

INSURANCE

Pete Ricketts

Governor

Bruce R. Ramage

Director

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A Message from the Director....

Unclaimed Life Insurance Benefits Act Enacted by Legislature



Bruce R. Ramage
Director of Insurance

A number of legislative bills were passed by the Legislature and approved by the Governor that affect the insurance industry. LB 137, introduced by Senator Brett Lindstrom on behalf of the Department of Insurance, adopts the National Conference of Insurance Legislators model act on unclaimed life insurance benefits.

The new Act requires life insurers to perform, semi-annually, a comparison of its insureds' in-force policies and retained asset accounts against the death master file of the United States Social Security Administration, or similar database, to identify possible matches of insureds. The Act also requires insurers to implement procedures to account for a variety of commonly used but inexact identifiers in the search.

If a potential match is found, the Act requires the insurer to complete a good faith effort to confirm the death of the insured, determine whether or not benefits are due, and if benefits are due, the insurer must complete a good faith effort to locate the beneficiary and provide appropriate claims forms and instructions.

LB 137 does not apply to ERISA plans, pre-need funeral products, credit life or accidental death insurance, and certain annuities used to fund employment-based retirement plans. The legislation also provides discretion to the Director of Insurance to limit the insurer's death master file comparisons to electronic files, to exempt or limit an insurer from the comparison due to a demonstration of hardship, and to phase in compliance with the Act.

Failure to comply with Act is an unfair trade practice in the business of insurance.

The Act becomes operative on January 1, 2018.

LIFE & HEALTH DIVISION

Staff Updates

Lisa Mariscal Johnsen joined the Life and Health Division on June 26 as an Insurance Analyst. She will be reviewing life and health form filings for the division. Lisa's background includes previous insurance experience working with life and annuity products, dental and vision, and insurance compliance-related issues. Lisa lives in Lincoln and has been involved with the insurance industry since 1998.

Welcome to Lisa Mariscal Johnsen who joined the division on June 26 as an insurance analyst.

Corporate Owned Life Insurance (COLI) Filings

The division has developed and published its second quarter rates and forms filing guidance to the Department's website. This quarter's guidance, "Corporate Owned Life Insurance (COLI) - Group Life Form Filing Requirements" can be found on the NDOI website under "Latest News" and also under "Insurers/Health/Filing Guidance".

The division's second quarter filing guidance posted to the NDOI website is "Corporate Owned Life Insurance (COLI) - Group Life Form Filing Requirements"

Any questions concerning the form and rate filing requirements may be directed to Deb Maher at deb.maher@nebraska.gov or at 402-471-4551.

PROPERTY & CASUALTY DIVISION

Rates & Forms Filing Guidance

In fulfilling the division's goal of making Nebraska's filing process as easy and transparent as possible, the division's second quarter guidance document has been developed and posted to the Department's website.

"Homeowners Form and Rate Filing Requirements" can be found on the Department's website under "Latest News" and under Insurers/Property & Casualty Guidelines and Information/Filing Guidance. The division hopes that the quarterly filing guidance postings are beneficial in assisting industry filers.

Guidance to industry filers for Homeowners Form and Rate Filings has been posted to the NDOI website.

Questions on any of the guidance documents may be directed to Connie Van Slyke at connie.vanslyke@nebraska.gov.

PRODUCER LICENSING DIVISION

Continuing Education Requirements

Producers are reminded to complete continuing education requirements prior to their renewal month to give the education provider a reasonable amount of time to upload the education to the producer's transcript.

Producers are reminded to complete their continuing education requirements prior to their renewal month in order to give the education provider a reasonable amount of time to upload the education to the producer's transcript. Education providers have 10 days to upload course rosters.

If these credit hours are not uploaded to the resident producer's record, then the producer will not be allowed to renew the license. If continuing education is completed in the last month of the renewal period, there may not be enough time for the continuing education to show on the producer's transcript and the producer will not be able to renew online.

Reminder to Education Providers

Education providers are reminded that courses do not expire, and should regularly check their information on the SBS website for accuracy.

