

INSURANCE

Pete Ricketts

Governor

Bruce R. Ramge

Director

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Message from the Director....

Insurtech on the Silicon Prairie Event Draws Attendees from Over 22 States



Bruce R. Ramge

Insurtech on the Silicon Prairie, organized by the Nebraska Department of Insurance and the Nebraska Insurance Federation, held its first annual event on October 23 at the Strategic Air Command & Aerospace Museum in Ashland, Nebraska. The one-day Insurtech event brought national experts, companies and state insurance regulators to Nebraska for a one-of-a-kind conference that focused on the rapidly changing landscape of insurance and technology.

Following welcoming remarks by Governor Ricketts, speakers and panelists at the event covered a range of insurtech topics and perspectives including blockchain, regtech, insurtech trends, startups, use of insurtech to improve operations, insurtech regulation and insurtech investing.

Nebraska is a leading insurance hub in the nation ranking near the top in the amount of domestic surplus and assets, and is becoming a hub in technological innovation and startups. Technology is becoming a force of change in insurance. It is important for insurance professionals and regulators to learn about the technologies that will create new products and services for consumers, and to embrace the change that the insurtech movement is unfolding upon the insurance world.

The event drew over 160 attendees from 22 states with a few speakers from companies based outside the United States who traveled from overseas to attend. I am pleased about the overwhelming response to the event that sold out during the first week of October. Plans are already underway for next year's event.

Information on Insurtech on the Silicon Prairie is available on its website at www.siliconprairienebraska.com.

PRODUCER LICENSING DIVISION

Producer licensing questions can be asked via the new chat link at the bottom of each page of the Department's website and receive a response in real time.

Online Chat Feature

The Licensing Division's new online chat feature allows users to now ask Producer Licensing questions via the new chat link at the bottom of each page on the Department's website and receive a response in real time. It is recommended that Google Chrome or Mozilla Firefox browsers be used. Chats are monitored each weekday from 9:00 am to 4:00 pm CST.

As of October 1, self-storage facility licenses are now being issued by Nebraska.

Self-Storage Facility License

Effective October 1, 2018, Nebraska began issuing Self-Storage Facility licenses. The **licensing requirements** for these business entity licenses can be found on the Department's website at **doi.nebraska.gov**.

Questions regarding the self-storage facility licensing process can be sent to the Nebraska Department of Insurance at **doi.licensing@nebraska.gov** or by calling the Licensing Division at 402-471-4913.

Please take a minute and verify the email address that you have on file with the Department to ensure you receive future notifications.

Change of Address Reminder

The Licensing Division is working to transition more of our correspondence from paper mail to an email format, including license renewal reminders and expiration notices. To ensure that you receive all future notifications, please take a minute and verify the email address that you have on file with the Department.

You can verify and update your contact information online at **www.StateBasedSystems.com** or by submitting a **DOI-9110 Change Request Form** to the Licensing Department.

The Change Request Form can be found on our website at **www.doi.nebraska.gov/producers/producer-licensing**.

Beginning January 1, 2019, any certification by the director of an approved continuing education activity will be for a four-year period.

Continuing Education Certification

Beginning January 1, 2019, any certification by the director of an approved continuing education activity will be for a four-year period. Any continuing education activity approved prior to January 1, 2019, will expire on January 1, 2020, or four years after the date of approval, whichever is later.

The earliest continuing education courses will be expiring on January 1, 2020. There will be a ninety (90) day window prior to the expiration date for submission of the renewal and the \$50.00 fee. Any questions may be sent to doi.licensing@nebraska.gov.

PROPERTY & CASUALTY DIVISION

Form & Rate Filing Requirements

The division's quarterly guidance document, "**Commercial General Liability Form and Rate Filing Requirements**" has been developed and posted to the Department's website. The division's guidance documents can be found at www.doi.nebraska.gov under "Latest News" and under "Insurers/Property and Casualty Information/Filing Guidance." Any questions concerning the guidance documents may be directed to Connie Van Slyke at connie.vanslyke@nebraska.gov.

