

# INSURANCE

**Pete Ricketts**

*Governor*

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***A Message from the Director....***

***Signature of Officers on Insurance Policies, Effect of Change in Officers***



Bruce R. Ramage

On June 6, a notice was issued to all insurers regarding insurance policy forms filed with the Department. The policy forms typically include signatures of insurance company officers. In the past, a change of insurance company officers could require the insurer to submit new policy forms with the new officers' names and signatures. With the new officers' signatures in the policy form, all new contracts would contain correct officers on the date of contract inception.

This process of refiling policy forms can involve considerable time and expense for insurers, with little added benefit to consumers. There is a binding contract with the insurer even if the policy is signed by officers that are no longer serving in those positions, because the policy and application, along with payment of premium, constitute a binding contract. Additionally, an agent's countersignature on an insurance policy or application binds the insurer to the contract.

Officers of an insurer can quickly be identified today by visiting the insurer's website or the Department's "company lookup" from its website. For these reasons, the Department has decided to eliminate the requirement that policies be refilled when the only reason for refiling is a change in company officers. If officers whose signatures appear on insurance policies cease to be such officers before the policies are sold, the officers' signatures will nevertheless be valid and sufficient for all purposes to the same extent as if those officers had remained in office until the contracts' inception.

A full copy of the Department's June 6 notice can be found at [www.doi.nebraska.gov/notices/notc2016/notice06.pdf](http://www.doi.nebraska.gov/notices/notc2016/notice06.pdf).

## LIFE & HEALTH DIVISION

### **Major Medical Health Insurance Rate Reviews Ongoing**

*Rates for individual and small group major medical plans, which have been filed and are currently being reviewed, will become final sometime in late August.*

The rates for individual and small group major medical plans have been filed and are currently being reviewed by the Department. Rates will become final sometime in late August.

In the interim, the public is invited to submit comments on the proposed rates at **[DOI.HealthRateReview@nebraska.gov](mailto:DOI.HealthRateReview@nebraska.gov)**. These comments are taken under advisement by the Department and reviewing actuaries.

It is important to remember that several factors are considered when rates are filed and approved by the Department, including, but not limited to, consideration for the solvency of a company. If, at the end of the year, the rates result in a profit of greater than 15%, typically the company must refund the excess profit to policyholders.

*Several factors are considered when rates are filed and approved by the Department, including, but not limited to, consideration for the solvency of a company.*

Upon completion of our review, a link to the final rates will be posted on the Department's website which will connect the public to the website of the Center for Consumer Information and Insurance Oversight (CCIIO) where the final rates will be published.

The Department reminds consumers that once rates are available, they should carefully consider their health insurance needs and review not only the new premiums, but also the provider network, the deductibles, the co-payments and insurance costs and what the maximum out-of-pocket costs are for a policy.

*The Department encourages the use of insurance producers to help consumers look at their choices in the marketplace and to select a plan that fits their needs.*

The Department also encourages the use of insurance producers to help consumers look at their choices in the marketplace and to select a plan that fits their needs.

Any questions regarding the rates may be directed to Martin Swanson, Administrator for Health Policy, at 402-471-2201 or via email at **[martin.swanson@nebraska.gov](mailto:martin.swanson@nebraska.gov)**.

## PROPERTY & CASUALTY DIVISION

### **Staff Updates**

*Julie Oglesby will be responsible for reviewing Ocean/Inland Marine and Commercial and Personal Umbrella filings, assisting with the Excess Liability Fund, and serving as the contact for public access requests for SERFF.*

Julie Oglesby joined the division on June 27 as an Insurance Analyst. She will be reviewing filings for Ocean/Inland Marine and Commercial and Personal Umbrella. She will also be the contact person for any public access requests for SERFF and will be assisting with the Excess Liability Fund. Julie's previous experience includes being a personal lines underwriter for Farm Bureau Financial Services in Kansas. She lives in Lincoln with her husband Toby and their three children. Welcome on board Julie!

### **Rate Filing Submission Requirements**

*Please be sure to include any background information necessary to explain and justify the rate changes being made.*

As a reminder when submitting rate filings, Neb. Rev. Stat. § 44-7508 requires each insurer to include all supporting information related to a rating system.

Please be sure you are including any background information necessary to explain and justify the changes being made to your rates. This will assist us in a timely review and reduce the amount of correspondence on filings.