Education providers are reminded that courses do not expire. As a result, some courses that are no longer offered by the provider may show up on the list of courses available. The provider should regularly check their information on the SBS website for accuracy.

The provider may notify the licensing division to remove any inactive courses by emailing doi.licensing@nebraska.gov. Providers may also update their address, phone number, email, and contact name by typing over the current information via the Provider Summary page on www.statebasedsystems.com.

Producers Need Help?



Frequently Asked Licensing Questions and Answers

Phone: (402) 471-4913

Fax: (402)471-6559

Email: DOI.Licensing@Nebraska.gov

Hours: Monday through Friday, 8:00 a.m. to 5:00 p.m. (CST)

LEGAL DIVISION

Case Summaries***Kroemer v. Omaha Track Equip, 296 Neb. 972***

Kroemer, an employee of Ribbon Weld, LLC (RW), sustained a serious eye injury in a work accident at Omaha Track Equipment, LLC (OTE). RW and OTE are both wholly owned subsidiaries of The Tie Yard of Omaha. RW employees occasionally use OTE shop and tools. The Nebraska Workers' Compensation Court approved a compromise lump sum payment from RW to Kroemer to settle the workers' compensation claim, which included benefits and other expenses.

Following the settlement, Kroemer sued OTE, The Tie Yard, and RW on the grounds of negligence. RW was made a party solely for their statutory subrogation rights under Neb. Rev. Stat. § 48-118. The district court held a settlement and allocation hearing pursuant to Neb. Rev. Stat. § 48-114.04(2) and determined the settlement was reasonable. Though Kroemer's damages may have been as high as \$1.25 million, a possibility existed he may have been more than fifty percent at comparative fault. The district court allocated \$94,834.27 to Kroemer, \$55,165.73 for attorney fees and expenses, and \$0 to RW on the subrogation claim.

RW appealed, arguing the settlement was not fair and reasonable and the allocation of \$0 was not fair and equitable. The Court's test for determining the fairness and reasonableness of a settlement of a third-party claim under the Nebraska Workers' Compensation Act (the Act) is to consider the liability, damages, and ability to satisfy the judgment. While neither the ability to pay nor the damages were in dispute, liability was in question. Though Kroemer had the possibility of a large verdict, the reduced settlement reflected valid concerns of his own comparative negligence. The Court found no abuse of discretion by the district court approving the settlement.

The allocation of the settlement amount is a different matter, specifically the \$94,834.27 allocated to Kroemer. Here, the Court determined the district court did abuse its discretion in denying RW any amount of subrogation. In its analysis, the Court noted the Nebraska statutory workers' compensation scheme rejects both first claim (i.e. the compensator gets reimbursement for its expenditures and the employee gets the rest) and made whole (i.e. employee has been fully and completely compensated) doctrine. Instead, Neb. Rev. Stat. § 48-118.04(02) provides for a fair and equitable distribution of any settlement.

The Court relied on its holding in *Bacon v. DBI/SALA*, 284 Neb. 579, 822 N.W.2d 14 (2012). In *Bacon*, the Court held the purpose of the Act is for the employee to promptly receive workers' compensation benefits from the employer. Statutory subrogation was enacted to provide employers who provide the benefits a measure of relief from third-party tort-feasors.

Next, the Court disapproved a Court of Appeals decision, *In re Estate of Evertson*, 23 Neb. App. 734, 876 N.W.2d 678 (2016). In *Evertson*, an insurer sought a subrogation interest in a \$250,000 settlement from a third-party tort-feasor allocated to a victim's surviving spouse. The Court of Appeals did not overturn the county court's allocation of \$0 to the insurer. Eventually, *Evertson* was overturned by the Supreme Court on other grounds and did not need to address the allocation. Because the district court relied on *Evertson* in making the allocation in the present case,

the Court determined its reasoning was flawed. The Court of Appeal's analysis of payment of premiums for workers' compensation or the comparative risk between an insurance company and employee were not appropriate factors for determining allocation. Nor is the employer's or insurer's participation, or lack thereof, in settlement negotiations. Instead, the Court held that when an employer or insurer holds a sizable subrogation interest, it is not a fair and equitable distribution to award the employer or insurer \$0.

