clear advice at all times.

TDD: What was the first job you ever had? What did you learn from that job?

MJH: I grew up working in my family's jewelry store in St. Marys, Ohio. At an early age, my grandmother taught me how to count change. She told me that if I knew how to count change, I would always have a job. Currently, Hudson Jewelers is celebrating its 125th year. I have worked every year since my "change counting" training, so I guess Grandma Hudson was right!

TDD: What are the traits and skills of people who should consider insurance for a career path?

MJH: Insurance is a service-based profession. No matter what position a person seeks, all efforts require problem solving and a focus on helping consumers. Some positions require a finance or mathematics background. Other positions are business related or are focused on engineering or other risk analysis. In my view, the common denominator is service.

TDD: What does success look like to you?

MJH: My family and those I love are safe, I am able to serve my community, and I am working with interesting issues, kind people and with challenging issues. Mission accomplished so far.

TDD: What is the best advice you ever received as a professional?

MJH: Never burn a bridge.

TDD: You recently added another award or recognition to your long list of professional acclamations. Tell us about the 2022 Chambers USA award.

MJH: Chambers USA is a recognition of subject matter excellence, based on a detailed review of an attorney's work over the past year, plus a comprehensive review from clients and peers. I have been honored to be recognized by Chambers as Band 1 in Insurance, the highest recognition available, since our first application several years ago.

A Lightning Round of Fun Questions

Cat or dog person? Dogs.

Favorite snack? Nachos.

Favorite meal — Fine Dining? Columbus has such a great dining scene. In the past, Rigsby's and M were favorites. Currently, Ocean Club and Jeff Ruby's are favorites.

Favorite meal — Quick bite? Tacos.

Hobby? Listening to Audible books; pontoon boating; canning.

Skill that few know of? I love to cook.

Book that you would recommend? I am on book seven of the "Wheel of Time" series by Robert Jordan. The books are extraordinary. I look forward to the five remaining books in the series.

Movie you would recommend? My favorite movie is The Wizard of Oz.

One technology you cannot live without? My Audible app.
A credo you live your life by? "It is better to light a candle than curse the darkness." — Eleanor Roosevelt