

# INSURANCE

**Pete Ricketts**

*Governor*

**Bruce R. Ramge**

*Director*

*Message from the Director....*

## **Passage of LB 774 Results In Several Changes**



Bruce R. Ramge  
Director of Insurance

LB 774 has four separate, diverse components. The bill that was passed on unanimous vote of the Legislature on July 31, 2020, was approved by the Governor on August 6, 2020. Except for the third section of the bill, it becomes effective November 13, 2020. The third section of the bill becomes operative on January 1, 2021.

The first portion of the bill, which was brought on behalf of the Department of Insurance, amends the existing law outlining how and when an insurance company can receive credit for reinsurance policies it has secured. The revisions are based on similar revisions to the NAIC model law which, in turn, was created to bring the model into compliance with a pair of international agreements the United States entered into with the European Union and the United Kingdom. The revisions outline a new group of requirements that certain reinsurers may opt to comply with in order for cessions to them to be granted reinsurance credit.

The second portion of the bill restricts medical facilities from advertising or holding themselves out as network providers, including any statement that the facilities accept any particular health insurance, unless the facilities are approved network providers by the health insurer. The aim of this part of the bill is to eliminate the confusion that a patient may experience when trying to determine if a medical provider qualifies as an “in network” provider under the patient’s insurance plan.

The third section of bill deals specifically with dentists. It requires at least one payment method from insurers other than via credit card. It also allows dentists to opt out of the leasing of an insurer’s provider network.

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The final section updates the current law on motor vehicle service contracts to make it more representative with both the NAIC model and the laws in a majority of the states. It does so by: (i) authorizing an insurer to reimburse a provider that issued the service contract for covered services rendered by the provider under the terms of the contract; or (ii) requiring the insurer to be responsible for payment of covered services on the provider's behalf if the provider that issued the contract fails to perform such covered services. The bill also allows a policyholder to file a claim directly with the insurance company issuing the policy if the provider that issued the contract does not provide a covered service within sixty days.

## LEGAL DIVISION

### ***Legislation Updates***

#### **LB 760**

LB 760 amends Neb. Rev. Stat. 44-7,107 and prohibits the exclusion of telehealth services provided by dermatologist solely because the service is delivered asynchronously. The new law requires that an insurer shall reimburse at a rate for this service at a rate negotiated between the provider and insurer. The insurer may include co-payment, deductible or coinsurance requirements so long as those costs do not exceed those included for the same services through in-person contact. If the service is not medically necessary, the insurer is not required to cover the services.

#### **LB 997**

LB 997 creates the Out-of-Network Emergency Medical Care Act, which is intended to limit the amount a medical provider may charge to persons with health insurance coverage for emergency medical treatment. In essence, the covered individual is to be charged at in-network rates for the emergency service provided, regardless of whether or not the provider is in-network under the individual's health insurance plan. The bill was approved by Governor Ricketts on July 24, 2020, with an effective date of January 1, 2021.

#### **LB 1183**

LB 1183 creates the "Population Health Information Act" which designates a health information exchange to provide the data infrastructure needed to assist in the operation of the electronic health records initiative. The health exchange shall aggregate the clinical information from health care entities under Medicaid, act as the entity for purposes to access and analysis of health data, collect and analyze data to help inform DHHS, the Legislature, providers and other entities as to the cost, access and quality of care in Nebraska, collect and report public health data (not including claim data) and enable any provider or entity to access information available within the exchange and monitor care treatment in accordance with HIPAA. Under the definitions of this act, a health insurance carrier is considered a "health care entity". As a "health care entity," the insurer is entitled to access information from the exchange. The act also creates a board consisting of seventeen members appointed by the Governor and approved by the Legislature.

Questions on legislation may be directed to Tom Green at [thomas.green@nebraska.gov](mailto:thomas.green@nebraska.gov).