Because the district court allocated \$0 of the settlement to RW, the Court found the district court abused its discretion and the allocation was not fair and equitable. The Nebraska Supreme Court affirmed the settlement, but reversed and remanded to the district court the allocation of \$0 to RW as legally untenable and remanded to the district court to make a fair and equitable distribution of the remaining \$94,834.27.

2017 Legislative Summary

The 105th Legislature, First Session, adjourned for the year on May 23, 2017. Two issues, legislative rules and the budget, dominated the session. Normally, the Legislature will spend a day or so discussing and approving their rules at the beginning of the biennial legislative session—2017 proved an unusual year. Adoption of the permanent rules did not occur until March 17.

Also unusual for a legislative session was the budget. Declining farm revenues have led to declining tax revenue. Despite the acrimony surrounding the rules debate, the Senators moved swiftly early in the session to make the necessary reductions to the existing budget before working on the budget for the biennium beginning July 1, 2017. The debate on the new budget package ended when the Legislature failed to override the Governor's line-item vetoes just prior to adjournment.

In between the rules debate and the final budget debate, the Legislature passed a number of legislative bills. As is the case with every legislative session, the Department of Insurance pursues its own legislative package and tracks other legislation affecting either the insurance industry or the Department itself. Listed below are brief descriptions of legislative bills passed by the Legislature and approved by the Governor affecting the insurance industry.

Information on the Legislature and all legislative bills is located on the Legislature's website, www.nebraskalegislature.com. The website contains a wealth of information on legislative bills, State Senators, the state budget, and the legislative process. When searching for the text of a legislative bill, please be sure to read the 'Slip Law' copy to view the enacted language of the legislation. Unless otherwise noted below, all legislative bills become effective on August 24.

LB 35 (Senator Burke Harr) Change provisions relating to the Nebraska Model Business Corporation Act. LB 35 amends the Nebraska Model Business Corporation Act to enact recent updates approved by the American Bar Association to their model, the basis for Nebraska's model. The Nebraska Model Business Corporation Act became effective on January 1, 2017, and LB 35 is additional clean-up to the Act. To a lesser degree, LB 99 and LB 476 also amended the Act. LB 35 becomes operative on January 1, 2018.

LB 92 (Senator Mark Kolterman) Require health carriers to provide coverage for telehealth services and change telehealth provisions relating to children's behavioral health. Section 1 of the legislation provides that an insurer shall not exclude a service from coverage solely because the service is delivered through telehealth and is not provided through in-person consultation or contact between a licensed health care provider and a patient. Section 1, codified at Neb. Rev. Stat. § 44-7,107, does not apply to specified disease policies or other limited-benefit coverage.

LB 231 (Senator Mark Kolterman) Authorize disciplinary action under the Insurance Producers Licensing Act for failing to maintain a license in good standing. LB 231 was introduced by Senator Kolterman on behalf of the Department of Insurance to provide authority to the Director to sanction a non-resident insurance producer (insurance producers with a Nebraska license but who reside in another state) who fails to maintain their home state license in good standing after receiving their Nebraska license.

LB 239 (Senator Roy Baker) Change provisions relating to trust funds under the Burial Pre-Need Sale Act. Introduced on behalf of the Department of Insurance, LB 239 addresses the distribution of excess income in a pre-need trust. The legislation requires a seller to provide cost of living adjustments to the principal, including missed adjustments from previous years due to underperformance, before the seller can receive income from the trust.

