

# INSURANCE

**Dave Heineman**  
Governor

**Bruce R. Ramage**  
Director

Inside:

**PROPERTY & CASUALTY 2**

- Medical Malpractice Filings
- Cancellation Provisions
- Staff Updates
- Contact Information for Analysts

**FRAUD DIVISION 4**

- Durable Medical Equipment Fraud

**PRODUCER LICENSING 4**

- Appointments and Terminations
- License Reminders

**LIFE & HEALTH 5**

- Health Rates Required to be Filed
- Guidance Outlined in CB-129
- Prompt Payment Compliance Statements
- Rate Review Meeting
- NECHIP Rates for 2013

**CONSUMER AFFAIRS 7**

- Producers Reminded to Report Disciplinary Actions

**LEGAL DIVISION 8**

- Motor Vehicle Service Contract Definition Expanded
- Regulation Updates
- 2013 Excess Liability Fund Surcharge
- Company/Producer Actions

[Department Calendar](#)

[Back](#)

*A Message from the Director....*

**Department Preparing to Migrate To Community Based Rating System**



Bruce R. Ramage

The regulations of the Patient Protection Act require that each state migrate to a community based rating system prior to 2014. The Department's life and health division is currently working on extensive outreach to our carriers and producers to assist and educate them during the migration process. The staff is creating an outline of requirements for migration to community based rating and will continue outreach forums to identify any issues of concern, and clarify the requirements and expectations.

As part of the Department's outreach, the life and health division staff have begun contacting various carriers to discuss migration to modified community rating as required by the Affordable Care Act. If they have not yet reached out to your company and you would like to be included in these discussions, please send an email to Holly Blanchard, Life and Health Administrator, at [holly.blanchard@nebraska.gov](mailto:holly.blanchard@nebraska.gov).

In addition, the Nebraska Department of Insurance will be hosting an all filers rate review meeting on Tuesday, November 13, from 1:00 p.m. to 5:00 p.m., at the Gold's Building, 1033 O Street, Room 534, in Lincoln. The purpose of the meeting is to educate health carriers' filing personnel about the new rate filing requirements.

Space at the November 13 meeting is limited to 75 people, however, dial-in access will also be available. If you are interested in attending this meeting on-site, or remotely, please email Holly Blanchard at [holly.blanchard@nebraska.gov](mailto:holly.blanchard@nebraska.gov) by November 2.

## PROPERTY & CASUALTY DIVISION

### ***Medical Malpractice Filings***

We have noticed in our review of filings for medical malpractice that companies are attempting to limit the coverage in some way to a specific location, procedure or circumstance. As most of the physicians, surgeons and CRNAs in Nebraska come under the Act, we want to remind you that when a policy is used as evidence of financial responsibility in order to come under the Nebraska Hospital Medical Liability Act, coverage is in place on a 24-hour/7-day-week basis. Coverage cannot be limited, and any attempt to restrict coverage is a violation of the Act.

On occasion, a medical professional who comes under the Act obtains work at a second location, referred to as “moonlighting”. In some instances, the insurer will limit the coverage to the location shown on the application, which is not acceptable. We have allowed carriers to include a separate endorsement on the policy that recognizes the separate location, and makes a charge accordingly. This allows the carrier to track both premiums and losses for each location. As with any endorsement and resulting charge, this is required to be filed with the Department.

### ***Cancellation Provisions***

Nebraska has specific cancellation/non-renewal statutes that deal with the various lines of insurance:

#### **Personal Auto**

- 44-514 defines those vehicles that fall under the personal auto cancellation statutes.
- 44-515 provides the specific reasons that a personal auto policy can be “cancelled”.
- 44-516 sets the time frame of 30 days for notification for cancellation for the reasons stated in 44-515 and allows a 10-day notice for non-payment.
- 44-517 requires a 20-day notice for non-renewal.