**Actions Taken Against Producers and Agencies**

CAUSE NO.	ALLEGATION	DISPOSITION
A-2212 <b>Chadly Brohard</b> Orlando, FL  NPN - 18999060	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(e), 44-4059(1)(g), 44-4059(1)(h), 44-1525 (11)</u> . Violated any insurance law or rule; intentional misrepresentation of an insurance contract; unfair trade practices; fraudulent, coercive, or dishonest trade practices; failed to respond to written inquiry.	Order License Revoked 8/19/20
A-2215 <b>Premier Claims, LLC</b> <b>Omaha, NE</b>  NPN - 18527733	Violated <u>Neb. Rev. Stat. §§ 44-9211(1)(b), 44-9211(1)(h), 44-9214(1)(b), 44-9214(1)(j), 44-9214(4), 44-9214(6)</u> . Violated any insurance law or rule; fraudulent, coercive, or dishonest trade practices; failed to provide home state, business address, and telephone number on contract; failed to provide attestation language stating fully bonded pursuant to law; violated contract terms by allowing a percentage fee; failed to execute contracts in duplicate.	Consent Order \$3,000 fine 9/1/2020
A-2216 <b>Corinthian Preston</b> Tampa, FL  NPN - 19255595	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(g), 44-4059(1)(h), 44-1525(11)</u> . Violated unfair trade practices; fraudulent, coercive, or dishonest trade practices; failed to respond to written inquiry.	Order \$500 fine 7/29/2020
A-2217 <b>Andrew Dougherty</b> Waukee, IA  NPN - 17280491	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(g), 44-4059(1)(h), 44-1524(1)</u> . Violated any insurance law or rule; unfair trade practices; fraudulent, coercive, or dishonest trade practices; flagrant disregard of the Unfair Trade Practices Act.	Consent Order License Revoked 8/11/2020
A-2218 <b>Omolade Saka</b> Richardson, TX  NPN - 18562855	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(g), 44-4059(1)(h), 44-1524</u> . Violated fair trade practices; fraudulent, coercive, or dishonest trade practices; committed unfair trade practices.	Consent Order License Revoked 8/19/2020
A-2219 <b>Mack Wurtz</b> Overland Park, KS  NPN - 18314928	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(g), 44-4059(1)(h), 44-1524, 44-1525(11)</u> . Violated fair trade practices; fraudulent, coercive, or dishonest trade practices; committed unfair trade practices; failed to respond to written inquiry.	Consent Order License Revoked 7/22/2020
A-2222 <b>Joseph Jaros</b> Omaha, NE  NPN - 8984200	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(h), 44-4059(1)(j)</u> . Fraudulent, coercive, or dishonest trade practices; forged name to an application relating to insurance.	Consent Order \$500 fine 7/8/2020

**Actions Taken Against Producers and Agencies (cont.)**

CAUSE NO.	ALLEGATION	DISPOSITION
A-2223 <b>Danielle Carter</b> Omaha, NE  NPN - 17813461	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(g), 44-4059(1)(h), 44-1525(10)</u> . Violated any insurance law or rule; unfair trade practices; fraudulent, coercive, or dishonest trade practices; false or fraudulent statements on application.	Order License Revoked 9/1/2020
A-2224 <b>Jared Cohen</b> Boca Raton, FL  NPN - 17535727	Violated <u>Neb. Rev. Stat. §§ 44-4059 (1)(b), 44-4059 (1)(e), 44-4059 (1)(g), 44-4059 (1)(h), 44-1524, 44-1525(11)</u> . Violated any insurance law or rule; intentional misrepresentation of an insurance contract; unfair trade practices; fraudulent, coercive, or dishonest trade practices; committed unfair trade practices; failed to respond to written inquiry.	Consent Order \$3,000 fine 9/1/2020
A-2225 <b>Lewis Shaver</b> Brooksville, FL  NPN - 17859369	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059 (1)(g), 44-4059 (1)(h)</u> Violated any insurance law or rule; unfair trade practices; fraudulent, coercive, or dishonest trade practices.	Order License Revoked 8/19/2020
A-2226 <b>Steven Rhett Shepherd</b> Omaha, NE  NPN - 18875828	Violated <u>Neb. Rev. Stat. §§ 44-9211(1)(b), 44-9211(1)(h), 44-9214 (1)(d), 44-9214 (1)(h), 44-9214 (1)(i), 44-9214 (1)(j), 44-9214 (1)(k), 44-9214 (2)(b), 44-9214 (2)(c), 44-9214 (5), 44-9214 (6), 44-9214 (7), 44-9214 (8)</u> . Violated any insurance law; fraudulent, coercive, or dishonest trade practices; Contract for services did not contain information required per statute; failed to provide insured separate disclosure document; failed to provide insurer with notification letter; failed to provide insurer with written notice of insured's rights.	Consent Order \$2,000 fine 9/1/2020