## EXAMINATION DIVISION

### **Financial Examinations Completed During Second Quarter, 2016**

Acceptance Casualty Insurance Company  
Acceptance Indemnity Insurance Company  
Nebraska Total Care, 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](http://www.doi.nebraska.gov). Copies can be obtained from the Department at a cost of \$.50 per page.

## PRODUCER LICENSING DIVISION

### **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 course rosters.

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

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

### **Reminder to Education Providers Regarding Inactive Courses and Contacts**

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

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

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

### **Exam Pass Rates**

Starting in August, the Department will begin publishing the licensing exam pass rates on our website. The monthly pass rates will be organized by line of authority and will be located at [www.doi.nebraska.gov/license/ce/providers.html](http://www.doi.nebraska.gov/license/ce/providers.html).

*Starting in August, the Department will begin publishing the licensing exam pass rates on our website.*

## LEGAL DIVISION

### ***Federal Rule for Fixed Indemnity Policies Overturned by the D.C. Circuit Court of Appeals, Effect on Nebraska Bulletin CB-132***

On July 1, 2016, the U.S. Court of Appeals for the DC Circuit unanimously affirmed the September 11, 2015, order of the U.S. District Court for the District of Columbia in *Central United Life Ins. v. Burwell*. The case involved a Tri-Agency rule of May 27, 2014, amending “conditions” for fixed indemnity insurance to be an excepted benefit in the individual market.

Nebraska joined Wisconsin, Arkansas, Georgia, Louisiana, Michigan, Oklahoma, South Carolina, Texas, Utah, and West Virginia in filing an amicus brief in the case, supporting affirmance of the District Court’s decision.

The HHS rule at issue in *Central United Life* restricted the offer and sale of “fixed indemnity insurance” in the individual market to only persons attesting to having “minimum essential coverage.” The D.C. Circuit Court of Appeals began its opinion by stating that HHS “colored outside the lines of its authority.”

The HHS fixed indemnity rule, the Court noted, amended the statutory language of the Public Health Service Act and only Congress can amend statutory language. For fixed indemnity insurance, the Court observed that for excepted benefits status the statute plainly requires only that the plan: (1) is provided under a separate policy; and (2) offers independent, noncoordinated benefits. The Court found the text of the statute itself unambiguously foreclosed the agency’s interpretation and that the agency’s regulation amounted to the “invention” of a completely new meaning for the statutory text.

In effect, the HHS fixed indemnity rule will now be read to not require an attestation that the purchaser also has other health insurance that meets “minimum essential coverage” standards. The Department’s October 9, 2014 Bulletin, CB-132, described the HHS attestation requirement, and the Department will amend or withdraw CB-132 after the federal government’s time to appeal this decision has expired.

The opinion is available on the appellate court’s website, [www.cadc.uscourts.gov](http://www.cadc.uscourts.gov). If you have any questions, please contact Martin Swanson at [martin.swanson@nebraska.gov](mailto:martin.swanson@nebraska.gov).

## ***Cybersecurity: A hot issue for insurance regulators and the insurance industry***

Technology is quickly revolutionizing how people and businesses interact. The insurance industry is not immune from this revolution and its effects, both good and bad, are being felt within the industry. As Director Ramage recently stated, “While the information technology revolution has major benefits for insurers, producers, and consumers, the revolution has also unleashed numerous bad actors, both foreign and domestic, who seek to infiltrate insurance company data systems for their own criminal purposes and financial gain.”

Two actions that licensed entities of the Department of Insurance should be aware of are described below.

First, in response to multiple large cybersecurity breaches in the insurance industry, the National Association of Insurance Commissioners (NAIC) formed in 2015 a Task Force under the Executive Committee (EX) to consider issues concerning cybersecurity as they pertain to the role of state insurance regulators. The NAIC’s Cybersecurity (EX) Task Force issued two documents in 2015: a document called “Principles for Effective Cybersecurity: Insurance Regulatory Guidance” in April of 2015, and the “Roadmap for Cybersecurity Consumer Protections” in December of 2015.