Workers' Compensation Insurance Assigned Risk Plan

On July 10, 2018, the Nebraska Department of Insurance (Department) posted a Solicitation for Proposal for coverage of the Nebraska Assigned Risk Workers' Compensation Insurance Plan (WCIP), for coverage beginning January 1, 2019. All proposals were due September 6, 2018, at 4:00 p.m.

The Department received a proposal from Travelers Property Casualty Company of America (Travelers). No other proposals were received. The Department has selected and intends to award the contract to Travelers to provide coverage for the WCIP beginning January 1, 2019.

Please continue to monitor www.doi.nebraska.gov/wc/index.htm for updates.

Questions may be directed to Connie Van Slyke, Property and Casualty Administrator, at connie.vanslyke@nebraska.gov.

LIFE & HEALTH DIVISION

Open enrollment for individual health insurance plans begins on November 1 and ends December 15.

The Department recommends people who are seeking coverage on the individual market seek the assistance of an insurance producer.

Staff spent the month of October traveling throughout Nebraska talking to members of the public and hospitals regarding changes forthcoming in health insurance.

The power point presentation given at the listening sessions will be available online sometime in early November.

Open Enrollment for Individual Plans

Open enrollment for individual health insurance plans begins on November 1 and ends December 15. Typically speaking, this is the only opportunity for Nebraskans to sign up for coverage on the health insurance marketplace.

The Department recommends that people who are seeking coverage on the individual market seek the assistance of an insurance producer. There are new options available in the market that are being offered by the carrier on the marketplace, new association plans that may be available to some consumers and there have been rule changes to short-term duration medical plans. An insurance producer does not charge for his/her services and can provide helpful advice for consumers when shopping for a health insurance product that suits their needs.

Department Listening Sessions Wrapping Up

Staff from the Department spent the month of October traveling throughout Nebraska talking to members of the public and hospitals regarding changes forthcoming in health insurance, Medicare, external review and other types of insurance. The Health Policy Team met with hundreds of Nebraskans and appreciated the feedback from citizens and have taken that back as they formulate policy suggestions for the next year.

The Department believes that outreach is key to help consumers and hear from them directly to help answer questions they may have. The power point presentation from the sessions will be posted online sometime in early November. Please direct any questions or requests to hear the presentation to:

Martin Swanson, Administrator for Health Policy
402-471-4648 or martin.swanson@nebraska.gov

Laura Arp, Life and Health Administrator
402-471-4635 or laura.arp@nebraska.gov

Maggie Reinert, External Review Specialist
402-471-1432 or maggie.reinert@nebraska.gov

Finalized Health Insurance Rates

A link to finalized rates will be posted to the Department's website on November 1 as part of our continued effort for customer service for individual and small group health insurance plans.

A link to finalized rates will be posted to the Department's website on November 1.

This year, the Centers for Medicare and Medicaid Services allowed a later posting time to allow carriers to obtain as much claims data as possible before submitting rates. The Department has reviewed the rates and is in the process of finalizing them. To obtain further information for the rates, please visit our website at **doi.nebraska.gov** on November 1.

Association Plans

The Department is currently working with any interested parties who have questions regarding the new association rules for health insurance. The federal government released new regulations that allow for a different methodology for creating association health plans.

Interested parties are reminded to work with the Department before going forward in the potential creation of these plans.

Interested parties are reminded to work with the Department before going forward in the potential creation of these plans. For further information, contact Laura Arp, Life and Health Administrator at **laura.arp@nebraska.gov** or 402-471-4635.

Short-Term Duration Plans

The federal government recently made changes to the short-term duration medical plan regulation. The regulation now allows the plans to be sold for up to 364 days and may be renewed up to 36 months. The federal government also has required new disclosures based upon the time of the sale.

On September 14, a notice was issued that requires the policy clearly disclose differences between the short-term duration policy and an Affordable Care Act policy.

Additionally, the Department issued a Notice on September 14 that requires the policy clearly disclose differences between the short-term duration policy and an Affordable Care Act policy so that consumers can make informed choices based upon their needs. A copy of the **Notice** can be found on our website at **doi.nebraska.gov**.

