NEBRASKA DEPARTMENT OF

HSURANCE

Pete Ricketts

Governor

Bruce R. Ramge

Director

Inside:

Producer Licensing 2

- Motor Club Line of Authority
- Education Course Clean-Up
- Continuing Education Requirements
- Change of Address Reminder

LIFE & HEALTH 4

- ACA Listening Sessions
- Social Media Presence
- Filing Guidance
- Med Supp Comparison Guide
- Prompt Payment Compliance

Property & Casualty 6

• Form & Rates Filing Requirements

LEGAL DIVISION 6

- Regulation Updates
- NECHIP Proposed Rate Adjustment
- Producer/Company Actions
- Case Summaries

CONSUMER AFFAIRS 10

- Compliance With Chapter 60
- Identity Theft
- Buying a Used Car? Get the Facts

Fraud 11

- Insurance Fraud-Everyone Pays
- Confronting Insurance Fraud

Examination Division 12

- Financial Exams Completed
- Pre-Need Exams Completed
- OPTins for Premium Tax Filings

Department Calendar Back

Message from the Director....

Nebraskans Benefit From Use of Life Insurance Policy Locator Tool



Bruce R. Ramge

Last November, the National Association of Insurance Commissioners (NAIC) developed a

<u>Life Insurance Policy Locator</u> that provides nationwide search capabilities to help find a deceased person's life insurance policies and annuities. Since its national launch, the policy locator has generated more than 15,333 requests.

The most recent generated report shows that Nebraskans have had a total of more than \$723,502 returned to them. Some of the requests and benefits include: a claim for \$95,000 initiated under a policy issued to a decedent who died in 2004; a \$50,000 claim submitted by an ex-wife (with dependents) under a policy issued to someone who died in 2011; and a \$20,000 claim initiated under a group life policy issued to someone who died in 1998. I expect these numbers to continue to grow as more individuals learn about this tool.

Individuals who believe they are beneficiaries, executors or legal representatives of a deceased person may use the tool to submit a search request form. The NAIC provides this service free to consumers. Insurance companies should not assess a fee to consumers to conduct any search of their records.

Requests from individuals are encrypted and secured to maintain confidentiality. Participating insurance companies will compare submitted requests with available policyholder information and report all matches to state insurance departments through the locator. Companies will then contact beneficiaries or their authorized representatives.



PRODUCER LICENSING DIVISION

Motor Club Line of Authority Replaced

Effective September 13, 2017, the Department began replacing the current Motor Club line of authority on the producer license with a new Motor Club Representative license type. The new license type comes with a change in fees, renewals, and forms.

The initial license fee will change from \$50.00 to \$5.00. There will no longer be a fee to renew the license.

The new Motor Club Representative license will be perpetual and will not need to be renewed by the licensee. One active appointment must be maintained in order for the license to remain active. If the Motor Club Representative license does not have an active appointment after thirty (30) days, its status will then change to inactive.

A new Motor Club Representative Registration Form will be used for applying for the new license type. This two-page form is shorter than the uniform application and should be used when applying for the Motor Club Representative license only.

If the applicant is applying for another line in addition to the Motor Club Representative License, the uniform application must be submitted and should include all lines for which the applicant is applying. <u>Forms</u> are available on the Department's website or by applying online at <u>NIPR</u>.

All licensees with an active motor club line of authority have been given the new Motor Club Representative license type, and staff are working on moving the appointments to the new license.

The old motor club line of authority has been removed from all active producer licenses effective September 13, 2017.

If you have any questions please contact Kevin Schlautman, Producer Licensing Administrator, at (402) 471-2201 or email kevin.schlautman@nebraska.gov.

All licensees with an active motor club line of authority have been given the new Motor Club Representative license type.

The initial license will change from \$50.00 to \$5.00 and there will no longer be a fee to renew the license.

The old motor club line of authority was removed from all active producer licenses effective September 13.



Within the next thirty (30) days, all education course providers are urged to review their active course listings and email any courses no

longer being offered.