**Actions Taken Against Companies**

CAUSE NO.	ALLEGATION	DISPOSITION
C-2565 <b>Corporate Plan Management</b> Topeka, KS	Violated <u>Neb. Rev. Stat. §§ 44-5814(3)</u> . Failure to pay annual report filing fee.	Order \$200 annual filing fee; \$10,000 forfeiture fee 7/2/2020

## Case Summaries

### ***Shelter Ins. Co. v. Gomez, 306 Neb. 607, \_\_\_ N.W.2d\_\_\_ (July 31, 2020)***

Shelter Insurance Company (Shelter) filed a declaratory judgment action against their agent, Kate Benjamin (Benjamin), Santos Gomez, Sr. and Julie Gomez (Gomez Trucking), Santos Gomez, Jr. and Carlene Calder (Calder), personal representative for Jason Kraeger (Kraeger). The action requested a declaration of the applicable liability limit on a policy held by Gomez Trucking for damages related to a fatal injury accident. Calder filed a counter-claim against Shelter and cross-claim against Benjamin that claimed professional negligence by Shelter and Benjamin for failing to advise Gomez Trucking on the minimum financial liability requirements required at Neb. Rev. Stat. § 75-363. The Supreme Court affirmed the decision of the district court of Box Butte County granting Shelter and Benjamin's summary judgment.

Gomez Trucking operated in Nebraska only. It had a bodily injury liability limit policy on the semi with a limit of \$100,000. The policy was sold by Benjamin and issued by Shelter. Gomez Trucking would change the limit based on how the trucks were used. The limit varied from \$1 million to \$100,000. Gomez was driving a semi for Gomez Trucking when Kraeger was struck and fatally injured. Gomez Trucking requested two different increases on the day of the accident but was informed the increases would not "backdate" to an accident that already occurred.

Prior to the declaratory judgment action, Calder refused Shelter's settlement offer on behalf of Gomez Trucking for the policy amount of \$100,000 in a wrongful death and survivor action. Calder then reached a settlement with Gomez Trucking for \$750,000 and an assignment for any claim it may have had against Shelter and/or Benjamin. Of note, federal regulation 49 C.F.R. § 387, in part, requires motor carriers to maintain a minimum level of financial responsibility in the amount of \$750,000. The regulation is applicable not only to motor carriers, drivers, and vehicles that already must meet federal regulations but Neb. Rev. Stat. § 75-363(2) makes the regulation applicable to "[a]ll motor carriers transporting persons or property in intrastate commerce..." The parties were generally unaware of these requirements.

The district court found that it is the duty of the motor vehicle carrier, not the insurer, to ascertain the minimum amount of coverage through *insurance, sureties or other resources* (emphasis added). No duty is created by the statutes or regulations for the insurer to "ascertain or confirm the existence of sufficient coverage to meet the requirements." Calder assigned error on the declaration of the liability limit regardless of the statutorily required minimum. Gomez Trucking and Gomez assigned a similar error stating the policy did not provide "lawful coverage."

The Supreme Court affirmed the district court. While there are some statutorily mandated coverages, i.e. the Uninsured and Underinsured Motorist Insurance Coverage Act, that did not occur in this matter. The plain language of the statute and regulation do not apply to the insurer but to the motor carrier. The motor carrier must maintain the "appropriate level of financial responsibility." And, that responsibility is not necessarily provided only through an insurance policy.

***Valley Boys v. American Family Ins. Co., N.W.2d, 306 Neb. 928 (2020)***

On August 28, 2020, the Nebraska Supreme Court issued a decision in the Valley Boys v. American Family Insurance Company action. Valley Boys had appealed a ruling from the District Court of Douglas County that granted in part judgment notwithstanding the verdict in favor of American Family Insurance Company. The Nebraska Supreme Court affirmed the district court ruling that eight of Valley Boy's nine assignments were unenforceable because they were indefinite and lacked consideration.