#### **Property, Liability and Marine**

- 44-522 allows specific reasons for “cancellation” mid-term. This statute requires, in most circumstances, a 60-day notice of cancellation and requires that it be sent by registered, certified or first-class mail. A 60-day notice is required for non-renewal.

#### **Commercial Auto**

- 44-523 applies to those vehicles that do not fall under the definitions found in 44-514. This requires a 30-day notice of cancellation/non-renewal sent by registered or certified mail.

#### **Workers' Compensation**

- 48-144.03 requires a 30-day notice of cancellation be given to the Nebraska Workers' Compensation Court as well as the employer. A 10-day notice is allowed for four specific reasons.

## **Staff Updates**

Craig Palik has recently joined the division as an analyst. Craig will also be the main contact for public access of filings and questions concerning the status of filings.

## **Contact Information for Analysts**

Effective November 1, the filing distribution lists for each analyst are as follows:

### **Craig Palik**

402-471-4657

**craig.palik@nebraska.gov**

Personal Auto  
Personal Liability  
Personal Umbrella  
Inland Marine  
Motor Club  
Status Request  
Public Access

### **Bev Anderson, Administrator**

402-471-4654

**bev.anderson@nebraska.gov**

Title  
Auto Warranty  
Advisory Organizations  
Medical Malpractice

### **Stephanie Hobelman**

402-471-4651

**stephanie.hobelman@nebraska.gov**

Homeowners  
Home With Business  
Recreational Vehicle  
Other Dwelling Package  
Combination-HO/Auto  
Interline  
Other Dwelling Package

### **Medical Malpractice**

Excess Liability Fund

Stephanie Hobelman

402-471-4651

**stephanie.hobelman@nebraska.gov**

### **Connie Van Slyke**

402-471-4647

**connie.vanslyke@nebraska.gov**

Professional Liability  
Lawyers Professional  
Directors and Officers  
Commercial Package  
Medical Malpractice  
Boiler and Machinery  
Fidelity & Surety  
Crime  
Burglary/Theft  
Workers' Compensation  
Crop

### **Chris Williamson**

402-471-4653

**chris.williamson@nebraska.gov**

General Liability  
Aircraft  
Commercial Package  
Mortgage Guaranty  
Credit/Credit Property  
Commercial Umbrella/Excess  
Farm  
Pre-paid Legal

## FRAUD DIVISION

### ***Durable Medical Equipment Fraud***

Healthcare fraud is a huge financial burden to the United States economy. Since organized crime has taken notice of the profitable financial opportunity healthcare fraud presents, it is more important than ever for resources to be made available to ward off potential losses, or consumers will continue to lose.

During the 2012 annual fraud conference, Tom Spain, Special Investigation Unit Manager with Blue Cross and Blue Shield of Nebraska, shared his expertise in the field of durable medical equipment (DME) and home medical equipment (HME)—two avenues for potential fraud within the healthcare industry. He explained the need for an organized structure to be in place in order to successfully “cheat the system” and provided important tips on what the insurance industry should look for when processing claims to avoid being victimized. He emphasized the most important tools to combat DME and HME fraud are the use of the ICD (International Statistical Classification of Diseases and Related Health Problems) and HCPCS (Healthcare Common Procedure Coding System) manuals and proper interpretation of the information. These manuals are a resource for companies to fight fraudulent claims by providing a reference for diagnosis classification, supplies, equipment, and/or drugs. Mr. Spain ended with demonstrating how to identify claim codes that may be abused and specifically what a code should represent.

## PRODUCER LICENSING DIVISION

### ***Appointments and Terminations***

Monthly appointment/termination invoices are no longer printed by the Department. All appointment and termination requests must be processed online at **www.nipr.com**. The fees associated with the request will be collected at that time.

### ***Producers' and Consultants' Licenses***

As a reminder, please note the following:

- Producer and consultant license numbers are the national producer number issued by the NAIC.
- Separate Nebraska license numbers no longer exist.
- Paper licenses are no longer mailed by the Department.
- Go to **www.statebasedsystems.com** to:
  - Print licenses
  - View and print education transcripts

Please direct any questions to the division at 402-471-4913.