Producers will not be allowed to renew their license until the transcripts are uploaded to the producer's record.

Every person licensed under the Insurance Producer Licensing Act is required to notify the Department within thirty days of any change of residential or business address.

Education Providers Urged to Review Provider Summary Page in State Based Systems

Approved Continuing Education and Pre-licensing Courses remain active in our database until the provider contacts us to have them deactivated. All education course providers are urged to log on to their Provider Summary Page in State Based Systems and review both their contact information and their list of approved courses.

Within the next thirty (30) days, please review your active course listing and send an email to doi.licensing@nebraska.gov listing any courses that are no longer being offered.

Continuing Education Requirements

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 continuing education transcripts.

Producers will not be allowed to renew their license until the transcripts are uploaded to the producer's record. Late renewal fees are assessed on any renewals that are received after the license has expired.

Change of Address Reminder

Every person licensed under the Insurance Producer Licensing Act is required to notify the Department within thirty days of any change of his/her residential or business address.

Any person failing to provide such notification will be subject to a fine by the Director of not more than five hundred dollars per violation, suspension of the person's license until the change of address is reported to the Department, or both.

A licensee may change either a home or business address online at **nipr.com** or you may submit a **DOI-9110 Request Form** to the Licensing department.



LIFE & HEALTH DIVISION

ACA Listening Sessions

The Department has been holding listening sessions across the state during October to hear concerns and answer questions about the Affordable Care Act and health insurance. They are also discussing property and casualty topics that may be of interest to individuals. Free continuing education credit will be given to insurance producers and brokers who attend the sessions. A few October/November sessions remain. Additional sessions will soon be added for southeast Nebraska:

October 31 - 5:00pm-7:00pm - Norfolk, NE

Divots Conference Center, 4200 W. Norfolk Ave., The Dakota Room

November 1 - 5:00pm-7:00pm - Columbus, NE

Columbus Public Library, 2504 14th Street

November 2 - 10:00am-12:00pm - Fremont, NE

Keene Memorial Library, 1030 N. Broad Street, East Annex Building

November 7 - 6:00pm-8:00pm - Lincoln, NE

Walt Branch Library, 6701 South 14th Street, Meeting Room 1

November 8 - 6:00pm-8:00pm - Omaha, NE

Omaha South Library, 2808 Q Street, Meeting Room A

Social Media Presence

The health division now has social presence on Facebook, Twitter and Instagram and welcomes Nebraskans to follow us for the latest updates on health issues. The following social media sites will also announce upcoming events and will serve as a way for Nebraskans to interact with the Department's health team.

Facebook: @NDOIHealth

https://www.facebook.com/NDOIHealth/

Instagram:@ndoihealthdivision

https://www.instagram.com/ndoihealthdivision/

Twitter: @NDOIHealth

https://twitter.com/NDOIHealth

Information is also posted to the Department's website. Please visit the <u>Department's website</u> and click on Get Update Notices found in the lower right-hand side of the page to be notified when documents are posted to the website.



Filing guidance for Group Annuity Form Filing Requirements Including Guaranteed Investment Contracts has been created and posted to

the Department's website.

Medicare Supplement Comparison Guide information is no longer being collected in SERFF with the annual rate filings.

An insurer is considered, "exempt" from this requirement during a calendar year if it has filed a valid prompt payment act compliance statement with the Department by December 1, 2017.

Filing Guidance

The division has developed and posted its third quarter filing guidance to the Department's website. This quarter's guidance, "Group Annuity Form Filing Requirements Including Guaranteed Investment Contracts," and all other guidance documents can be found at doi.nebraska.gov under Latest News and also under Insurers/Health/Filing Guidance.

Questions concerning the filing guidance may be directed to Deb Maher at **deb.maher@nebraska.gov** or by calling her at 402-471-4551.

Medicare Supplement Comparison Guide

In the past, the division has asked companies that offer Medicare Supplement policies to complete a "Medicare Supplement Comparison Guide Survey." The division is no longer collecting this information in SERFF with the annual rate filings.