Questions should be directed to Martin Swanson, Administrator for Health Policy, at **martin.swanson@nebraska.gov** or 402-471-4648 or Laura Arp, Life and Health Administrator, at **laura.arp@nebraska.gov** or 402-471-4635.

Staff Update

Rebecca Dennis retired from the Department's Life and Health Division. Becky was an incredible asset to the Department who had years of knowledge from working in the industry and at the department, and she will be missed.

Department Creates a Chat Feature

The Department recently created an online chat feature that will allow people to contact our licensing, consumer affairs and SHIP divisions. To access the chat feature, go to www.doi.nebraska.gov and look for the chat feature located on the bottom right hand side of the page. If a division is not available, the chat feature allows you to send a message that will be answered as soon as possible.

Advertising of Sickness and Accident Policies

On October 25, 2018, Director Ramage issued a notice to remind insurers marketing sickness and accident policies of the requirements of Title 210, NAC Ch. 14, 003.02. The regulation requires that that an insurer maintain a system of control over the content, form and methodology of advertisements. The insurer's responsibility is to monitor any entity that advertises its products.

The intent of the regulation is to prohibit deceptive tactics in the marketing of these plans. The Nebraska Department of Insurance continues to receive reports of calls made to consumers by phone numbers that are masquerading as another caller by falsifying the number that appears on a recipient's caller ID display. This is commonly called "spoofing." These spoofed phone numbers have actually been employed by entities marketing insurance products. The use of spoofed phone numbers is a violation of the Regulation.

Marketing through lead generators or other entities that purport to market sickness and accident policies, via email, internet website or other forms of social media, also are subject to this Regulation. The insurer who employs these services must maintain oversight over these entities.

A copy of the **Notice** is available on the Department's website at www.doi.nebraska.gov. Questions may be directed to Martin Swanson, Health Policy Administrator, at martin.swanson@nebraska.gov or to Laura Arp, Life and Health Administrator, at laura.arp@nebraska.gov.

CONSUMER AFFAIRS DIVISION

Staff Updates

Barbara Peterson has been named as the Administrator of the division following the retirement of **Jane Francis**, who had been with the division since May, 1979. Prior to being named administrator, Barbara had served as an insurance investigator since beginning her employment with the Department in 1998.

Cindy Williamson has retired after serving 13.5 years as an insurance investigator with the division. Happy retirement, Cindy and Jane. Your combined 52 years of knowledge will be greatly missed.

LEGAL DIVISION

Regulation Updates

Amended Company Bulletin

CB-83 (AMENDED) - CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE

CB-83 (Amended) was issued to provide companies information regarding credit life insurance and credit accident and health insurance rate filings, producer compensation, and parameters applicable to joint credit accident and health insurance. The bulletin was amended on September 18, 2018.

A full copy of the bulletin can be viewed on the Department's website at doi.nebraska.gov/sites/doi.nebraska.gov/files/doc/CB83Amended2018.pdf.

Nebraska Hospital-Medical Liability Act 2019 Surcharge Rate

Pursuant to the Nebraska Hospital-Medical Liability Act, the Nebraska Department of Insurance will conduct a public hearing concerning the surcharge contribution rates of qualified health care providers to the Nebraska Excess Liability Fund for the year 2019.

The hearing will be held on Thursday, November 8, 2018, at 1:00 p.m., at the Nebraska Department of Insurance, 1135 M Street, Suite 300, Lincoln, Nebraska.

Nebraska Comprehensive Health Insurance Pool Proposed Rate Adjustment

Pursuant to Neb. Rev. Stat. § 44-4227, the Department will hold a public hearing on a proposed rate adjustment of the Nebraska Comprehensive Health Insurance Pool premium rates. The purpose of the hearing is to provide an opportunity for public comment on the proposed rate adjustment.

The public hearing has been scheduled for Tuesday, November 13, 2018, at 10:00 a.m., at the Nebraska Department of Insurance, 1135 M Street, Suite 300, Lincoln, Nebraska.