## LIFE & HEALTH DIVISION

### **Health Rates Required to be Filed for Approval**

The Life and Health Division would like to remind carriers that Nebraska statutes require all health rates be filed for approval prior to implementation. This includes all sickness and accident policies, including disability and blanket accident, long-term care, and Medicare Supplement.

Failure to file these rates for approval may result in a legal referral and subsequent administrative action being taken against carriers. To ensure rates are being filed, the SERFF Nebraska Filing Form will be revised to include information regarding rates that correspond with product filings.

Beginning December 1, 2012, this information must be included on each filing before it will be assigned to an analyst. Questions regarding rate filings may be directed to the Life and Health Administrator at 402-471-2201.

### **Guidance Outlined in CB-129**

On July 20, 2012, the Nebraska Department of Insurance issued CB-129 which provides guidance for a summary of benefits and coverage and a uniform glossary of terms as required by regulations promulgated under the Patient and Affordable Care Act (ACA).

As of September 23, 2012, all major medical plans that fall under the requirements of the ACA must file a copy of their summary of benefits and coverage and a uniform glossary of terms. Circumstances and timeframes in which carriers must present their summary of benefits and coverage and uniform glossary of terms is outlined in the bulletin. It is important to note that monetary penalties for violations of the summary of benefits and coverage requirements may be imposed by the U.S. Department of Health and Human Services.

If you have any questions regarding the requirements outlined, please contact the Life and Health Administrator at 402-471-2201.

*To ensure rates are being filed, the SERFF Nebraska Filing Form will be revised to include information regarding rates that correspond with product filings.*

*All major medical plans that fall under the requirements of the ACA must file a copy of their summary of benefits and coverage and a uniform glossary of terms.*

*Monetary penalties for violations of the summary of benefits and coverage requirements may be imposed by the U.S. Department of Health and Human Services.*

*Prompt payment compliance statements submitted after December 1 will not be accepted.*

### **Prompt Payment Compliance Statements**

Please make sure all prompt payment compliance statements are filed before December 1.

Neb.Rev.Stat §44-8006 states, "An insurer shall be exempt from the requirements of section 44-8005 during a calendar year when the insurer has a prompt payment act compliance statement on file with the director. Any insurer desiring to obtain the exemption shall file a prompt payment act compliance statement with the director not later than December 1 of the year prior to the exemption year. A list of insurers with prompt payment act compliance statements on file shall be publicly available from the director."

Any compliance statement submitted after December 1 will not be accepted.

### **All Filers Rate Review Meeting**

*A rate review meeting has been planned for November 13, from 1:00-5:00 p.m., in Room 534 of the Gold's Building.*

The division will be hosting an all filers rate review meeting on Tuesday, November 13, from 1:00-5:00 p.m. at the Gold's Building, 1033 O Street, Room 534, in Lincoln. Please be reminded that space is limited to 75 people. Contact Holly Blanchard at holly.blanchard@nebraska.gov by November 2 if interested in attending.

### **NECHIP Rates for 2013**

*Implementation of the new NECHIP rates will be January 1, 2013.*

On September 6, 2012, the Nebraska Department of Insurance conducted a public hearing, per the requirements of Neb.Rev.Stat §44-4227, to allow for public comments on the proposed rate adjustment for the Nebraska Comprehensive Health Insurance Pool (NECHIP).

Director Ramge adopted the proposed rate adjustment, as recommended in the actuarial report, of an average increase of 9% for NECHIP enrollees.

Implementation of the new NECHIP rates will be January 1, 2013.