In the summer of 2014, nine homeowners sustained property damage in a hailstorm. The properties were insured to cover direct physical loss caused by hail. Eight of the nine policies included an endorsement entitling the homeowner insureds to proceeds for covered losses determined at actual cash value, or "the amount actually and necessarily spent" for replacement costs.

The homeowners purportedly assigned their proceeds under the policies to Valley Boys using "Customer Service Agreements" (CSA). Under these assignments it read that "Valley Boy's performance under this agreement is contingent upon Valley Boys reaching agreement with the insurance company on the scope of repairs and/or replacement work".

Under the "Scope of Work" provision in these CSAs, it read that "Valley Boys shall provide Customer with roofing and general contracting services, including labor and materials, as outlined in Exhibit A (the "Services"). Exhibit A sets forth the Services that Valley Boys shall provide Customer under Customer's insurance claim(s)." (Emphasis supplied.)

After American Family made initial payments on the claims, Valley Boys submitted requests for acknowledgement of coverage for additional damage (RAAD's). These RAAD's listed descriptions of repair work but did not provide itemized prices or a total price for such work. American Family did not agree to the RAAD's, and Valley Boys did not complete that work.

Valley Boys contended that Exhibit A referred to the RAAD's and invoices submitted to American Family, although they admitted that neither was labeled as such. Since they were not labeled as such, the court found that the record showed no agreement on scope of work and that the assignments were unenforceable due to lack of consideration. The court also noted that the CSA's allowed Valley Boys the option to unilaterally determine that it would not perform the work, making the agreement with the homeowners illusory.

In the Supreme Court's review, two issues were addressed. The court first looked at Valley Boy's argument that American Family lacked standing to challenge the assignments since they were not a party to such assignments. The court looked at the general contract principle that all contract rights may be assigned unless the assignment would materially change the duty of the obligor or materially increase the obligor's burden or risk under the contract. Under the policies in this case, American Family admitted that it had an obligation to pay the replacement costs upon completion of the work and the receipt of invoices for the work. However, under the assignments, Valley Boys demanded payment for work that either was not agreed to by the parties or was not completed. The court found that this materially changed the duty of American Family, and gave American Family standing with respect to the assignments.

Valley Boys also argued that the district court erred in determining that eight of the assignments were invalid and that Valley Boys was not the real party in interest with respect to the claims based on the assignments. The focus of the real party in interest inquiry is whether the party has standing to sue due

to some real interest in the cause of action, or a legal or equitable right, title, or interest in the subject of the controversy. If there has been a valid and complete assignment of rights, then the assignee is the real party in interest.

The Court agreed with the district court's assessment that the CSA's were invalid and found that, since Valley Boys did not send the RAAD's or invoices to the customer, and that they did not agree with American Family as to the scope of work to be performed, that Valley Boys was not the real party in interest with respect to the claims based on the assignments.

The Court affirmed the ruling of the district court in favor of American Family.

## ***Regulation Updates***

### **Amended Regulations**

**Title 210 Neb. Admin. Code § 59, "Rule Implementing Managing General Agents Act,"** has been amended to reduce the regulatory burden experienced by Nebraskans. By streamlining the language, the goal was for a regulation that was easier to understand and follow. The amended **regulation** was filed with the Secretary of State on September 29, 2020, with an effective date of October 4, 2020.

**Title 210 Neb. Admin. Code § 82, "Military Sales Practice,"** has been amended to reduce the regulatory burden experienced by Nebraskans. By streamlining the language, the goal was for a regulation that was easier to understand and follow. The amended **regulation** was filed with the Secretary of State on September 29, 2020, with an effective date of October 4, 2020.

### **Proposed Amended Regulation**

A proposed amendment to **Title 210 Neb. Admin. Code § 65, "Credit for Reinsurance,"** reflects the latest changes to the National Association of Insurance Commissioners' Credit for Reinsurance Model Regulation, upon which the Department's regulation is based, and corrects various cross references. A public hearing regarding the proposed amendments will be held on November 16, 2020 at 10:30 a.m., at 1135 M Street, Suite 300, Lincoln, NE. A full copy of the **Notice** can be found on the Department's website at [doi.nebraska.gov](http://doi.nebraska.gov).