The Nebraska Senior Health Insurance Information Program (SHIIP) assembles a similar Medicare Supplement rate comparison guide for consumers in Lancaster County. SHIIP can also compile the comparison for other counties, as well, if requested.

Prompt Payment Compliance Statements Due

Under the Health Care Prompt Payment Act, Nebraska Revised Statutes §§ 44-8001 through 44-8010, insurers must pay interest on clean claims at the rate of 12% per annum, that are not paid within the time limits set forth under the Nebraska law.

An insurer is considered, "exempt" from this requirement during a calendar year if the insurer has filed a valid prompt payment act compliance statement with the Nebraska Department of Insurance by December 1, 2017. If a company wants to obtain this exemption, the filing in SERFF must be submitted by this date or it will not be accepted.



PROPERTY & CASUALTY DIVISION

Form & Rate Filing Requirements

The division's third quarter guidance document, "Professional Liability (not including medical malpractice) Form and Rate Filing Requirements" has been developed and posted to the Department's website. The division's guidance documents can be found at 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.

LEGAL DIVISION

Regulation Updates

Amended Company Bulletin

CB-22 (AMENDED) - TITLE INSURANCE COMPANIES, MORTGAGE POLICIES, FEES

<u>CB-22 (Amended)</u> was issued to provide guidance on requirements for all commitments and/or policies issued in Nebraska. The bulletin was amended on October 2, 2017 with the directive that all companies notify their agents of the bulletin to ensure compliance. The bulletin is on the Department's website at doi.nebraska.gov/sites/doi.nebraska.gov/files/doc/cb026.pdf.

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 Thursday, November 9, 2017, at 11:00 a.m., at the Department of Insurance, Fifth Floor Conference Room, Terminal Building, 941 O Street, 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
A-2077 Cookie Robinson Omaha, NE NPN – 18388644	Hearing requested for reconsideration of denial of application for resident producer license.	Order Denial Upheld 9/8/2017
A-2079 Gerald Tagge Omaha, NE NPN – 259405	Violated Neb. Rev. Stat. §§ 44-317, 44-4059(1) (b), 44-4059(1)(h), and 44-4065(1). Obtained a loan from an insurance client; violated any insurance law; used fraudulent, coercive, or dishonest practices; failed to report any administrative action.	Consent Order \$3,000 fine 8/24/2017
A-2080 Nathaniel Edie Omaha, NE NPN - 17895220	Violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(h) and 44-4065(1). Violated any insurance law; used fraudulent, coercive, or dishonest practices; failed to report administrative action.	Consent Order \$1,000 fine 9/5/2017
A-2081 <i>Dierk D. Dorsey</i> Omaha, NE NPN – 234361	Violated Neb. Rev. Stat. §§ 44-1524, 44-1525 (11), 44-1529, 44-4054(8), 44-4059(1)(b), 44-4059(1)(d), 44-4059(1)(g), 44-4059(1)(h) and 44-4065(3). Committed an Unfair Trade Practice; failed to update address with the Department; violated any insurance law; used fraudulent, coercive, or dishonest practices; failed to report criminal action.	Consent Order Producer License Revoked 8/28/2017
A-2082 David P. Anderson Green Bay, WI NPN - 234158	Violated Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(e), 44-4059(1)(g), 44-4059(1)(h), 44-4059(1)(i), and 44-4065(1). Violated any insurance law; misrepresented terms of insurance application or contract; committed an unfair trade practice; used fraudulent, coercive, or dishonest practices; licensed revoked or suspended in another state; failed to report administrative action.	Consent Order Producer License Revoked 8/11/2017



Actions Taken Against Companies

CAUSE NO.	ALLEGATION	DISPOSITION
C-2321 Alan Gray, Inc. (Massachusetts)	Violated Neb. Rev. Stat. § 44-5814(1) and 44-5814 (3). Failed to file the required annual report; failed to pay \$200 filing fee.	Order Certificate of Authority Suspended 8/24/2017
C-2323 Homeland Healthcare, Inc. (Delaware)	Violated Neb. Rev. Stat. § 44-5814(1) and 44-5814 (3). Failed to file the required annual report; failed to pay \$200 filing fee.	Order Certificate of Authority Suspended 8/24/2017