## CONSUMER AFFAIRS DIVISION

### ***Insurance Producers Reminded to Report Disciplinary Actions***

*Within 30 days, a producer must report to the Director any action taken against him or her, including administrative action, criminal prosecution and civil action.*

Insurance producers who are subject to disciplinary action in another jurisdiction may compound their difficulties if they fail to report the action to Nebraska. Within thirty days, a producer must report to the Director any action taken against him or her, including administrative action, criminal prosecution and civil action. The report should include a copy of the order, consent order, or other legal documents. In addition, a producer must report amounts owed to a company within thirty days of discharge or attempt to discharge the debt in a personal or organizational bankruptcy proceeding.

Failure to report such action could result in administrative action. Nebraska Revised Statute 44-4065 reads as follows:

#### ***44-4065. Reports.***

*A producer must also report amounts owed to a company within 30 days of discharge or attempt to discharge the debt in a personal or organizational bankruptcy proceeding.*

*(1) An insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction, by a professional self-regulatory organization such as the Financial Industry Regulatory Authority or a similar organization, or by another governmental agency within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.*

*(2) An insurance producer shall report to the director any obligation regarding insurance premiums or fiduciary funds owed to a company, including a premium finance company, or a managing general agent within thirty days of the date of discharge or attempt to discharge such obligation in a personal or organizational bankruptcy proceeding.*

*(3) Within thirty days of the date of arraignment or date of waiver of arraignment, if waived, an insurance producer shall report to the director any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.*

*(4) For purposes of this section, administrative action shall include, but not be limited to, any arbitration or mediation award, disciplinary action, civil action, or sanction taken against or involving an insurance producer.*

*Failure to report such action could result in administrative action.*

## LEGAL DIVISION

### **Motor Vehicle Service Contract Definition Expanded**

*LB 1054 expands the definition of motor vehicle service contract for purposes of the Motor Vehicle Service Contract Reimbursement Insurance Act.*

*CB-58 was amended, making a motor vehicle service contract provider responsible for filing specific forms with the Department before any motor vehicle service contract is issued, sold, or offered for sale in the State of Nebraska.*

*Providers must submit these documents to the Department via the SERFF filing system.*

Recently, the Nebraska Legislature passed LB 1054, which expands the definition of motor vehicle service contract for purposes of the Motor Vehicle Service Contract Reimbursement Insurance Act (“the act”). In addition to those contracts already covered, the act is now also generally applicable to the following types of contracts: tire/wheel repair or replacement necessitated by road hazards, paintless dent removal, windshield repair or replacement necessitated by road hazards, key/keyfob replacement, and the payment of incidental costs as the result of a failure of a vehicle protection product to perform as specified. These types of contracts are now included in the definition of motor vehicle service contract and must meet all the requirements applicable to traditional motor vehicle service contracts. For more information on these requirements, see Neb.Rev.Stat. §§44-3520 through 44-3526, 210 Neb. Admin. R. & Regs. 58, and Department of Insurance bulletin CB-106 (Amended) which is available on our website at [www.doi.ne.gov/bulletin/cb106.pdf](http://www.doi.ne.gov/bulletin/cb106.pdf).

In response to the passage of LB 1054, the Department has updated the corresponding regulation, 210 Neb. Admin. R. & Regs. 58. The changes to the regulation update the filing procedure for motor vehicle service contracts. Under the updated regulation, a motor vehicle service contract provider is responsible for filing with the Department a true and correct copy of the motor vehicle service contract form, the corresponding motor vehicle service contract reimbursement policy, and a “notice of filing” form. The “notice of filing” form has also been updated and is available at the Department’s website. These forms must be filed with the Department before any motor vehicle service contract is issued, sold, or offered for sale in the State of Nebraska. Providers must submit these documents to the Department via the SERFF filing system. Motor vehicle service contract providers not yet using SERFF may enroll by contacting SERFF at 1-816-783-8787 or by e-mail at [serffmktg@naic.org](mailto:serffmktg@naic.org). Companies needing information about SERFF and EFT may visit [www.serff.com](http://www.serff.com).