In 2016, the Task Force has been focused on drafting an “Insurance Data Security Model.” At this stage, the draft model has two broad purposes, placing obligations on licensees related to securing data and outlining obligations in the event of a breach. The Task Force’s model law activities have received a great deal of attention from the insurance industry, including a total of 279 pages of written comments and a two-day interim meeting at which the Task Force took comments from insurers, producers, and trade groups. The draft model law, comments, other documents, and general information related to this NAIC project can be found on the Cybersecurity (EX) Task Force’s website at [www.naic.org/committees\\_ex\\_cybersecurity\\_tf.htm](http://www.naic.org/committees_ex_cybersecurity_tf.htm).

A second draft should be issued by the NAIC before the Summer NAIC meeting towards the end of August. If you would like more information on the NAIC’s Cybersecurity (EX) Task Force activities or have comments, questions, or concerns on the draft model, please contact Robert Bell in the Legal Division at (402) 471-4650 or [robert.bell@nebraska.gov](mailto:robert.bell@nebraska.gov).

Second, the Nebraska Legislature passed and Governor Ricketts signed into law Legislative Bill 835 which amends, among other provisions of consumer protection laws, the Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006 (Act).

Of note to entities regulated by the Department of Insurance, LB 835 expands the definition of personal information contained within the Act to include a user name or email address, in combination with a password or security question and answer, that would permit access to an online account. Additionally, LB 835 requires that if an individual or commercial entity is required to provide a notice of breach of security of the system to a Nebraska resident, it must also provide the notice of the breach to the Nebraska Attorney General.

The complete text of LB 835 can be found at [www.nebraskalegislature.gov](http://www.nebraskalegislature.gov), and includes other changes to the Act and other consumer protection laws not discussed in this article. LB 835 was introduced on behalf of the Consumer Protection Division of the Attorney General's Office. According to the Office, it is working on a form that will be available on its website, located at [www.protectthegoodlife.nebraska.gov](http://www.protectthegoodlife.nebraska.gov), which entities can utilize to notify the Attorney General as required by LB 835.

Questions regarding this legislation may be directed to Assistant Attorney General Dan Birdsall at [dan.birdsall@nebraska.gov](mailto:dan.birdsall@nebraska.gov). LB 835 is effective July 21, 2016.

### **Reminder to Agents Writing “Broad Form” or “Named Driver” Policies**

*With a broad form policy, coverage follows the driver, not the vehicle.*

*The Department holds agents responsible if they choose to sell broad form auto insurance.*

*Issuing a certificate of insurance on a named driver policy that references a vehicle as covered, if that vehicle is not owned by the policyholder, is a misrepresentation of coverage and a violation of the Unfair Insurance Trade Practices Act.*

A “broad form,” “named operator,” or “named driver” policy provides coverage for only the named insured driver. While this type of policy is referred to as “broad form,” the coverage it provides is limited compared to other auto policies. With a broad form policy, coverage follows the driver, not the vehicle. Instead of insuring a certain vehicle no matter who is driving or with a named driver excluded from liability coverage, a broad form policy insures a certain driver, no matter whose vehicle the policyholder is driving. Because broad form coverage is not specific to a vehicle, the certificate of insurance for this type of policy does not need to name a certain vehicle as insured.

The Department holds agents responsible if they choose to sell broad form auto insurance. Purchasers must be clearly warned about the limitations on coverage and exposure to liability if anyone other than the named driver operates the policyholder's vehicle. Further, a certificate of insurance issued for a named driver policy cannot refer to a vehicle as covered by the policy unless the policyholder owns the vehicle. It is a misrepresentation of coverage and a violation of the Unfair Insurance Trade Practices Act to issue a certificate of insurance on a named driver policy that references a vehicle as covered, if that vehicle is not owned by the policyholder.

If you have questions or concerns about this type of insurance policy, please contact Laura Arp at [Laura.Arp@nebraska.gov](mailto:Laura.Arp@nebraska.gov).

## **Case Summaries**

### ***Wahoo Locker, LLC v. Farm Bureau Property and Casualty Ins. Co.***

*Wahoo Locker, LLC v. Farm Bureau Property and Casualty Ins. Co.*, decided June 28, 2016 by the Nebraska Court of Appeals, is a reminder for agents to educate clients about possible complications when replacement includes compliance with industry standards.

In 2009, Wahoo Locker purchased replacement cost coverage for a processing facility from Farm Bureau, with a policy limit of \$491,000. The policy renewed annually with no increase in the limit of insurance, and was in effect on May 8, 2013, when a grease fire destroyed the building.

