

INSURANCE

Pete Ricketts

Governor

Bruce R. Ramage

Director

A Message from the Director....

International Insurance Analyst Position Created



Bruce R. Ramage
Director of Insurance

Darrin Riha accepted the position of International Insurance Analyst effective March 9, 2015. He had most recently been a Financial Analyst Supervisor after beginning his employment with the Department as a Financial Analyst. Darrin's new responsibilities will include monitoring and providing expertise for the Department in current and ongoing international insurance accounting activities at the National Association of Insurance Commissioners and the International Association of Insurance Supervisors (IAIS); providing expertise in the implementation and maintenance of Supervisory Colleges for internationally and nationally active insurance groups; and providing guidance and coordination of the Own Risk and Solvency Assessment (ORSA) reports that will be received annually by the Department.

The International Insurance Analyst position was created in response to the growing importance of international insurance business to many of Nebraska's domiciled insurance companies and their related insurance groups. After the passage of the Dodd Frank Wall Street Reform and Consumer Protection Act of 2010, group supervision and communication among financial services regulators have grown to be important regulatory tools. Additionally, ongoing discussions and evaluation at the IAIS may impact future reporting and analytical methodologies as it relates to internationally active insurance groups. The IAIS is currently developing global capital standards to apply to Global Systemically Important Insurers and Internationally Active Insurance Groups. The development and testing of these standards will be extremely important to the insurance industry.

I believe this is one of the first documented positions in any state for a designated international analyst. Maintaining a regulatory process that enables Nebraska domestic insurers to advance international opportunities is an important goal for the Department.

Inside:

FRAUD DIVISION 2

- Annual Insurance Fraud Conference
- Questionable Claim Submissions

PRODUCER LICENSING 3

- Appointment Renewal Process

LIFE & HEALTH 4

- SERFF Filing Enhancement
- Transitional Policies for Fully Insured Groups Sized 51-100
- New Annual Report Form For Discount Medical Plan Organizations

CONSUMER AFFAIRS 6

- Paperless Complaint Process

PROPERTY & CASUALTY 6

- Staff Update
- Contact Information for Analysts

LEGAL DIVISION 8

- Regulation Updates
- Producer Actions
- Case Summaries
- Legislative Updates

EXAMINATION DIVISION 11

- Pre-Need Exams Completed
- Financial Exams Completed

Department Calendar

Back

FRAUD DIVISION

New Venue for Annual Insurance Fraud Conference

Come help the Insurance Fraud Prevention Division (IFPD) celebrate its 15th Annual Insurance Fraud Conference on Wednesday, August 5, 2015. This year's conference will be held at the Strategic Air and Space Museum.

The 2015 conference will mark the IFPD's 20th anniversary. Don Kohtz, the founding director of the IFPD and current manager of the Markel Corporation SIU Unit, will provide an historical overview of the formation of the division and changes occurring over the years within the legislation initially implementing the division.

Howard Goldblatt, director of Government Affairs with the Coalition against Insurance Fraud, will provide attendees with legislative updates and schemes currently seen occurring across the country.

The division is also welcoming Dr. Rick Wakefield as our keynote speaker. Dr. Wakefield is a widely recognized expert in the field of insurance fraud. Dr. Wakefield will lecture on the subjects of vehicle dynamics, medical records and provider fraud as well as interviewing techniques.

The registration brochure is tentatively scheduled to be emailed in late May. If you would like to receive a brochure, please email your request to DOI.FraudPrevention@nebraska.gov, with the subject line, "Conference Brochure Request."

Questionable Claim Submissions

Many state fraud bureaus require that questionable claims be referred to them when there is suspicion that fraud occurred during the claim process. An important field in the National Insurance Crime Bureau (NICB) referral is the "Reason for Submission."

The 15th Annual Insurance Fraud Conference will be held on Wednesday, August 5, 2015 at the Strategic Air and Space Museum.

Dr. Rick Wakefield, a widely recognized expert in the field of insurance fraud, will be the keynote speaker.

An important field in the National Insurance Crime Bureau (NICB) referral is the "Reason for Submission."

Four focus areas should be included in the "reason for submission" field to assist the IFPD in determining whether to conduct an investigation and/or refer for criminal prosecution.