If you have any questions about the changes to the Motor Vehicle Service Contract Reimbursement Act, Chapter 58, or bulletin CB-106, please contact Matt Holman in the Department’s Legal Division at [matt.holman@nebraska.gov](mailto:matt.holman@nebraska.gov).

## **Regulation Updates**

### **Proposed Amended Regulation**

#### **TITLE 210, NEB. ADMIN. R. & REG. 24 - HOLDING COMPANIES**

The proposed amendments implement the changes made to the Holding Company System Act by the passage of LB 887, and will affect all persons operating within an insurance holding company system structure. LB 887 introduces the concept of “enterprise risk,” and requires the ultimate controlling person of every insurer operating as part of an insurance holding company system to file an annual enterprise risk report. The proposed amendments to Chapter 24 provide the standard form (Form F) that must be used to make enterprise risk reports. Certain additional information will also be required from parties making applications, filings registrations, or providing notifications pursuant to Neb.Rev.Stat. §§44-2120 through 44-2133 (Forms A, B, or D filings). Finally, the proposed amendments will impose specific minimum requirements on agreements for cost sharing services and management services which are executed within an insurance holding company system pursuant to Neb.Rev.Stat. §44-2133(1)(b). A public hearing has been scheduled for November 26, at 1:30 p.m., in the 5th Floor Conference Room of the Terminal Building, 941 O Street, Lincoln, Nebraska.

### **Amended Regulations**

#### **TITLE 210, NEB. ADMIN. R. & REG. 10 - UNINCORPORATED MUTUAL ASSOCIATIONS**

Chapter 10 was amended to reconcile two inconsistencies between the regulation and Nebraska law: (1) to eliminate the regulation’s requirement that unincorporated mutual association filings include a five dollar filing fee, and (2) to remove a provision that prohibits unincorporated mutual associations from paying in excess of five dollars per day to any officer or employee for services performed. The amended regulation was filed with the Secretary of State on July 30, 2012, with an implementation date of August 4, 2012.

#### **TITLE 210, NEB. ADMIN. R. & REG. 58 - MOTOR VEHICLE SERVICE CONTRACT REIMBURSEMENT INSURANCE**

Chapter 58 was amended to streamline the filing requirements for motor vehicle service contracts (MVSCs). The amendments require only the MVSC provider to file one copy of the MVSC form, the corresponding reimbursement policy, and the “Notice of Filing” form. The amendments also clarify the department’s definition of “conspicuously” as it applies to the MVSC disclosure requirements. Finally, the amendments place an additional requirement on MVSC providers who cover vehicle protection products. The amendment requires MVSC providers filing contracts related to vehicle protection products to provide an analysis outlining why the filed contract is not governed by Magnuson-Moss Warranty-Federal Trade Commission Improvement Act. The amended regulation was filed with the Secretary of State on October 3, with an implementation date of October 8, 2012.

**Company Bulletins**

**CB-106 (AMENDED) - MOTOR VEHICLE SERVICE CONTRACTS**

CB-106 was amended on October 9, 2012, as a result of the passage of LB 1054, for the purpose of expanding the definition of motor vehicle service contracts (MVSCs). The amended bulletin sets forth requirements for all MVSCs issued, sold or offered for sale in Nebraska by a provider, including an automobile dealer or an administrator. A copy of CB-106 (Amended) can be found at [www.doi.ne.gov/bulletin/cb106.pdf](http://www.doi.ne.gov/bulletin/cb106.pdf).

***Excess Liability Fund Surcharge Hearing Set for November 7***

The Director of Insurance, as Administrator of the Excess Liability Fund, will conduct a public hearing on November 7, 2012, as required by Neb.Rev.Stat. §44-2830, to consider adjusting the amount of the surcharge for the year 2013. Pursuant to §44-2830, the Director is to adjust the amount of the surcharge provided for under §44-2829 on January 1 of each succeeding year to maintain the Excess Liability Fund at a level which is sufficient to pay all anticipated claims for the next year and to maintain an adequate reserve for future claims.