LB 241 (Senator Joni Craighead) Provide an exception to the annual privacy notice requirement under the Privacy of Insurance Consumer Information Act. In 2015, Congress amended the Gramm-Leach-Bliley Act to provide an exception to the annual notice requirement if a company provides personal information non-affiliated third parties only as outlined in law and has not changed its policies disclosed in the most recent disclosure to the consumer. Nebraska's Privacy of Insurance Consumer Information Act closely follows Gramm-Leach-Bliley and the Act was amended, via LB 241, to provide the new exception to the requirement that licensees of the Department are to provide an annual privacy statement. LB 241 relaxes the annual disclosure requirement if the licensee meets the criteria outlined in Gramm-Leach-Bliley.

LB 306 (Senator Brett Lindstrom) Change provisions relating to the coverage scope and notice required under the Portable Electronics Insurance Act. LB 306 amended the Portable Electronics Insurance Act in three ways. First, it changes the definition of "portable electronics" to make the definition broader and more consistent with definitions used by other regulatory bodies. Second, it lowers the amount of time a company has to provide notice of cancellation of a portable electronic policy from 60 days to 30 days. Finally, the legislation provides that disclosure of notice in electronic form shall be provided within thirty days after the purchase of the portable electronic.

LB 406 (Senator Mark Kolterman) Change provisions relating to notices of cancellation, nonrenewal, or nonpayment of premiums for insurance policies. The legislation amends Neb. Rev. Stat. §§ 44-516 (notice of cancellation of an automobile liability policy), 44-522 (notice of cancellation or nonrenewal of a property, marine, or liability policy), and 44-523 (notice of cancellation of an automobile policy for reasons other than nonpayment) to allow notice to be mailed by first-class mail using intelligent mail barcode or another similar tracking method used or approved by the United States Postal Service. This method would be available in addition to registered or certified mail in all circumstances, as well as regular first class mail in § 44-522.

LB 444 (Senator Lynn Walz) Prohibit cities and counties from cancelling health insurance coverage for injured first responders as prescribed and include under the Nebraska Workers' Compensation Act frontline state employees with respect to personal injuries.

LB 444 has two parts. First, it prohibits city and counties who offer individual and family health insurance to first responders from cancelling such coverage for any first responder who suffers serious bodily injury from an assault that occurs while the first responder is on duty and results in the first responder from working the minimum number of hours necessary to maintain coverage. The city or county shall only be obligated to provide such coverage while the first responder is employed with the city or county and the city or county may cancel coverage if the first responder does not return to employment within twelve months of the injury.

Second, LB 444 adds frontline state employees to the group of employees able to claim workers' compensation benefits for mental injuries without an accompanying physical injury. Frontline state employee is defined to include certain prison guards and Department of Health and Human Services employees, as outlined in the legislation. Currently, only first responders are able to claim "mental mental" benefits.

Feel free to contact the Department's Legislative Liaison, Robert Bell, by phone (402) 471-4650 or email robert.bell@nebraska.gov, with any questions regarding legislation or the legislative process.

Regulation Updates

Proposed Amended Regulation

TITLE 210 NEB. ADMIN. R. & REGS. CHAPTER 56 - ANNUAL AUDITED FINANCIAL REPORTS

The proposed amendments revise Chapter 56 by adding an internal audit function requirement on insurers with annual direct written premium and unaffiliated assumed premium of \$500,000,000 or more, and to insurers within a group of insurers when the group has annual direct written premium and unaffiliated assumed premium of \$1,000,000,000 or more. A public hearing on the proposed amendments to Chapter 56 was held on June 13, 2017.

A draft copy of the proposed amended Chapter 56 can be found on the Department's website at doi.nebraska.gov/public-info/rules-regulations.