The building could be rebuilt to its pre-fire condition for a cost of \$490,632, but the building had been composed mostly of wood. USDA regulations for meat processing plants required construction with new and different materials, raising the replacement cost to \$983,438 if the replacement included return to legal operation as a meat locker.

The insurance agent that sold the policy at issue testified the building was not intentionally underinsured. The owner of Wahoo Locker testified that he relied on his insurance agent to determine the full replacement cost, and he believed that whatever amount the agent insured the building for would be sufficient to rebuild and operate as a meat processing facility in the event of catastrophic loss.

Wahoo Locker filed this lawsuit arguing that the insurance policy should be reformed to cover the cost to replace the destroyed building with a USDA-compliant meat processing plant. Reformation can be granted to express the true intent of the parties when there was a mutual mistake, which is a belief shared by both parties that is not in accord with the facts. Here, the evidence included the agent's testimony that he routinely defined replacement as "to rebuild the property like it is, like it stands." The mistake about what "replacement" means was not mutual, it was only a mistake by the insured. Reformation can also be granted when there is a unilateral mistake caused by fraud or inequitable conduct, but the evidence did not indicate a unilateral mistake. The agent was surprised that the cost to replace the locker plant was nearly double what he had insured the property for and he never had any intent to underinsure the building.

Wahoo Locker also asked the court to find that its recovery should not be limited by the policy limits, based on the reasonable expectations of the parties. But under Nebraska law, the reasonable expectations of an insured are not assessed unless the language of the insurance policy is found to be ambiguous. The policy promised to "pay the cost of repairing or replacing the lost or damaged property," however "the cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property." Therefore, the court found that Wahoo Locker was not entitled to recover beyond the policy limits.

### ***Cruise v. State of Nebraska Department of Insurance***

On June 2, 2016, the Nebraska Supreme Court issued its opinion affirming the Lancaster District Court's opinion, which affirmed the Department of Insurance's order that revoked Mr. Cruise's insurance producer's license for failure to disclose information in his license application.

Mr. Cruise was disbarred by the Nebraska Supreme Court in 2003 and was issued a public reprimand by the Nebraska Supreme Court as an Approved Parenting Act Mediator in November 2012. On his insurance license application, Mr. Cruise answered "no" to Question 2 of the Background Information section, which asks if the applicant has ever been named or involved in "administrative proceedings . . . regarding any professional or occupational license or registration." At the Department's revocation hearing, Mr. Cruise admitted that he misread the question and provided inaccurate information, but explained that he did not intend to mislead or deceive the Department. Mr. Cruise's license was revoked in an Order signed by the Director of Insurance.

On appeal to the District Court, Mr. Cruise argued Question 2 did not apply to his disbarment and public reprimand because those actions were taken by the judicial branch of the government. The District Court stated that it "believes that an action for disbarment and a public reprimand by the judicial branch of the government, or agencies within that branch, would fall within the purview of 'administrative proceeding . . . regarding any professional or occupational license or registration' that must be disclosed to the Department on the Application." The District Court noted that it did not need to make this determination as to the meaning of the Application, however, because Mr. Cruise failed to raise that issue in the Department hearing.

Mr. Cruise also argued to the District Court that there was insufficient evidence to support revocation of his insurance license, because he had no intent to mislead the Department. The District Court found this argument lacked credibility based on Mr. Cruise's past training and experience as a lawyer. Furthermore, the application's general emphasis on disclosure should have alerted Mr. Cruise about the need to be forthcoming with respect to any information related to his professional background and licenses. The District Court found there is no intent requirement under the statute providing the basis for license revocation, Neb. Rev. Stat. § 44-4059(1).

The District Court found that Mr. Cruise's disbarment and public reprimand were pertinent and material in connection with the application. The conduct forming the basis for the disbarment included neglect of clients' cases, failing to file pleadings and respond to discovery on time, failing to deposit clients' funds and advance fee payments into his attorney trust account, being out of trust with his attorney trust account including maintaining a negative balance for several months, and failure to file a brief in a client's federal court appeal. Similarly, the public reprimand was based on a "continuing pattern of failure to communicate, provide information, and respond in a timely manner" to clients, clients' attorneys, and the Administrative Office of the Courts and Probation.