## ***Nebraska Hospital-Medical Liability Act 2021 Surcharge Rate Hearing Set***

A notice has been issued that pursuant to the Nebraska Hospital-Medical Liability Act, the 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 2021.

The hearing will be held on Thursday, November 19, 2020, at 1:00pm at the Nebraska Department of Insurance, 1135 M Street, Suite 300, Lincoln, Nebraska. Parties who wish to attend via WebEx should contact Laura Arp at [laura.arp@nebraska.gov](mailto:laura.arp@nebraska.gov) before November 16, 2020 to be included.

A copy of the **Notice** can be viewed on the Department's website at [www.doi.nebraska.gov](http://www.doi.nebraska.gov).

## ***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 Friday, November 20, 2020, at 11:00 a.m., at the Nebraska Department of Insurance, 1135 M Street, Suite 300, Lincoln, Nebraska. The **Notice** can be viewed on the Department's website at [www.doi.nebraska.gov](http://www.doi.nebraska.gov).

## **PROPERTY & CASUALTY DIVISION**

### ***Certificates of Insurance Used to Qualify for the Excess Liability Fund***

Insurers writing coverage that will be used to qualify health care providers for the Excess Liability Fund are reminded that there are special requirements for certificates of coverage. The Nebraska Hospital-Medical Liability Act Excess Liability Fund Residual Malpractice Insurance Authority regulation at Title 210 Neb. Admin. Code, Chapter 32, requires that the following information be included on proof of financial responsibility:

- Name of each qualified health care provider and insurer;
- Limits of coverage;
- Policy inception and expiration date;
- Premium for insurance coverage for limits required under the act without credit for deductibles, if applicable;
- Any retroactive dates, if applicable;
- Whether qualification is on an occurrence or claims-made basis; and
- Deductible amount, if any.

Deductibles can be included on a policy used to qualify for the Excess Liability Fund; however, the insurer must pay any settlement or judgment and then may be reimbursed by the insured for the deductible set out in the policy. This is required under 210 NAC § 32-004.01, which also requires that the full premium, without credit for the deductible, must be reported on the proof of financial responsibility and the applicable surcharge will be based upon that full premium.

### ***Form & Rate Filing Guidance***

The division's quarterly guidance document, "**Mortgage Guaranty Rate and Form Filing Guidance**" has been developed and posted to the Department's website. All of the division's guidance documents can be found at [www.doi.nebraska.gov](http://www.doi.nebraska.gov) under "Insurers/Property and Casualty Information/Filing Guidance."

## ***Expediting Model-Dependent Filings***

A **Notice** was issued to companies by Director Ramage on July 24, 2020, in regard to expediting model-dependent property/casualty filings submitted after July 21, 2020. The Department has required disclosure of model-dependent rate filings within the System for Electronic Rates & Forms Filings (SERFF) since June 1, 2018. Based upon the Department's experience, reviews of model-dependent rate filings, and the companies' ability to implement are frequently delayed due to the Department's objections to carriers for lack of required filing information.

The initial framework for the filing of rates for property and casualty products can be found in Neb. Rev. Stat. § 44-7508 of the Nebraska statutes. A filing may be disapproved by the Department if the carrier fails to adequately respond or provide "all supporting information" within sixty days of the objection. Filers should go to **SERFF.com** for further detailed filing instructions and requirements, including the definition of "all supporting information" in rate filings for model-dependent property and casualty products. The model-dependent Nebraska **filing requirements** can also be found on the Department's website.

The filer should determine whether "supporting information" includes proprietary trade secret(s) before initial submission. Specified Nebraska filing documents can be excluded from public record only if confidential treatment is granted consistent with Neb. Rev. Stat. § 84-712.05(3). A rate filer who requests confidential treatment for specified documents must justify such treatment using one of the two permissible arguments. After the Department grants such treatment in writing, the specified documents may be separated at initial submission from the remainder that will become public information when the filing is closed. The Department suggests the filer review the Confidentiality Guidelines for Property & Casualty Insurance Filings in SERFF" found in the SERFF Filing Rules for Nebraska.