To aid insurance company investigators with efficient completion of this requirement and enhance effectiveness, the NICB has developed, in conjunction with the International Association of Special Investigation Units and the support of many fraud bureaus, a standard format with four focus areas that this field should include:

- 1) Synopsis
- 2) Investigative Findings
- 3) Claim Status
- 4) Exposure

Providing this information will assist the IFPD in determining whether to conduct an investigation and/or refer it for criminal prosecution.

PRODUCER LICENSING DIVISION

2015 Appointment Renewal Process

This is a reminder that all company appointment renewals in Nebraska must be filed electronically through the National Insurance Producer Registry (NIPR).

The appointment renewal date begins May 1, 2015 and ends July 31, 2015. All appointment renewals must be paid online through the NIPR by July 31, 2015.

The NIPR has posted an announcement with details and directives on key information, payments, transaction fees, and fees charged by other states for retaliatory purposes. A copy of the announcement can be obtained from the NIPR website located at pdb.nipr.com/html/renewalsNE.htm.

Questions regarding the renewal process may be directed to NIPR Customer Service at customerservice@nipr.com or by phone at 1-855-674-6477 or to the Nebraska Department of Insurance at doi.licensing@nebraska.gov or by calling the division staff members at 402-471-4913.

The appointment renewal date begins May 1, 2015 and ends July 31, 2015.

All appointment renewals must be paid online through the NIPR by July 31, 2015.

LIFE & HEALTH DIVISION

SERFF Filing Enhancement

The Nebraska Department of Insurance (NDOI) has enhanced the access to both Life & Health and Property & Casualty form and rate filings through SERFF Filing Access (SFA).

This electronic public access is new to Nebraska and allows for filings to be viewed more conveniently. Computer access will allow form and/or rate filings to be viewed from an office or home, literally anywhere, day or night.

To begin the process: Go to the NDOI website located at **www.doi.nebraska.gov**, then:

- ⇒ click on Market Regulation
- ⇒ select either the Life & Health or Property & Casualty tab
- ⇒ select Division Home Page
- ⇒ under the title “Life & Health Information” or “Property & Casualty Information”, scroll down and click on SERFF Filing Access (SFA).

If suitable computer access is not available, the public access terminals at NDOI are still available for use in viewing and/or copying filings. Please contact our office at 402-471-4551 or submit a formal data request to **deb.maher@nebraska.gov** to schedule an appointment to view filings on one of our “public access” computer terminals.

Transitional Policies For Fully Insured Groups Sized Between 51-100

Starting January 1, 2016, the Affordable Care Act amends the size of the small group health insurance market from 2-50 to 1-100. However, the Obama Administration has indicated that those fully insured groups that have 51-100 insureds may be allowed to keep their policies and remain in the large group market via a transitional policy akin to the transitional policies that were allowed in the small group market. The Department previously discussed the small group transitional policies in a notice, “Transitional Policies Revised,” issued April 30, 2014.

SERFF Filing Access (SFA) is new to Nebraska and allows for more convenience in reviewing filings.

Computer access will allow form and/or rate filings to be viewed from an office or home, literally anywhere, day or night.

The Affordable Care Act will amend the size of the small group health insurance market from 2-50 to 1-100, starting January 1, 2016.

The Department will allow for policies issued to groups sized 51-100 to remain in place as transitional policies for as long as the federal government's current transitional policy guidance allows.

For groups sized 51-100, the Department will allow for policies issued to those groups to remain in place as transitional policies for as long as allowed by the federal government's current transitional policy guidance. Please note that the allowance for these transitional groups is at the option of the carrier. If the carrier does allow for the transitional policies, the carrier shall inform the Department as to the carrier's decision and as to how many groups are affected. As before, all other plans issued after January 1, 2014 must be ACA compliant.

Questions concerning transitional policies may be directed to Martin Swanson, Administrator for Health Policy, at martin.swanson@nebraska.gov.

New Annual Report Form for Discount Medical Plan Organizations

A Discount Medical Plan Organization is a business that, in exchange for payment, provides access to a group of medical providers at discounted rates. A Discount Medical Plan Organization, or "DMPO," must obtain a certificate of registration from the Department of Insurance to operate in Nebraska. A DMPO certificate of registration is effective for one year. The legal requirements for DMPOs are provided in Nebraska's Discount Medical Plan Organization Act, Neb. Rev. Stat. §§ 44-8301 to 44-8316. The Act requires that every DMPO renew its certificate of registration before the certificate expires, and the Act also requires an annual report after the end of each fiscal year. All DMPO certificates of registration expire on May 1, and renewals for those certificates of registration are due by March 1 every year.