On appeal to the Nebraska Supreme Court, the Court found no error in the District Court's decision.

## ***Regulation Updates***

### **Proposed Amended Regulation**

#### **TITLE 210 NEB. ADMIN. R. & REGS. 39 - COORDINATION OF BENEFITS REGULATION**

The proposed amendments update Chapter 39 to reflect the latest changes to the National Association of Insurance Commissioners (NAIC) Coordination of Benefits Model Regulation and to also reflect recent statutory changes. A public hearing on the proposed amendments to Chapter 39 will be held on August 9, 2016, at 10:00 a.m., in the 5th Floor Conference Room of the Terminal Building, 941 O Street, Lincoln, Nebraska. Interested persons may submit written comments to the Department before the date of the hearing, which will be entered into the record.

A draft copy of the proposed amended Chapter 39 can be found on the Department's website at [www.doi.nebraska.gov/legal/rule\\_reg/n39draft\\_2016\\_06\\_30.pdf](http://www.doi.nebraska.gov/legal/rule_reg/n39draft_2016_06_30.pdf).

### **Amended Regulation**

#### **TITLE 210 NEB. ADMIN. R. & REGS. 76 - VIATICAL SETTLEMENTS**

Amended Chapter 76 implements changes made to the Viatical Settlements Act by the Nebraska Legislature, as well as changes in model reporting forms made to the National Association of Insurance Commissioners (NAIC) model regulation on which Chapter 76 is based. The amendments affect all viatical settlement providers, viatical settlement brokers, and life insurers. Amended Chapter 76 was filed with the Secretary of State for adoption on May 6, 2016, with an effective date of May 11, 2016.

A full copy of amended Chapter 76 can be found on the Department of Insurance website at [www.doi.nebraska.gov/legal/rule\\_reg/ch76Final.pdf](http://www.doi.nebraska.gov/legal/rule_reg/ch76Final.pdf).

### **Proposed Regulation**

#### **TITLE 210 NEB. ADMIN. R. & REGS. 88 - CORPORATE GOVERNANCE ANNUAL DISCLOSURE**

The purpose of proposed Chapter 88 is to implement the recently enacted Corporate Governance Annual Disclosure Act. Specifically, the proposed regulation outlines how domestic insurers and insurer groups should file their corporate governance annual disclosure and what information should be included. A public hearing on the proposed adoption of Chapter 88 was held at the Department of Insurance on July 13, 2016.

A draft copy of proposed Chapter 88 can be found on the Department's website at [www.doi.nebraska.gov/legal/rule\\_reg/Ch88DraftCopy.pdf](http://www.doi.nebraska.gov/legal/rule_reg/Ch88DraftCopy.pdf).

**Bulletin**

**CB-136—STANDARD VALUATION ACT VALUATION MANUAL AND EFFECTIVE DATE**

CB-136 was issued on June 15, 2016. The bulletin states that pursuant to the Standard Valuation Act, Neb. Rev. Stat. §§ 44-8901 to 44-8912, the Director of Insurance shall prescribe the valuation manual no later than July 1, 2017, which conforms substantially to the valuation manual developed and adopted by the National Association of Insurance Commissioners. The standard prescribed in the valuation manual is the minimum standard of valuation required by the Standard Valuation Act for all outstanding life insurance contracts, accident and health insurance contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual.

The operative date of the valuation manual shall be January 1, 2017. A copy of CB-136 can be found on the Department’s website at [www.doi.nebraska.gov/bulletin/cb136.pdf](http://www.doi.nebraska.gov/bulletin/cb136.pdf).

Questions about CB-136 may be directed to Rhonda Ahrens, Life and Health Actuarial Examiner, at [rhonda.ahrens@nebraska.gov](mailto:rhonda.ahrens@nebraska.gov) or (402) 471-2201.