Case Summaries

Barnes v. American Standard Ins. Co. of Wis., 297 Neb. 331 (July 28, 2017) and Greenwood v. J.J. Hooligan's, 297 Neb. 435 (August 4, 2017)

The Nebraska Supreme Court issued opinions for two cases related to notice and the cancellation of policies for nonpayment of premium which may be of particular interest to property and casualty insurers, workers' compensation insurers, and other interested parties. *Barnes v. American Standard Ins. Co. of Wis.* involved a cancellation of an automobile policy. *Greenwood v. J.J. Hooligan's*, involved a cancellation of a workers' compensation policy.

In *Barnes*, American Standard claimed to have cancelled Barnes' motorcycle and underinsured motorist policy effective October 1, 2013. Barnes was riding his motorcycle and was injured by an underinsured motorist on October 10, 2013, and claimed to have no knowledge of the cancellation. American Standard, at summary judgment, submitted evidence that it sent Barnes a notice of cancellation for nonpayment of premium on September 18, 2013, via certified mail. The evidence included postal service Form 3877 that included Barnes' name, city, zip, and tracking number but did not include his address and did not have the certified mail box checked.

The district court, while noting issues with the Form 3877, utilized corroborating habit and other evidence in granting American Standard summary judgment. The Supreme Court reversed and remanded the case to a jury, as requested by Barnes, for a determination on the question of whether American Standard sent the required notice by either registered or certified mail, as required by Neb. Rev. Stat. § 44-516(1).



In its opinion, the Supreme Court noted that the burden to prove proper notice is on the insurer. The Supreme Court distinguished tax cases where errors on a Form 3877 may be overcome at trial with evidence of corroborating habit from insurance cases where direct evidence of certified mailing is needed. In adopting § 44-516(1), the Court notes that the Legislature did not require proof that the insured received the notification, but that it did carefully require registered or certified mailing by the insurer. The Court declined to further reduce the insurer's burden by allowing summary judgment when no direct evidence of registered or certified mailing exists.

Applying this rule to the Barnes controversy, the Supreme Court determined American Standard's flawed Form 3877, corroborating habit evidence and certified mailing tracking number, did not establish directly that American Standard had properly notified Barnes as required by § 44-516 and remanded the case. The Supreme Court did note that the Legislature amended § 44-516 in 2017, but that new language was not effective during the underlying events at issue in the case.

The Nebraska Supreme Court continued on its theme of requiring direct evidence of mailing for cancellation in *Greenwood*. Greenwood was injured in the course of her employment at J.J. Hooligan's on January 14, 2012. FirstComp, J.J. Hooligan's workers' compensation insurer, claimed that on November 2, 2011, it sent a notice of cancellation to J.J. Hooligan's for nonpayment of premium via an electronic certified mailing system through the postal service. At a hearing before the workers' compensation court, FirstComp provided evidence of a certified mailing number generated by an electronic certified mailing system, evidence of notification of cancellation it sent to the Workers' Compensation Court, an affidavit from a FirstComp employee with knowledge of the procedures of cancellation, and an affidavit from another employee with first hand knowledge that the notice had been sent. The workers' compensation court dismissed FirstComp from the lawsuit and Greenwood appealed.

The Nebraska Supreme Court reversed and remanded the case to the workers' compensation court for further proceedings. The workers' compensation insurance policy cancellation statute, § 48-144.03 requires the cancellation notice to be sent by certified mail. Citing *Barnes*, the Supreme Court again placed the burden of proving effective cancellation on the insurer.

Such a burden may be met by direct proof of actual deposit with an authorized postal service official or depository, or in the alternative, proof of a course of practice where the mail ends up in a regular U.S. mail depository. In reviewing the evidence presented, the Supreme Court determined the FirstComp employee did not testify that she had delivered the notice of cancellation to either a postal official or depository. Further, citing *Barnes*, it stated that a mere tracking number alone was not sufficient without a more detailed description of how the electronic system which sent the certified mail actually worked.