In past years, DMPOs have ignored the statutory requirement of an annual report. Going forward, the Department will be enforcing the forfeiture and revocation provisions of § 44-8313 (3) for failure to file an annual report.

The Department will issue a new form to simplify compliance for DMPOs by combining the annual certificate of registration renewal with the annual report. The "Discount Medical Plan Organization Certificate of Registration Renewal and Annual Report" will be available at www.doi.nebraska.gov in the near future, and will be used for reports due March 1, 2016 and for subsequent years. This form will be mailed to DMPOs with the annual renewal reminder in January or February 2016.

DMPO compliance officers should review the Discount Medical Plan Organization Certificate of Registration Renewal and Annual Report and revise Nebraska compliance procedures to collect all required information. If you have questions, please contact the Life and Health Division Administrator at 402-471-4742 or Legal Counsel, Laura Arp, at laura.arp@nebraska.gov.

CONSUMER AFFAIRS DIVISION

Paperless Complaint Process

The Consumer Affairs Division has made great progress in its efforts to transition to a paperless complaint process. We thank all companies who've assisted us by providing electronic contact information. If you've not yet done so, please send an email with your NAIC number and the name of your compliance contact along with his/her email address, fax number and direct-dial phone number to **DOI.ConsumerAffairs@nebraska.gov**.

Unfortunately, we cannot accommodate requests to send complaints to multiple compliance contacts within a single company. If you wish to give more than one individual the ability to access and respond to our complaints correspondence, please visit with your information technology (IT) personnel about setting up a shared email account.

To protect consumers' privacy, Consumer Affairs is using the State of Nebraska Securemail System to email complaints and complaint information to insurance companies. Nebraska uses CISCO Registered Envelope Service encryption technology, a commonly used service. We ask that companies respond to complaints by using the "Reply" feature contained within the message.

If you should encounter difficulties in opening an encrypted email, please direct your questions to your IT staff as the problem may be related to a restriction in your company's environment. You can also go to Help - **<https://res.cisco.com/sebsafe/help?topic=RegEnvelope>** or to About Cisco Registered Email Service - **<https://res.cisco.com/websafe/about>** for information and assistance.

Utilization of this paperless process will mean faster service for consumers and reduced costs for companies and the department. As always, the Consumer Affairs Division welcomes your feedback. If you have questions or concerns, or suggestions as to how we might improve our process, please send an email to our shared account at **DOI.ConsumerAffairs@nebraska.gov**.

PROPERTY & CASUALTY DIVISION

Staff Update

Derek Wallman is the newest member of the Property & Casualty Division. He accepted the Insurance Analyst position and started with the Department on February 23. He is a recent graduate of the University of Nebraska-Lincoln, majoring in Actuarial Science. Along with reviewing filings, he will be the contact person for Public Access for SERFF and Status Requests. He will also assist with duties performed for the Medical Malpractice Excess Liability/Residual Fund. We are very excited that Derek has joined our team! Derek can be reached at **derek.wallman@nebraska.gov**.

Contact Information for Property/Casualty Analysts

Following the promotion of Connie Van Slyke and the addition of Derek to the staff, the lines the analysts review have been reassigned. Below is a revised chart showing contact information and the lines handled by each property/casualty analyst.



**STATE OF NEBRASKA
PROPERTY/CASUALTY ANALYSTS**

DEREK WALLMAN
derek.wallman@nebraska.gov
 402-471-4654

Status Requests
 Public Address for SERFF
 Ocean/Inland Marine
 Commercial Umbrella
 Personal Umbrella

CONNIE VAN SLYKE, Administrator
Connie.Vanslyke@nebraska.gov
 402-471-4647

Medical Malpractice
 Workers' Compensation
 Title

STEPHANIE HOBELMAN
Stephanie.Hobelman@nebraska.gov
 402-471-4651

Commercial Property
 Businessowners
 Earthquake
 Aircraft
 Fidelity & Surety
 Crime/Burglary/Theft
 Boiler & Machinery
 Interline

CHRIS WILLIAMSON
Chris.Williamson@nebraska.gov
 402-471-4653

Commercial Package
 Mortgage Guaranty
 General Liability
 Professional Liability
 Lawyers Professional
 Directors & Officers
 Product Liability
 Credit/Credit Property
 Pre-Paid Legal