**Actions Taken Against Companies**

CAUSE NO.	ALLEGATION	DISPOSITION
C-2207 <b>Central United Life Insurance Company</b> (Arkansas)	Violated <u>Neb. Rev. Stat. § 44-1525(11)</u> . Failed to respond to department within fifteen working days.	Consent Order \$750 fine 5/4/2016
C-2227 <b>Lumbermen's Underwriting Alliance</b> (Missouri)	Company determined to be in hazardous financial condition.	Order Certificate of Authority revoked 6/8/2016
C-2217 <b>Europ Assistance USA, Inc.</b> (New York)	Violated <u>Neb.Rev.Stat. § 44-5814(1)</u> and 44-5814(3). Failed to file the required annual report and filing fee.	Order Certificate of Authority suspended 6/28/2016
C-2218 <b>Preferred Care, Inc.</b> (Pennsylvania)	Violated <u>Neb.Rev.Stat. § 44-5814(1)</u> and 44-5814(3). Failed to file the required annual report and filing fee.	Order Certificate of Authority suspended 6/28/2016
C-2220 <b>Chubb Services Corporation</b> (Illinois)	Violated <u>Neb.Rev.Stat. § 44-5814(1)</u> and 44-5814(3). Failed to file the required annual report and filing fee.	Order Certificate of Authority suspended 6/28/2016



## FRAUD DIVISION

### ***16th Annual Insurance Fraud Conference***

A few spots still remain to register to attend the 16th Annual Insurance Fraud Conference. The conference is scheduled for August 3, 2016, at the Strategic Air Command and Aerospace Museum. This year's conference has been approved for six hours of general ethics and anti-fraud continuing education for insurance producers through the Nebraska Department of Insurance. The Nebraska Mandatory Continuing Legal Education Commission (MCLE) has approved six hours of continuing education for attorneys. If interested in registering, please contact Connie Drake in the Insurance Fraud Prevention Division (IFPD) at [connie.drake@nebraska.gov](mailto:connie.drake@nebraska.gov).

The IFPD has developed an interesting program that includes actual case investigations. The conference speakers and presentations include:

#### **Interviewing Medical Providers**

Brent Walker and Mitchell Sherrod, with Travelers Investigative Services, will share their experiences and skills on how to interview patients and medical providers with attendees of the 16th Annual Insurance Fraud Conference. Through examples and role playing, they will demonstrate how to approach the patient or provider, strategies used to obtain evidentiary value from an interview, and how to maximize witness cooperation from the unique roles of patients and providers during a fraud investigation.

#### **Midwest Vehicle Cloning**

Senior Special Agent Brad Greiner, with the National Insurance Crime Bureau, is an expert in the field of cloned vehicles. In past years, concealing the true identity of a stolen vehicle was as simple as purchasing a vehicle from a salvage yard and using the salvaged vehicle's identification number (VIN) to conceal the stolen vehicle's identity. Advances in technology have provided criminals with the ability to search the Internet for a donor VIN, duplicate a donor VIN, and produce and print VIN labels and counterfeit documents, thus making it increasingly easier and a more cost efficient way of concealing a stolen vehicle's identity. Special Agent Greiner's presentation at the 16th Annual Insurance Fraud Conference will address issues and methods of vehicle cloning as well as cite recent Midwest case investigations.

#### **Effective Awareness - Are you listening?**

Listening is an important skill we need to master in our personal and professional lives. Effective listening enhances our overall awareness when gathering complete and factual information, which is essential for all investigations. Dale Jackson, GEICO Special Investigation Unit Supervisor, will provide insight pertaining to this topic at the 16th Annual Insurance Fraud Conference. During the course of gathering information, an investigator needs to proactively identify, anticipate, and determine how they will handle a challenging situation that may arise as a result of the investigation. Mr. Jackson will also discuss potential risks and precautions investigators can take to protect themselves.

### ***Annual Conference for Law Enforcement***

In cooperation with the Nebraska Department of Motor Vehicles Fraud Unit, the IFPD is also co-sponsoring a conference for law enforcement personnel on August 4, 2016, at the Strategic Air Command and Aerospace Museum. This conference emphasizes law enforcement's role, and steps that can be taken, to combat insurance fraud.

## **Court Actions**

### **United States District Court - District of Nebraska, 4:15-CR-03037**

#### **United States of America v. Scott T. Tran**

Lincoln Pharmacist Scott Tran, owner of Tran Pharmacy, was sentenced in federal court on charges he bilked the Nebraska Medicaid Program out of \$14.4 million through the submission of bogus claims. Mr. Tran was sentenced to 110 months imprisonment, three years of supervised probation upon his release, and ordered to pay \$14,430,059.17 in restitution.