A full copy of the **Notice** can be viewed on the Department's website at www.doi.nebraska.gov.

Actions Taken Against Producers and Agencies

CAUSE NO.	ALLEGATION	DISPOSITION
<p>A-2108 David Allen Jones Omaha, NE NPN – 18806557</p>	<p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(a), and 44-4059(1)(h). Provided incorrect, misleading, or incomplete information on licensing application; used fraudulent, coercive, or dishonest practices</p>	<p>Order License revoked 7/26/2018</p>
<p>A-2109 Kyle Smith Pflugerville, TX NPN – 17667832</p>	<p>Violated <u>Neb. Rev. Stat.</u> § 44-4059(1)(o). Failed to maintain a license in the home state.</p>	<p>Order License revoked 7/24/2018</p>
<p>A-2110 Kathryn Dunn Hopkinsville, KY NPN – 17692336</p>	<p>Violated <u>Neb. Rev. Stat.</u> § 44-4059(1)(o). Failed to maintain a license in the home state.</p>	<p>Order License revoked 7/24/2018</p>
<p>A-2111 Kerry Manders Oneida, WI NPN – 14991137</p>	<p>Violated <u>Neb. Rev. Stat.</u> § 44-4059(1)(o). Failed to maintain a license in the home state.</p>	<p>Order License revoked 7/24/2018</p>
<p>A-2112 Michael Dietzel Mentor, OH NPN - 10624315</p>	<p>Violated <u>Neb. Rev. Stat.</u> § 44-4059(1)(o). Failed to maintain a license in the home state.</p>	<p>Order License revoked 7/24/2018</p>
<p>A-2113 Wayne Fair Chicago, IL NPN – 17416406</p>	<p>Violated <u>Neb. Rev. Stat.</u> § 44-4059(1)(o). Failed to maintain a license in the home state.</p>	<p>Order License revoked 7/24/2018</p>
<p>A-2114 Aaron Turco McCool Junction, NE NPN - 18803437</p>	<p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(a), 44-4059(1)(b), and 44-4059(1)(h). Provided incorrect, misleading, or incomplete information on licensing application; violated any insurance law; used fraudulent, coercive, or dishonest practices.</p>	<p>Consent Order \$300 fine 7/27/2018</p>

Actions Taken Against Producers and Agencies (cont.)

CAUSE NO.	ALLEGATION	DISPOSITION
A-2094 Thomas Title & Escrow, LLC Phoenix, AZ NPN – 8837308	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(a), 44-4059(1)(b), 44-4059(1)(g), 44-4059(1)(h), and 44-1525(11)</u> . Provided incorrect, misleading, or incomplete information on licensing application; violated any insurance law; unfair trade practice; used fraudulent, coercive, or dishonest practices; failed to respond to the Department.	Consent Order \$200 fine 8/7/2018
A-2119 Michael Timothy Helgeson Denver, CO NPN – 16947728	Violated <u>Neb. Rev. Stat. § 44-4059(1)(o)</u> . Failed to maintain a license in the home state.	Consent Order License revoked 8/7/18
A-2125 Matthew Frederick Ganis Denver, CO NPN – 2778906	Violated <u>Neb. Rev. Stat. § 44-4059(1)(o)</u> . Failed to maintain a license in the home state.	Consent Order License revoked 8/7/18
A-2116 Jennifer Bray Gillette, Wyoming NPN – 17815466	Violated <u>Neb. Rev. Stat. § 44-4059(1)(o)</u> . Failed to maintain a license in the home state.	Consent Order License revoked 8/15/18
A-2115 Bijan Richards Omaha, NE NPN - 17693960	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(e), 44-4059(1)(h), and 44-1525(10)</u> . Violated any insurance law; intentionally misrepresented terms of an insurance contract; used fraudulent, coercive, or dishonest practices; made false or fraudulent statements relative to an application for a policy.	Order License revoked 8/30/2018