The Department encourages the utilization of an actuary (ACAS or FCAS) to provide assurance, consistent with actuarial standards of practice, that all required supporting information is clearly set forth in the filing and that the proposed rates are neither inadequate nor unfairly discriminatory under the Nebraska rating law. A carrier that provides such a written actuarial opinion will have its review expedited.

Any questions regarding these filings may be directed to Connie Van Slyke, Administrator for Property and Casualty at [connie.VanSlyke@nebraska.gov](mailto:connie.VanSlyke@nebraska.gov) or Gordon Hay, Sr. Casualty Actuarial Examiner, at [gordon.hay@nebraska.gov](mailto:gordon.hay@nebraska.gov). A copy of the **Notice** can also be found on the Department's website.

## ***Crop-Hail Filings***

As a reminder before making your Crop-Hail filings, please take the time to review the company bulletin **CB-142 (Amended)** which can be found on the Department's website and in the SERFF instructions. To ensure a timely review, make sure you have included all of the information required by the bulletin.

It is also important to note that in order to receive a cash discount, the premium must be received by August 30. Questions may be directed to Connie Van Slyke at [connie.vanslyke@nebraska.gov](mailto:connie.vanslyke@nebraska.gov).

## FRAUD DIVISION

### ***Considerations for Establishing an Anti-Fraud Policy***

While the Nebraska Department of Insurance does not require the filing of a fraud plan, it recognizes the importance of reducing operational risks through fraud awareness. As such, the Department would like to provide some guidance to carriers who wish to strengthen their fraud controls by creating and implementing an internal fraud policy.

During a market conduct and/or a financial examination, the Nebraska Department of Insurance may request a carrier to provide a summary of its anti-fraud activities and the corresponding results.

Pursuant to Neb. Rev. Stat. § 44-5906(8)(a), an anti-fraud summary provided to the Department in the course of an examination conducted under the Insurers Examination Act shall be given confidential treatment by the Department, shall not be subject to subpoena, shall not be made public by any person except to the extent provided in Neb. Rev. Stat. § 44-5906(7), and shall not be public records subject to disclosure under public records request outlined in Neb. Rev. Stat. §§ 84-712 to 84-712.09.

Anti-fraud policies outline specific procedures, appropriate to the lines of insurance the carrier writes in Nebraska, with the following suggestions, at a minimum:

- I. Preventing, detecting and investigating all forms of insurance fraud covering insurance that the carrier is authorized to write in Nebraska, including, but not limited to:
  - A. fraud involving the carrier's employees or agents;
  - B. claims fraud; and
  - C. security of the carrier's data processing systems.
- II. Educating appropriate employees on fraud prevention and detection, the Nebraska Mandatory Fraud Reporting Statute, Neb. Rev. Stat. § 44-393, and the carrier's anti-fraud policy.
- III. Informing policyholders about insurance fraud and how to prevent it.
- IV. Encouraging the reporting of suspected incidents of insurance fraud to the Insurance Fraud Prevention Division of the Nebraska Department of Insurance.
- V. Encouraging legal pursuit of restitution for financial loss caused by insurance fraud where appropriate.
- VI. Designating or identifying the person responsible for oversight and implementation of the carrier's anti-fraud policy.

Any questions regarding the establishment of an anti-fraud policy may be directed to the Insurance Fraud Prevention Division at **[DOI.FraudPrevention@nebraska.gov](mailto:DOI.FraudPrevention@nebraska.gov)**.

## ***IASIU 2020 Outstanding Service Award Presented to Charles Starr***

The Department's Fraud Prevention Division Chief, Charles Starr, has been recognized as one who exemplifies the mission of the International Association of Special Investigation Units (IASIU), "Bringing the world's fraud fighting community together through education, awareness, and networking." In recognizing Starr's work, the IASIU recently presented Starr with the IASIU 2020 Outstanding Service Award.

Starr became one of Nebraska's first commissioned insurance fraud investigators in July, 1997, bringing with him 22 years of law enforcement experience. His expertise has contributed to the division's long-standing reputation and success in prosecuting complex fraud cases. Throughout his tenure, Starr has personally secured 1,238 insurance fraud convictions within both state and federal courts and contributed to the recovering of over \$40,000,000 in court-ordered restitution.