***Actions Taken Against Companies***

CAUSE NO.	ALLEGATION	DISPOSITION
C-1960 <b>Homesite Indemnity Company</b> Connecticut	Violated <u>Neb.Rev.Stat. §§44-1524, 44-1525(11), 44-1539, 44-1540(2), and Title 210 NAC Chapter 60 §§006.03, 008.01, 008.02, 008.04, &amp; 08.08.</u> Violated Unfair Trade Practices Act; violated Unfair Property and Casualty Settlement Practices Rule.	Consent Order \$40,000 admin. fine 9/11/2012
C-1963 <b>Allianz Life Insurance Company of North America</b> Minnesota	Nebraska participated in the Multi-State Market Conduct Examination led by Iowa, Florida, Minnesota, and Missouri.	Multi-State Settlement 7/20/2012
C-1973 <b>NAHGA, Inc.</b> Maine	Violated <u>Neb.Rev.Stat. §§44-1525(11) and 44-5812(1).</u> Failed to respond within 15 business days; acted as a third-party administrator without the proper license in Nebraska.	Consent Order \$2,500 admin. fine 9/20/2012

**Actions Taken Against Producers**

CAUSE NO.	ALLEGATION	DISPOSITION
A-1948 <b>David Goaley</b> Papillion, NE  NPN - 231952	Violated <u>Neb.Rev.Stat.</u> §§44-1525(11), 44-4059(1) (b), (g), (h) & (j). Failed to respond within 15 business days; violated any insurance law; violated the Unfair Trade Practices Act; used fraudulent, coercive, or dishonest practices; forged another's name to an application.	Consent Order \$5,000 admin. fine 7/25/2012
A-1949 <b>Sabine Berzins</b> Omaha, NE  NPN - 9582583	Violated <u>Neb.Rev.Stat.</u> §§44-1525(11), 44-4054(8), & 44-4059(1)(b). Failed to respond within 15 business days; failed to update address within 30 days; violated any insurance law.	Order Producer license revoked 2/14/2012
A-1950 <b>Joseph M. Casson, III</b> Fairbury, NE  NPN - 3185750	Violated <u>Neb.Rev.Stat.</u> §§44-4059(1)(b), (h), & (n). Violated any insurance law; demonstrated financial irresponsibility; failed to pay state income tax.	Consent Order Producer license suspended 8/7/2012
A-1951 <b>Summer Melroy</b> Hastings, NE  NPN - 16749412	Hearing requested for reconsideration of denial of application for resident producer license.	Order Producer license granted 8/2/2012
A-1952 <b>F. Joseph Vlock</b> Omaha, NE  NPN - 228342	Violated <u>Neb.Rev.Stat.</u> §§44-1524, 44-1525(11), & 44-4059(1)(b). Committed an unfair trade practice; failed to respond within 15 business days; violated any insurance law.	Consent Order \$500 admin. fine 8/16/2012
A-1955 <b>Joseph David Sauce</b> Sioux City, IA  NPN - 719542	Violated <u>Neb.Rev.Stat.</u> §§44-4059(1)(b) & 44-4065 (3). Violated any insurance law; failed to report criminal charges within 30 days of arraignment.	Consent Order \$250 admin. fine 9/24/2012

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## Department Calendar

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|------------------------|---|
| <u>November 12:</u>    | NDOl Closed—Veterans' Day Observed          |
| <u>November 22-23:</u> | NDOl Closed—Thanksgiving                    |
| <u>December 25:</u>    | NDOl Closed—Christmas Day                   |
| <u>January 1:</u>      | NDOl Closed—New Year's Day                  |
| <u>January 21:</u>     | NDOl Closed—Martin Luther King Day Observed |
| <u>February 18:</u>    | NDOl Closed—President's Day                 |