### **Adams County District Court, CR15-168**

#### **State v. Jonathon S. Grady**

Jonathon Grady contacted law enforcement reporting a burglary at his residence in Hastings, Nebraska. Mr. Grady submitted a claim, pursuant to his newly acquired renter's policy, totaling \$3,835. In support of his claim, Mr. Grady submitted photographs to his insurance company of the stolen personal property. Based on a thorough investigation, the insurance company denied this claim. Subsequent investigation by the Insurance Fraud Prevention Division resulted in a felony charge of insurance fraud being filed against Mr. Grady. Pursuant to a plea of no contest to an amended charge of an attempted fraudulent insurance act, a Class IV felony, District Court Judge Terri Harder sentenced Mr. Grady to 30 months of conditional probation, 72 hours in jail, restitution of investigative costs, and court costs.

### **Adams County District Court, CR15-64 and CR15-65**

#### **State v. Ronald L. Nitzel**

Ronald L. Nitzel, a licensed insurance agent, was charged in Adams County District Court with two felony counts of issuing fake or counterfeit insurance policies. Both cases were dismissed at Mr. Nitzel's expense as the result of a plea agreement involving similar charges in Hall County, Nebraska.

### **Hall County District Court, CR15-465**

#### **State v. Ronald L. Nitzel**

Ronald L. Nitzel pled guilty to two Class IV felony counts of insurance fraud involving issuing bogus policies. Mr. Nitzel was sentenced to two years' probation, a \$3,000 fine, and ordered to pay restitution, court costs, and probationary costs. Mr. Nitzel must also comply with the terms and conditions of his probation order.

### **Douglas County District Court, CR15-1168**

#### **State v. Lacey L. Leeds-Navarro**

Lacey Leeds-Navarro alleged she had tires and rims stolen from her 2008 Chrysler. As proof of ownership, Ms. Leeds-Navarro submitted what was found to be a bogus invoice to her insurance company. Ms. Leeds-Navarro then submitted a second receipt to receive a total replacement cost of \$5,064. The IFPD's investigation found the second receipt was also fraudulent. Ms. Leeds-Navarro was sentenced to 24 months' probation plus program fees.

**Douglas County Court CR15-21656****State v. Lavern K. Crump**

On December 1, 2014, Lavern Crump purchased a vehicle from LA Auto Sales in Omaha, Nebraska. As part of the loan agreement, Ms. Crump provided a certificate of auto insurance. The vehicle was soon destroyed as the result of a fire at which time it was found the certificate of auto insurance was fraudulent. When contacted by an Insurance Fraud Prevention Division investigator, Ms. Crump initially advised she purchased the auto policy online; however, she quickly changed her story reporting she purchased the certificate of auto insurance from an unknown individual in north Omaha. Ms. Crump was charged with a misdemeanor count of possessing a fake insurance certificate. On January 28, 2016, the Honorable Craig McDermott sentenced Ms. Crump to 11 days in jail and court costs.

**Lancaster County Court, CR15-11620****State v. Sarah E. Clifton**

A National Insurance Crime Bureau (NICB) hotline tip resulted in an investigation into a claim submitted by Sarah Clifton. An investigation conducted by the Insurance Fraud Prevention Division and NICB Special Agent Brandon Ruediger resulted in Ms. Clifton being charged with one felony count of a fraudulent insurance act. Ms. Clifton subsequently pled no contest to an amended complaint of theft by deception, a Class I misdemeanor. As a result of her actions, Ms. Clifton was fined \$1,000 plus court costs. Ms. Clifton will be allowed to perform 100 hours of community service in lieu of her fine.

**Saline County District Court, CR15-43****State v. Roxanne R. Furtwangler**

On July 13, 2013, Roxanne Furtwangler rolled her 2009 Kia Spectra on a gravel road in Saline County, Nebraska. Ms. Furtwangler immediately called a friend requesting they go online and renew her auto policy that had expired due to non-payment of premiums. After coverage was in place, Ms. Furtwangler called 911 and reported the accident. The insurance company's potential loss totaled \$6,391.85. The Insurance Fraud Prevention Division's investigation resulted in a felony charge of insurance fraud being filed against Ms. Furtwangler. The felony charge was amended to a misdemeanor count of insurance fraud by the Saline County Attorney. The court found Ms. Furtwangler was not a proper candidate for probation and she was sentenced to 20 hours of community service and ordered to pay investigative and court costs.