Actions Taken Against Companies

| CAUSE NO. | ALLEGATION | DISPOSITION |
|--|---|---|
| C-2317 CastlePoint National Insurance Company (California) | Company determined to be in hazardous financial condition. | Order Certificate of Authority Revoked 6/22/2017 |
| C-2308 American Family Mutual Insurance Company (Wisconsin) | Violated <u>Neb. Rev. Stat. § 44-1540</u> (2). Committed unfair claims settlement practice. | Consent Order \$300 fine 6/22/2017 |

Actions Taken Against Producers & Agencies (cont.)

| CAUSE NO. | ALLEGATION | DISPOSITION |
|---|--|---|
| <p>A-2064 Donald Michael Valdez Laguna Niguel, CA</p> | <p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(a), 44-4059(1)(c), and 44-4059(1)(h). Provided incurred or misleading information on license application; violated any insurance law; attempted to obtain a license through fraud; used fraudulent, coercive, or dishonest practices.</p> | <p>Consent Order Producer license revoked 5/16/2017</p> |
| <p>NPN - 1616802</p> | | |
| <p>A-2065 YourPeople, Inc. d/b/a Zenefits FTW Insurance Services San Francisco, CA</p> | <p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4050 and 44-4059(1)(b). Violated any insurance law; sold insurance without being licensed for that specific line.</p> | <p>Order \$5,000 fine 5/2/2017</p> |
| <p>NPN - 17076225</p> | | |
| <p>A-2066 James Keeney Chillicothe, MO</p> | <p>Violated <u>Neb. Rev. Stat.</u> § 44-2634. Consultant's license was suspended, revoked, or placed on probation.</p> | <p>Order \$200 fine 7/3/2017</p> |
| <p>NPN - 17547665</p> | | |
| <p>A-2068 Edson Leondas Miramar, FL</p> | <p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(a), 44-4059(1)(b), 44-4059(1)(h), 44-4059(1)(i), and 44-4065(1). Provided incorrect or misleading information on license application; violated any insurance law; used fraudulent, coercive, or dishonest practices; insurance producer license denied, suspended, or revoked in another state; failed to report.</p> | <p>Consent Order \$200 fine 6/8/2017</p> |
| <p>NPN - 16151242</p> | | |
| <p>A-2069 Patrick T. Higgins Lincoln, NE</p> | <p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(a), 44-4059(1)(b), 44-4059(1)(f), 44-4059(1)(h), and 44-4065(3). Provided incorrect or misleading information on license application; violated any insurance law; convicted of a felony or Class I, II, or III misdemeanor; used fraudulent, coercive, or dishonest practices; failed to report criminal prosecution.</p> | <p>Order Producer license revoked 6/23/2017</p> |
| <p>NPN – 2954746</p> | | |
| <p>A-2070 Diana Wisniewski Kings Park, NY</p> | <p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(b), 44-4059(1)(f), 44-4059(1)(h), and 44-4065(3). Violated any insurance law; convicted of a felony or Class I, II, or III misdemeanor; used fraudulent, coercive, or dishonest practices; failed to report criminal prosecution.</p> | <p>Order Producer license revoked 6/23/2017</p> |
| <p>NPN - 11295353</p> | | |

Actions Taken Against Producers & Agencies (cont.)