While remanding the case for further proceedings, the Supreme Court did state that testimony on how an electronic mailing system produces notices of cancellations and sends them by certified mail would provide proof the notice was sent in compliance with § 48-144.03.



CONSUMER AFFAIRS DIVISION

Compliance With Chapter 60

In reviewing consumer complaints against property & casualty insurance companies, the division has identified claims settlement practices that are not in compliance with our administrative code. Adjusters, including independent adjusters, sometimes fail to provide written denials, periodic claim updates, or contact information for the Department of Insurance.

Nebraska's <u>Unfair Property and Casualty Settlement Practices Rule</u>, 210 NAC 60-008, sets forth standards for prompt, fair and equitable settlements applicable to all property and casualty insurers. Claimants are to be advised of the acceptance or denial of a claim within fifteen working days after receipt of a properly executed proof of loss. If a claim is denied, the denial must be given to the claimant in writing and must include reference to the specific policy provision, condition, or exclusion upon which the denial is based.

If an insurer needs more time to determine whether a claim should be accepted or denied, it must notify the claimant within fifteen working days of receipt of proof of loss. If the investigation remains incomplete, the insurer is required to send a letter, thirty days from the initial notice and every thirty days thereafter, setting forth the reasons additional time is needed.

If an insurer denies all or a portion of a claim, and the claimant objects to the denial, the insurer must notify the claimant in writing that he or she may have the matter reviewed by the Department of Insurance. An insurer is responsible for compliance with Chapter 60 requirements, even in situations where it is utilizing independent adjusters to administer claims.

Identify Theft

Big data is big business. It can also lead to bigger headaches when large-scale breaches expose personal information. Large companies including insurers and credit bureaus have been the victims of cyber thieves who accessed private customer information. Most recently, it has been reported that the Equifax breach could affect 143 million Americans.

Affected individuals can help protect themselves with identity theft insurance—or by using safeguards provided by the impacted company. To assist individuals in protecting themselves in the wake of breaches, hacks and cyber stalkers, a <u>consumer alert</u> was issued by the National Association of Insurance Commissioners and the Nebraska Department of Insurance.

A full copy of the consumer alert can be found on the Department's website at doi.nebraska.gov/sites/doi.nebraska.gov/files/doc/ConsumerAlertIdentityTheft.pdf.



Buying a Used Car? Get the Facts Before You Act

Beware of flood-damaged vehicles pouring into the market. Individuals looking for a used car should take extra caution before making an investment. Following recent hurricanes, thousands of submerged vehicles have been abandoned and may be shipped to other parts of the country through car wholesalers. There are numerous reports of flood-damaged vehicles originating from the Gulf Coast states being distributed across the country into markets of unsuspecting consumers.

While a car may look perfectly fine on the surface, there could be hidden defects. Flood damage can compromise a car's computer and safety mechanisms, which pose significant safety hazards. In a <u>consumer alert</u> issued by the Department on October 12, individuals are given tips on buying used cars and alerted that an insurance company may not insure or fully insure a vehicle previously determined a total loss.

A full copy of the consumer alert can be found on the Department's website at doi.nebraska.gov/sites/doi.nebraska.gov/files/doc/ConsumerAlertBuyingUsedCarsAfterFlood.pdf.

FRAUD DIVISION

Insurance Fraud—Everyone Pays

Education is the key to insurance fraud prevention. Consumers need to understand the costs associated with insurance fraud and the impact these costs have on their insurance premiums.

Consumers and insurers are being encouraged to report suspected fraudulent activity in attempting to prevent some of this ongoing activity. Organized criminal activity has found avenues of enrichment that can only be impacted by an alert consumer base reporting suspicious activity. The Insurance Fraud Prevention Division will often put out consumer and industry alerts based upon information that is received within the division.