CRAIG PALIK
Craig.Palik@nebraska.gov
 402-471-4657

Crop
 Flood
 Personal Farmowners
 Homeowners
 Personal Auto
 Commercial Auto
 Mobile Homes Under Transport
 Homeowners/Auto Combinations
 Dwelling Fire/Personal Liability
 Other Lines of Business – Auto Warranty
 Motor Club

MEDICAL MALPRACTICE
Stephanie.Hobelman@nebraska.gov
 402-471-4651

Excess Liability Fund



LEGAL DIVISION

Regulation Updates

Company Bulletins

CB-130 (Amended) - FILING GUIDANCE FOR INDIVIDUAL AND SMALL EMPLOYER HEALTH AND STAND-ALONE DENTAL PLANS IN NEBRASKA

CB-130 was amended on March 6, 2015, for the purpose of providing Plan Year 2016 guidance for filers of individual and small group health and stand-alone dental plans (SADP) for both **on** and **off** the Federally Facilitated Marketplace. The amended bulletin outlines the Department's filing process, the rating requirements allowed under PPACA and subsequent regulations issued by the federal government. CB-130 (Amended) can be found on the Department's website at www.doi.nebraska.gov/bulletin/cb130.pdf.

Actions Taken Against Producers & Agencies

CAUSE NO.	ALLEGATION	DISPOSITION
A-2012 Aron Coit Omaha, NE	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(h), 44-4054(8) and 44-4065(1)</u> . Violated any insurance law; used fraudulent, coercive, or dishonest practices; failed to inform director of a change of address within 30 days; failed to provide notice to director of any administrative action taken against the licensee by a professional self-regulatory organization.	Order Producer license revoked 2/23/2015
NPN - 15508713	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(i), 44-4065(1) and 44-4059(1)(h)</u> . Violated any insurance law; insurance producer license revoked in another state; failed to provide notice to director of any administrative action taken against the licensee by a professional self-regulatory organization; used fraudulent, coercive, or dishonest practices.	Consent Order Producer license revoked 12/3/2014
A-2014 Barkley Lundy, Jr. Rapid City, SD	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(i), 44-4065(1) and 44-4059(1)(h)</u> . Violated any insurance law; insurance producer license revoked in another state; failed to provide notice to director of any administrative action taken against the licensee by a professional self-regulatory organization; used fraudulent, coercive, or dishonest practices.	Consent Order Producer license revoked 12/3/2014
NPN - 660878	Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(i), 44-4065(1) and 44-4059(1)(h)</u> . Violated any insurance law; insurance producer license revoked in another state; failed to provide notice to director of any administrative action taken against the licensee by a professional self-regulatory organization; used fraudulent, coercive, or dishonest practices.	Consent Order Producer license revoked 12/3/2014

Case Summaries

United Gen. Title Ins. Co. v. Malone, 289 Neb. 1006 (2015)

Guardian Title Services (Guardian) was a title insurance agency owned by Daniel Malone and managed by Investment Property Resources, Ltd. (IPR). Along with IPR, Malone owned and/or managed several other entities. Guardian entered into an agency agreement with United General Title Insurance Company (United General), a title insurer, in which Guardian would sell and solicit policies underwritten by United General. Guardian also provided closing services which included collecting and disbursing escrow deposits and other payments from customers. These funds were to be kept in a separate escrow account. In July 2008, the escrow account had a shortage of \$588,671.80. Auditors confirmed the shortage and also determined that Guardian failed to remit approximately \$22,000 in premium to United General. The auditors also found that there were several large transfers of funds between Guardian's escrow account and Guardian's operating account. There also were several transfers made to IPR and other entities that Malone had an interest in. Pursuant to Neb. Rev. Stat. § 44-1993(8) (Reissue 2010), United General was strictly liable for the escrow shortage of its agent and paid the loss. After doing so, United General filed a complaint against sixteen defendants that were associated with Malone and/or IPR. In the complaint, United General asserted twelve causes of action including conversion, civil conspiracy, common law indemnification, contribution, and constructive trust. United General sought to recover the unpaid premiums as well as the escrow shortage. The district court granted the defendants motion for summary judgment for conversion, contribution, and constructive trust. United General appealed and the Nebraska Supreme Court granted review.

The court affirmed in part and reversed in part the lower court's ruling. The court determined that the lower court did not err when granting the motion for summary judgment in regards to United General's contribution claim. The court defined contribution as "the sharing cost of an injury" and noted that it was different from indemnification which was "the complete shifting of the cost from one party to another." United General's liability for the escrow shortage was determined by statute, not any wrongdoing by United General. As such, United General could not share in the cost in a contribution claim as there was no fault to allocate. Thus, United General's claim for contribution was actually for indemnification and was properly disposed of by the lower court.