| CAUSE NO. | ALLEGATION | DISPOSITION |
|--|--|---|
| <p>A-2071 Scott Newman Sergeant Bluff, IA</p> | <p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(b), 44-4059(1)(h), 44-4059(1)(i), and 44-4065 (1). Violated any insurance law; used fraudulent, coercive, or dishonest practices; insurance producer license denied, suspended, or revoked in another state; failed to report.</p> | <p>Consent Order \$300 fine 6/19/2017</p> |
| <p>NPN - 1896830</p> | | |
| <p>A-2072 Shawn Hegemann Lincoln, NE</p> | <p>Violated <u>Neb. Rev. Stat.</u> §§ 44-1525(11), 44-4059(1)(b), and 44-4065(3). Failed to respond to the Department; violated any insurance law; failed to report administrative action.</p> | <p>Order Producer license revoked 7/5/2017</p> |
| <p>NPN - 16779935</p> | | |
| <p>A-2073 Gina Nista Mayfield Village, OH</p> | <p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(a); 44-4059(1)(b), 44-4059(1)(h), 44-4059(1)(i), and 44-4065(1). Provided misleading or incorrect information on licensing application; violated any insurance law; used fraudulent, coercive, or dishonest practices; insurance producer license denied, suspended, or revoked in another state; failed to report.</p> | <p>Order Producer license revoked 7/7/2017</p> |
| <p>NPN - 8333800</p> | | |
| <p>A-2074 Raymond Sanchez, Jr. Omaha, NE</p> | <p>Violated <u>Neb. Rev. Stat.</u> § 44-4059(1)(f). Convicted of a felony or Class I, II, or III misdemeanor.</p> | <p>Order Producer license revoked 7/5/2017</p> |
| <p>NPN – 8529021</p> | | |
| <p>A-2075 National Brokers of America, Inc and Alan C. Redmond Warren, OH</p> | <p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(b), 44-4059(1)(h), 44-4059(1)(i), and 44-4065 (1). Violated any insurance law; used fraudulent, coercive, or dishonest practices; insurance producer license denied, suspended, or revoked in another state; failed to report.</p> | <p>Consent Order \$500 fine 7/5/2017</p> |
| <p>NPN – 16919340 and 9210093</p> | | |
| <p>A-2076 Diane C. Hitz Columbus, NE</p> | <p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(b), 44-4059(1)(f), 44-4059(1)(h), and 44-4065 (3). Violated any insurance law; convicted of a felony or Class I, II, or III misdemeanor; used fraudulent, coercive, or dishonest practices; failed to report criminal prosecution.</p> | <p>Consent Order Producer license suspended 7/17/2017</p> |
| <p>NPN - 3192937</p> | | |

CONSUMER AFFAIRS DIVISION

Compliance Contact Information

The Consumer Affairs Division has been electronically transmitting consumer complaint information to insurance companies, third-party administrators and agents since 2014. Being able to transmit information electronically saves time and postage, and helps us to achieve our goal of providing effective, efficient service to consumers.

It is essential that we have current compliance contact information, including the name, telephone number and email address of the individual responsible for processing consumer complaints. If compliance contact information changes, please be sure to send updated contact information to **Valarie.Jones@nebraska.gov**.

The Nebraska Unfair Insurance Trade Practices Act requires responses to departmental inquiries within fifteen working days of receipt of the inquiry. To ensure timely handling of each complaint, the designated compliance contact should read an electronically transmitted complaint on the same day it is sent. Companies are also strongly encouraged to speed responses to us by using the “Reply” button in our Securemail message to respond to the complaint.

Before and After the Storm

Department staff recently visited some of the areas of Nebraska that have been affected by storm activity. They assisted Nebraskans by answering questions and providing information regarding their storm-related damages. Tips and guidance information can be found in brochures and consumer alerts on the Department’s website, some of which include:

Before the Storm—Don’t Wait Until It’s Too Late

doi.nebraska.gov/sites/doi.nebraska.gov/files/doc/BeforeTheStorm-Don%27tWaitUntilItsTooLate_0.pdf

After the Storm—The Disaster Claims Process

doi.nebraska.gov/sites/doi.nebraska.gov/files/doc/out16291.pdf

Do I Have Hail Damage on my Roof?

doi.nebraska.gov/sites/doi.nebraska.gov/files/doc/out01121.pdf

Nebraska Insurance Homeowners Protection Act

doi.nebraska.gov/sites/doi.nebraska.gov/files/doc/NEInsuredHomeownersProtectionAct_0.pdf

Post-Loss Assignments of Claims

doi.nebraska.gov/alert/consumer-alert-post-loss-assignments-claims

Basic Home Insurance Does Not Cover Flood Damage

doi.nebraska.gov/alert/basic-home-insurance-does-not-cover-flood-damagewhat-you-need-know-flood-waters-rise

Making the Claims Process Easier When Faced With a Loss

doi.nebraska.gov/alert/making-claims-process-easier-when-faced-loss

Home Inventory Checklist

doi.nebraska.gov/sites/doi.nebraska.gov/files/doc/home-inventory-checklist.pdf

iPhone Home Inventory App—Quick User’s Guide for application for iPhone or Android

insureuonline.org/myhome_scrappbook_guide_both.pdf

Insurance-related questions or concerns may be directed to the Department’s toll-free consumer hotline at 1-877-564-7323 or by visiting the website at **doi.nebraska.gov**.