*The date to waive proctor requirements for continuing education self-study courses has been extended through December 31, 2020.*

*Every person licensed under the Insurance Producer Licensing Act is required to notify the Department within thirty days of any changes in residential or business addresses.*

## **PRODUCER LICENSING DIVISION**

### ***Date for Waiver of Proctor Requirements Extended***

A Notice was issued on October 1, 2020, extending the date for Nebraska to waive **proctor requirements** for continuing education self-study online courses from September 30, 2020 through December 31, 2020.

For **education providers** needing to change a classroom course to a webinar, Nebraska may be able to add a webinar option to any classroom course that has already been approved. Please email a request to [doi.licensing@nebraska.gov](mailto:doi.licensing@nebraska.gov) for review and approval.

### ***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 in their residential or business address. Failing to provide such notification could result in 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.

Home and/or business addresses can be changed online at [www.nipr.com](http://www.nipr.com) or you may submit a **DOI-9110 Request Form** to the Department's Producer Licensing Division.

*Visitors to the Department's website can ask producer licensing questions via the chat link and receive a response in real time between 9:00am-4:00pm.*

## **Online Chat Feature**

The Licensing Division has been using our on-line chat feature for the past year with great results. Visitors to the Department's website can ask producer licensing questions via the chat link at the bottom of each page and receive a response in real time.

For best results, we recommend using Google Chrome or Mozilla Firefox browsers. Chats are monitored each weekday from 9:00 am to 4:00 pm CST.

## **Workshops Planned to Discuss Flood Insurance Manual Updates**

*Nebraska is planning brief, one-hour, biannual Workshops each October and April to discuss changes in the Flood Insurance Manual.*

Nebraska is planning on having brief, one hour, biannual Workshops each October and April to discuss the changes in the Flood Insurance Manual. This will become more and more informative as we approach the unveiling of Risk Rating 2.0, a whole new way of rating flood insurance. These workshops will also discuss issues with writing claims, or any topic that would seem relevant to agents who write flood insurance policies.

The first workshop will be held on Thursday, October 29, at 2:00pm (Central). Though this workshop is a cooperative effort between Nebraska DNR and the Nebraska Department of Insurance, the issues discussed should be of interest to insurance agents anywhere, and all are welcome.

This workshop has been approved for one credit hour of property and casualty for Nebraska resident agents. As a part of the registration, agents will be required to provide their National Producer Number (NPN) to receive credit.

*The October 29 workshop has been approved for one credit hour of property and casualty for Nebraska resident agents.*

Anyone can register for the free workshop by clicking on the following link:

**<https://us02web.zoom.us/meeting/register/tZAtd2tqDgtHNfiogJiPjhPkVh0KtEwmvu>**

**\*\*SAVE THE DATE\*\***

Tentative date of the next workshop is April 15, 2021, from 2:00pm–3:00pm (Central).

## CONSUMER AFFAIRS DIVISION

### ***Consumer Alerts Posted to Website***

**Thinking of Renting An Electric Scooter?** - guidance about considering insurance coverage prior to renting an electric scooter. The alert explains the types of insurance coverage available along with other means of protection. A **consumer alert** was posted to the NDOI website on September 4, 2020.

In recognition of Life Insurance Awareness month, three life insurance consumer alerts were posted throughout September:

**Want To Purchase Life Insurance?** - provides guidance to help understand the process and explains the types of life insurance available. A **consumer alert** was posted to the NDOI website on September 4, 2020.

**What Type of Life Insurance is Right For You?** - provides guidance on the different types of life insurance available and what questions to ask an agent before purchasing a policy. A **consumer alert** was posted to the NDOI website on September 18, 2020.

**Do You Know How to be a Life Insurance Beneficiary?** - provides guidance on what a beneficiary needs to know and the steps an insured should take when naming a beneficiary. A **consumer alert** was posted to the NDOI website on September 23, 2020.

**Enrolling in Marketplace Coverage for 2021** - provides guidance on what individuals should know for the upcoming open enrollment season. The guidance includes information about Medicaid expansion as well as FAQs about Medicaid expansion and Marketplace plans. A **consumer alert** was posted to the NDOI website on October 21, 2020.