The court reversed the lower court's ruling regarding the conversion and constructive trust claims. The court determined that there were genuine issues of fact regarding the funds in the accounts. The court noted that United General did not have a right or claim to the escrow funds as those were the property of Guardian's customers; however, United General did have an immediate right to any unpaid title insurance premiums that were held by Guardian in the accounts. At trial, the accountants testified that some of the funds may have included unpaid title insurance premiums. United General would have a right to these funds. The court held that a title insurer is entitled to claim conversion and constructive trust based on title insurance premiums held in its independent title insurance agent's escrow account.

Legislative Updates

April 9, 2015, was the 60th day of the current 90-day legislative session which is scheduled to be complete by June 5. With over two-thirds of the legislative session complete, it is a good opportunity to review legislation that will impact the insurance industry and that has already been passed by the Legislature and approved by the Governor this session. A full summary of the legislative session will be available in the summer newsletter. The full text of any legislative bill is available on www.nebraskalegislature.gov. Utilize the “Search Current Bills” tool to select a bill and then, once on the individual bill’s page, select “Slip Law Copy” to read the bill in its final, enacted form. The bills listed below will become law three months after the Legislature adjourns for the session.

LB 180 (Scheer) Redefine term relating to title insurance business. Introduced on behalf of the Department of Insurance, LB 180 expands definition of title insurance to include insurance guaranteeing or indemnifying owners of personal property or secured parties against loss or damage pertaining to title, liens, encumbrances upon or security interests in personal property or fixtures. Under previous Nebraska law, title insurance was limited to real property and title insurers were limited to writing title insurance. The new law allows title insurers to write title insurance for both real and personal property.

LB 198 (Williams) Authorize licenses for limited line pre-need insurance. The new law authorizes a new limited line insurance producer license to sale pre-need funeral insurance. Pre-need funeral insurance is life insurance or a fixed annuity contract purchased solely to pay the costs of funeral services or funeral merchandise from a funeral home or cemetery. Pre-licensing education, testing, and continuing education will be required for this limited lines license; however the number of education hours will be considerably less than the amount required for a full license.

LB 298 (Schumacher) Change provisions relating to credit for reinsurance. Introduced on behalf of the Department of Insurance, LB 298 adopts the National Association of Insurance Commissioners’ 2011 updates to the Credit for Reinsurance Model Law by making two significant changes. First, LB 298 allows for a new allowable credit for reinsurance category when an assuming insurer is certified as a reinsurer in Nebraska by the Director of Insurance after meeting several requirements including being domiciled in a qualified jurisdiction, maintaining minimum capital and surplus, maintaining acceptable financial ratings from two or more rating agencies, agreeing to be subject to Nebraska jurisdiction, and agreeing to applicable information filing requirements. Second, the new law requires a ceding insurer to take steps to diversify its reinsurance so that its concentration of risk in one reinsurer is not too high.

EXAMINATION DIVISION

Pre-Need Examinations Completed During First Quarter, 2015

Allen-Harvey, Inc.
 Bachelor-Faulkner-Dart-Surber Funeral Home, Inc.
 Brewer, Korisko, Larkin, Staskiewicz, LLC. dba Korisko Larkin Staskiewicz Funeral Home
 Devoted Directors, Inc. dba Bauer-Torrey & Mach Funeral Homes
 Dorr and Clark Funeral Home, LLC
 Draucker Funeral Home
 Griffiths-Hovendick Chapel, Inc.
 Holmes Funeral Homes, Inc.
 Jack Becker Funeral Home, Inc. dba Becker Hunt Funeral Home
 Kuncl Funeral Home
 Palmer Funeral Home
 Rice Funeral Home
 Tennant Funeral Home dba Austin-Tennant Funeral Home

Financial Examinations Completed During First Quarter, 2015

Ability Insurance Company
 American Interstate Insurance Company
 First National Life Insurance Company of the USA
 Silver Oak Casualty, Inc.

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

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Department Calendar

- April 24: Department Closed - Arbor Day
- May 25: Department Closed - Memorial Day
- July 3: Department Closed - Independence Day observed
- August 5: Annual Fraud Conference (registration required)
Strategic Air and Space Museum