FRAUD DIVISION***Attempts to Fraudulently Disburse Funds From Annuity Contracts Reported***

The Insurance Fraud Prevention Division (IFPD) has recently received information from an insurer licensed in Nebraska that several attempts have been made to disburse funds from annuity contracts held by Nebraskans. It has been found that the annuity owners were not aware of the attempts. Security measures put into place by the insurer were able to stop the transactions.

According to the insurer, the person or persons responsible were in possession of personal information, including specific contract numbers, as well as social security numbers associated with the account.

Criminals may have accessed personal information through a variety of means and the investigation is ongoing.

Insurers and consumers should be aware of this ongoing criminal activity and take measures to safeguard their security.

If you have suspected fraud to report, please contact the Insurance Fraud Prevention Division (IFPD) at the Nebraska Department of Insurance at 402-471-2201 or email our investigators at **DOI.FraudPrevention@nebraska.gov**. Additional information on insurance fraud is available on our website at **www.ReportInsuranceFraud.ne.gov**.

Self-Insured Entities May Be a Target for Health Care Fraud

Mayra De Lourdes Zeno reinstated her Nebraska medical license just prior to filing articles of incorporation to open Good Hands Clinic, PC. The listed purpose for this corporation's business was to "engage in general medicine providing professional treatments and alike services." The real purpose appears to be somewhat different.

On January 19, 2017, Dr. Zeno was indicted in United States District Court and charged with fraudulently submitting claims to third party administrators (TPAs) handling health insurance claims for self-insured entities located in Nebraska. The indictment accused Dr. Zeno of receiving \$448,772.64 for services that she failed to provide.

This investigation was initiated upon information received by the Insurance Fraud Prevention Division and quickly became a joint investigation with federal authorities and ultimately led to Dr. Zeno's indictment.

Court Actions

Douglas County Court, Case CR16-2015

State v. Cindy S. Tock

Cindy Tock was working in an Omaha physician's office when she devised a scheme to defraud the provider. Ms. Tock found an opportunity and provided fraudulent workers' compensation impairment ratings, which resulted in payments being issued to the physician. Thousands of dollars in payments to the physician, from several insurance companies, were diverted by Ms. Tock. The effects of the fraudulent impairment ratings resulted in numerous cases of insurance fraud due to the ratings being used to determine the claimant's level of disability. As one would expect, there were cases of overpayment and underpayment in the handling of the workers' compensation claims. There were also expenses related to reviewing the individual workers' compensation claims affected by the fraudulent impairment ratings. Pursuant to an amended complaint, Ms. Tock pled no contest to felony counts of theft by deception and fraudulent insurance act. Ms. Tock's sentence included four years' probation plus associated costs and \$12,750 in restitution to the physician. Ms. Tock must also serve 180 days in jail unless waived by the court.

Douglas County District Court, Cases CR15-3002 and CR15-3003

State v. Raymond A. Sanchez, Jr.

Raymond A. Sanchez Jr. was a licensed insurance agent when it was discovered he was diverting client funds meant to be invested in annuity products. One client issued a \$4,250 check to Mr. Sanchez to be deposited into their annuity. A second client invested \$40,200 through a series of checks from her personal account. The Insurance Fraud Prevention Division's (IFPD) investigation found Mr. Sanchez was diverting the money for personal use. Mr. Sanchez pled no contest to two Class III felony counts of theft by deception. Mr. Sanchez was ordered to serve five years' probation and pay \$44,450 in restitution to the two elderly victims.

Douglas County District Court, Case CR16-807

State v. Tamra K. Rutherford

Tamra Rutherford was working in an Omaha insurance company's claims center where she held a supplemental cancer policy pursuant to her employment. During a claim audit, the insurance company found that Ms. Rutherford submitted false documents to collect benefits under her supplemental cancer policy. Ms. Rutherford was charged in Douglas County with one felony count of theft by deception, a Class III felony. On May 26, 2016, Ms. Rutherford was accepted into Douglas County's diversion program.