Director Ramge has recently approved an anti-fraud campaign to inform Nebraskans of the impact of insurance fraud and encourage reporting suspicious activity. The Insurance Fraud Prevention Division will be putting out anti-fraud messaging utilizing the Nebraska's Public Media Stations (NET). More than one million Nebraskans statewide watch the three NET television channels each week.

The Coalition Against Insurance Fraud has assisted the division in providing video pods portraying an anti-fraud message for Nebraskans.



Knowing the Indicators Helps Confront Insurance Fraud

Marco was recently released from prison and decided to get his life together. Within a few months of getting out, Marco got a job and decided to purchase a renter's policy should he face an unforeseen tragedy. Unfortunately, tragedy struck and Marco found himself the victim of a substantial burglary. Although he had only been out of jail for a few months, he had acquired thousands of dollars in personal assets.

An alert claims handler noted several "fraud indicators" in Marco's claim; however, the insurance company made a quick decision to compensate Marco for his loss. With very little documentation provided, Marco received a claim settlement for over \$45,000. Shortly thereafter, Marco's policy cancelled for non-payment of premiums.

Marco may have been dissatisfied with his claim settlement because within a few months he purchased a renter's policy with a different carrier. Misfortune once again struck and Marco found himself the victim of a second burglary within months of the first. Again, he lost thousands of dollars in personal property—in fact, nearly double what he filed in the first claim. In this claim, the insurer requested additional proof of loss and conducted an interview with Marco. Apparently not wanting to be inconvenienced after his already traumatic experience, Marco decided not to pursue this claim.

The mission of the Insurance Fraud Prevention Division is to confront the problem of insurance fraud by prevention, investigation, and prosecution of fraudulent insurance acts in an effort to reduce the amount of premium dollars used to pay fraudulent claims. The costs of insurance fraud are passed onto policyholders.

Report insurance fraud by completing the form located on the Department's website at www.doi.nebraska.gov, by emailing doi.fraudprevention@nebraska.gov, or by calling the fraud division at 402-471-2201.

EXAMINATION DIVISION

Financial Examinations Completed During 3rd Quarter, 2017

League Association of Risk Management

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.



Pre-Need Examinations Completed During 3rd Quarter, 2017

Bullock-Long Funeral Home (Affidavit in Lieu of Exam)
Jolliffe Funeral Home (Affidavit in Lieu of Exam)
Minnick Funeral Service, Inc. (Affidavit in Lieu of Exam)
Nelson-Bauer Funeral Homes (Affidavit in Lieu of Exam)
Snider Memorial Funeral Home Affidavit in Lieu of Exam)
St John's Cemetery Association of Omaha

OPTins for 2017 Premium Tax Filings is Encouraged

OPTins is your electronic filing solution in Nebraska and many other states. Once you are registered to use OPTins, you can automatically file in all participating jurisdictions. OPTins provides you with the required state-specific tax forms and seamless electronic payment submission.

HOW Do I Get Started?

- Visit www.optins.org and click on "New Users: Getting Started" for the licensing paperwork.
- You can also contact the OPTins Marketing and Implementation team to learn more about OPTins.

Marketing and Implementation: optinsmktg@naic.org | 816-783-8787

WHY OPTins?

- Fees, forms and data are submitted simultaneously and securely.
- Filers can choose from ACH Debit or ACH Credit.
- With ACH Debit, the filing is available to the state the same day!
- OPTins stores your filing electronically so you can easily review as needed.
- Once implemented, you can file to any jurisdiction that accepts filings through OPTins.

For more state information and filing deadlines, visit **www.optins.org**. Questions may also be directed to Kristy Hadden at 402-471-2201 or via email at **kristy.hadden@nebraska.gov**.







Department Calendar

November 10: NDOI Closed-Veterans' Day Observed

November 23-24: NDOI Closed—Thanksgiving

December 25: NDOI Closed—Christmas Day

January 1: NDOI Closed—New Year's Day

January 15: NDOI Closed—Martin Luther King Day Observed