## EXAMINATION DIVISION

### ***Guidance Provided To Aide In Transition Away From LIBOR***

In recognition of the transition away from the London Interbank Offered Rate (LIBOR) to Secured Overnight Financing Rate (SOFR) by market participants, including U.S. central clearing counterparties (CCPs), the Department issued a **Notice** to provide guidance to aide in the transition away from LIBOR toward SOFR.

CCPs will revalue existing swap positions by shifting their discounting rate from the Effective Federal Funds Rate (EFFR) to the SOFR using a one-time special valuation cycle that will include issuing basis swaps. The switch in the discounting rate will change each market participant's risk profile. The purpose of the basis swap is to restore each counterparty's original risk profile in the swap transaction. Market participants have no control over the distribution of the basis swaps to them. This one-time switch in the discounting rate is expected to occur prior to the end of calendar year 2021.

Pursuant to Neb. Rev. Stat. §44-5119(B), if appropriately documented, the NDOI approves the Company holding basis swaps that the company receives as part of CCP's transition to SOFR discounting for a period of up to one year past the CCP switch in discounting from EFFR to SOFR. Appropriate company documentation includes the fact that it has received such basis swaps in connection with the switch in the CCP discounting rate and provides that information to the NDOI, upon request. The one-year period will allow the Company the ability to dispose of the basis swaps in a more orderly fashion.

Questions regarding this Notice should be directed to Justin Schrader, Chief Examiner, at [justin.schrader@nebraska.gov](mailto:justin.schrader@nebraska.gov).

### ***Filing and Paying Surplus Lines Premium Tax Online***

The Department has implemented the Online Premium Tax for Insurance (OPT*ins*) for providers and brokers filing and paying Surplus Lines premium tax. OPT*ins*, a product of the National Association of Insurance Commissioners (NAIC), was developed to facilitate state specific forms and payments.

OPT*ins* became available to begin paying Quarterly Surplus Lines filings on October 1. Those who have registered to use OPT*ins* to file Surplus Lines filings for other states are automatically set up to file Quarterly filings to Nebraska.

The steps to submit a tax filing are very simple and require no formal training. Easy to follow instructions are available at <http://www.optins.org>. Once registered and set up, companies or producers will need to log in, and then upload filing forms and submit payment online.

There will be no more paper checks. Everything is electronic and tax forms, along with the payment, are received at the Nebraska Department of Insurance immediately upon submission by the company or producer.

Using OPT*ins* saves time and ensures that both the forms and payment are received together and on time.

- Visit [www.optins.org](http://www.optins.org) and click on "Getting Started" to download the implementation paperwork labeled "Surplus".
- After completion, submit the forms to [optinsmktg@naic.org](mailto:optinsmktg@naic.org) and a product specialist will assist in working through the implementation.
- Once registered and set up, log in will be allowed, filing forms can be uploaded and payment can be submitted online.
- Setup of a new account takes 7-10 business days. If OPT*ins* is already being used, it will not be necessary to contact OPT*ins* Marketing.
- Once an account in OPT*ins* has been established, filing to all state accounts can be done using our application.

Questions or comments applicable to this email should be directed to **Kristy Hadden** at [kristy.hadden@nebraska.gov](mailto:kristy.hadden@nebraska.gov).

***Pre-Need Examinations Completed During 3rd Quarter, 2020***

Bridgman Funeral Home fka Joliffe Funeral Home  
Butherus, Maser & Love Mortuary  
Harman-Wright Mortuary  
Marshall Funeral Chapels, Inc.  
Zabka-Perdue 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](http://www.doi.nebraska.gov). Copies can be obtained from the Department at a cost of \$.50 per page.

## Congratulations



**NDOI Employees of the Quarter**

- ☆ **Stephanie Hobelman, Property/Casualty Analyst**
- ☆ **Nate Dobler, Insurance Investigator**



## Department Calendar

- |                 |   |
|-----------------|---|
| November 11:    | NDOI Closed—Veterans' Day                   |
| November 26-27: | NDOI Closed—Thanksgiving                    |
| December 25:    | NDOI Closed—Christmas Day                   |
| January 1:      | NDOI Closed—New Year's Day                  |
| January 18:     | NDOI Closed—Martin Luther King Day Observed |