Douglas County District Court, Case CR16-3280

State v. Brittany C. Ouellette

Brittany Ouellette was arrested pursuant to an investigation conducted by the Omaha Police Department. Ms. Ouellette was working for an Omaha insurance agency when she accessed clients' personal information, including credit card numbers. It was found Ms. Ouellette used the credit cards to make purchases. Ms. Ouellette was charged with felony criminal possession of a financial transaction device. Ms. Ouellette pled no contest to an amended charge and was sentenced to two years' probation and associated costs.

Douglas County District Court, Case CR17-1064**State v. Scott K. Perry**

Fortunately for Scott Perry, he purchased his auto liability policy prior to striking a 2009 Honda later in the day. Although somewhat suspicious, after the insurance company reviewed the accident report, they covered the accident resulting in a \$9,944.08 loss. Days later, Omaha police officers responded to a parking complaint involving the 2009 Honda that Mr. Perry struck. The officers were contacted by a witness who had observed the accident. The witness comments aroused the officers' suspicions and they reviewed the accident report. The officers noticed the accident report did not correspond with the witness statements. The officers contacted the Insurance Fraud Prevention Division (IFPD) with their concerns. The IFPD's investigation resulted in a felony warrant being issued for Mr. Perry for insurance fraud.

Lancaster County Court, Case CR17-121**State v. Stuart L. Snyder**

Stuart Snyder was charged in Lancaster County with one Class III felony count of insurance fraud. Mr. Snyder was accused of binding coverage on his enclosed trailer after a significant hailstorm passed through Lancaster County. The storm caused substantial damage to his trailer. Mr. Snyder quickly bound coverage for the trailer over the telephone and later submitted a claim for storm-related damage alleging insurance coverage was bound prior to the loss. The insurance company's potential loss exceeded \$10,000. The IFPD's investigation proved otherwise. Charges were subsequently amended to a Class I misdemeanor, to which Mr. Snyder pled guilty. On April 25, 2017, Mr. Snyder was fined \$750 plus court costs.

Platte County Court, Case CR17-19**State v. Chad C. Dallman**

Chad Dallman was charged in Platte County with one felony count of attempted insurance fraud. Mr. Dallman was accepted into Platte County's adult diversion program.

Sarpy County District Court, Case CR16-630**State v. Kuuleilani Zalopany**

Kuuleilani Zalopany contacted the Sarpy County Sheriff's Office to report the theft of jewelry prior to contacting her insurance company to file a claim. After paying the claim, the insurance company received a tip that a portion of Ms. Zalopany's claim was fraudulent. An investigation by the IFPD revealed that Ms. Zalopany submitted fraudulent documentation pursuant to her claim. Ms. Zalopany pled no contest to an amended charge of insurance fraud, a Class I misdemeanor, and was sentenced to 12 months' probation plus court costs.

EXAMINATION DIVISION***Financial Examinations Completed During Second Quarter, 2017***

American Family Life Assurance Company
American Republic Corp Insurance Company
Censtat Casualty Company
Central States Health & Life Company of Omaha
Clay County Mutual Insurance Company
Coventry Health Care of Nebraska, Inc.
First American Title Insurance Company
FirstComp Insurance Company
Globe Life Insurance Company
Good Samaritan Insurance Plan of Nebraska, Inc.
Liberty National Insurance Company
Magellan Behavioral Health of Nebraska
Magellan Complete Care of Nebraska
Medico Corp Life Insurance Company
Medico Insurance Company
Republican Valley Mutual Protective Association
United American Insurance Company

Pre-Need Examinations Completed During Second Quarter, 2017

Peters Funeral Home, Inc.
Westlawn – Hillcrest Cemetery & Funeral Home

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** *

- September 4: Department Closed – Labor Day
- October 9: Department Closed - Columbus Day Observed
- November 10: Department Closed - Veterans’ Day Observed

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