Actions Taken Against Companies

CAUSE NO.	ALLEGATION	DISPOSITION
C-2394 United States Fire Insurance Company (Delaware)	Violated <u>Neb. Rev. Stat. § 44-5814(1) and 44-5814(3)</u> . Failed to file the required annual report; failed to pay \$200 filing fee.	Order Certificate of Authority Suspended 8/24/2017

Case Summaries

Jacobs Engr. Group v. ConAgra Foods, 301 Neb. 38; S-16-896 filed Sept. 14, 2018

This matter, which touches on multiple issues of law and fact, arises out of a contract containing mutual indemnification provisions between Jacobs Engineering Group Inc. (Jacobs) and ConAgra Foods, Inc. (ConAgra). Jacobs was contracted to provide limited engineering services for ConAgra. Under the agreement, Jacobs was required to indemnify ConAgra against claims incurred by third parties, employees of ConAgra, or employees of Jacobs. Jacob's obligations were limited to the extent caused by negligent acts, errors or omissions of Jacobs. Further, ConAgra was required to indemnify and release Jacobs against all other claims to the extent caused by the negligence of ConAgra and/or others under its control.

An explosion at ConAgra's plant killed three and injured sixty. Jacobs had no involvement in the explosion; ConAgra indicated its employees would supervise the project. However, lawsuits were filed against Jacobs, and when Jacobs requested contractual indemnity from ConAgra, the request was denied. ConAgra did request Jacobs take reasonable steps to settle the claims and stated that settlements would be without prejudice as to any indemnity claims Jacobs may have against ConAgra. Jacob's suits were settled and Jacobs filed for indemnification.

One aspect of this case focuses on whether Jacobs was a real party in interest. Throughout the trial and appeal, ConAgra argued Jacobs was not a real party in interest and lacked standing to pursue an indemnity claim because Jacobs brought the indemnification suit as a subrogee and not an indemnitee. ConAgra relied on *Jelinek v. Nebraska Nat. Gas Co.*, a subrogation case which held homeowners were not the real party in interest because the homeowners' insurer had been fully subrogated. The trial court found Jacobs was the real party in interest, citing *Krause v. State Farm Mut. Auto. Ins. Co.* for the proposition that when an insurer indemnifies its insured for only part of the loss, the insured retains the right of action for the entire loss. The district court stated Jacobs had the right to bring the action even if its insurers paid part of the settlements.

Under Nebraska law indemnification is available when one party is compelled to pay money which in justice another ought to pay or has agreed to pay. This means the cause of action accrues when the indemnitee pays the judgment arising from underlying damage or loss. ConAgra's answer and amended answer admitted that Jacobs incurred damages. Despite significant procedural and substantive discussion, this judicial admission facially established Jacobs' express indemnity claim had accrued. Jacobs was held to be a real party in interest.

EXAMINATION DIVISION***Pre-Need Examinations Completed During 3rd Quarter, 2018***

Bachelor-Faulkner-Dart-Surber, Inc.
Farmer & Son Funeral Home
Home For Funerals
Jacobsen-Greenway Funeral Home
Kraci Funeral Chapel
McKown Funeral Home
Miller-Levander Funeral Home
Ord Memorial Chapel
Pentico Funeral Home
Pulverente Monument Company
Ramaeker Patrick Funeral Home
Rice Funeral Home
Seger Funeral Home
Solt-Wagner Funeral Home
Svoboda Funeral Home

Financial Examinations Completed During 3rd Quarter, 2018

Knox County Farmers Mutual Insurance Company
Norfolk Mutual Insurance Company

Financial examination reports become public documents once they have been placed on official file by the Department. The most current report of financial examination can now be found on the Department's website at www.doi.nebraska.gov. Copies can be obtained from the Department at a cost of \$.50 per page.



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Department Calendar

- November 12: NDOI Closed—Veterans’ Day Observed
- November 22-23: NDOI Closed—Thanksgiving
- December 25: NDOI Closed—Christmas Day
- January 1: NDOI Closed—New Year’s Day
- January 21: NDOI Closed—Martin Luther King Day Observed