

INSURANCE

Pete Ricketts

Governor

Bruce R. Ramage

Director

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A Message from the Director....



Bruce R. Ramage
Director of Insurance

Amendments Made to Surplus Lines Insurance Act

Legislative Bill 469 was proposed by the Department of Insurance and approved by the Governor on March 12, 2019. The bill amends the Surplus Lines Insurance Act to, for the first time, allow for domestic surplus lines insurers. Prior to passage of LB 469, for a Nebraska insurer to sell surplus lines to Nebraskans, the insurer would have been forced to form or have an insurer in another state and then sell back to Nebraskans from that foreign insurer.

LB 469 eliminates barriers by allowing for domestic surplus lines insurers if: (a) they have at least \$15,000,000 in policyholder surplus; (b) are able to sell surplus lines in at least one other state; (c) the insurer’s Board of Directors has authorized, through a corporate resolution, the insurer to be a domestic surplus lines insurer; and (d) the insurer has received written authority from the Director of Insurance to operate as a domestic surplus lines insurer.

In addition to allowing domestic surplus lines insurers, LB 469 also eliminates obsolete statutes and makes necessary statutory amendments to allow for the elimination of unnecessary and/or outdated rules and regulations of the Department.

Amendments to section 44-5508 allow a surplus lines licensee to place coverage with a domestic surplus lines insurer. This section also replaces the word “transact” with “accept” in two locations so as to bring the language in line with the remainder of the act.

The effective date of LB 469 is September 1, 2019.

CONSUMER AFFAIRS DIVISION

The Department of Insurance Has MOVED—Is the Address Listed Correctly on All Communications?

If an insurer denies a claim and the claimant objects to such denial, the insurer is required to notify the claimant, in writing, of his or her right to have the matter reviewed by the Nebraska Department of Insurance.

A number of insurers continue to reference the Department's former street address in this written notice. The forwarding order for mail sent to the Terminal Building, 941 O Street has expired. Mail sent to that address will be returned to the sender, causing an unnecessary delay for the claimant.

Please review all communications and ensure the following information for the Department of Insurance is correctly listed:

- The Department's **mailing address** is **PO Box 82089, Lincoln, Nebraska 68501-2089**.
- The Department's **physical location** is **1135 M Street, Suite 300, Lincoln, Nebraska 68508**.
- The Department's phone number remains 402-471-2201.
- The Department's toll-free consumer hotline remains 1-877-564-7323.
- The Department's website is **doi.nebraska.gov**.

As a reminder, failing to provide timely responses to the Department and failing to provide a claimant with the Department's correct address are violations of the Unfair Trade Practices Act and the Unfair Claims Settlement Practices Act.

Insurers that continue to send communication or provide claimants with the incorrect address of the Department of Insurance will be referred to the Department's Legal Division for a potential enforcement action.

Mail sent to the Terminal Building at 941 O Street will be returned to the sender, causing unnecessary delays.

Insureds should be directed to contact the Department at its mailing address of PO Box 82089, Lincoln, Nebraska 68501-2089.

Insurers that continue to send communication or provide claimants with the incorrect address of the Department will be referred to the Department's Legal Division for a potential enforcement action.

Consumer Information Posted During Second Quarter, 2019

The following information can be found on our website at doi.nebraska.gov:

- **Keep the Road Code: Prevent Distracted Driving**

A consumer alert was issued to provide guidelines regarding the many distractions drivers can face and tips to help arrive safely at a destination. The **consumer alert** was posted on May 9.

- **Flood Information**

The home page of the Department's website continues to contain a section on Flood Information, including Resources for Nebraska Flood Victims. A **consumer alert**, which includes frequently asked questions, is located under the Flood Information on the Department's website.

Visit the Department's website at doi.nebraska.gov and sign up to receive notification when information is posted. "Get Update Notices" is found in the lower right-hand corner of the home page—chose to receive one or all four of the categories.

FRAUD DIVISION

Second Chance

Dierk Dorsey was a licensed insurance agent in Douglas County, Nebraska, when he began diverting client premiums for his personal use. On March 6, 2018, Mr. Dorsey was found guilty of four Class III felony counts of insurance fraud and sentenced to five years' probation by Judge Gregory Schatz. The terms of Mr. Dorsey's probation required payment of restitution including over \$100,000 owed to an insurer. As part of the probation agreement, Mr. Dorsey was required to obey the laws of Nebraska.

Within a few weeks of receiving probation, Mr. Dorsey decided to renew his illegal activities. An ex-client of Mr. Dorsey's contacted him in March or April 2018 due to the client's auto liability insurance expiring. Mr. Dorsey met the client in Iowa and received monies meant to pay insurance premiums. Mr. Dorsey issued a fraudulent certificate of insurance for the client's vehicle. In a second incident, Mr. Dorsey was contacted by a client in Omaha, Nebraska, wanting to renew his auto coverage as well. Mr. Dorsey delivered a fraudulent certificate and received \$1,000 in cash. The client soon learned of the prior investigation and found that his homeowner's insurance, as well as his auto liability insurance, were both bogus policies. Fortunately for the homeowner, a damaging hailstorm missed his residence when it hit within a few blocks of his uninsured property.

The Douglas County Attorney's Office moved to revoke Mr. Dorsey's probation based upon his new charges and failing to comply with his order of probation.

On June 4, 2019, Mr. Dorsey faced Judge Schatz for a second time regarding the new charges. Judge Schatz ordered Mr. Dorsey to serve a consecutive jail term from 9-12 years at the Nebraska Department of Correctional Services for all five counts of insurance fraud.

Court Actions

Adams County District Court, Case CR18-98 State v. Mayra J. Padilla Mireles

Mayra Padilla Mireles attempted to file a second claim with her insurance company for hail damage to her 2008 Honda with damages exceeding \$3,900. Pursuant to the investigation, it was discovered the damage was pre-existing from a prior hail claim and that the vehicle had not been repaired. Mayra Padilla Mireles pled no contest to a Class IV felony violation of attempted insurance fraud. She was fined \$500 and ordered to pay court costs.

Cheyenne County District Court, Case CR18-104 State v. Scott D. Worth

Scott Worth filed a claim pursuant to his occupational accident policy after falling through the roof of his residence. Mr. Worth's policy provided for medical coverage in the event of a work-related injury. Mr. Worth reported to the insurer that he fell off a trailer at work. The insurer received in excess of \$64,000 in medical bills prior to learning that Mr. Worth may not have been injured as reported. The Insurance Fraud Prevention Division's investigation revealed Mr. Worth had filed a fraudulent claim with his insurer. Mr. Worth was charged with one felony violation of the Nebraska Insurance Fraud Act, which was ultimately amended to a misdemeanor. Mr. Worth received 24-months' probation, probation fees and court costs.

Douglas County District Court, Case CR18-1434 State v. James W. White

James White worked as a claims handler for individual long-term disability claims. He had the ability to log into the insurance company's internal records management system in order to process electronic benefit payments for claimants. From January 2017 through February 2018, Mr. White processed 17 individual transactions resulting in a loss of over \$53,000. All of the payments were directed to Mr. White's personal accounts, after which he would log back into the company's system to change the bank routing and account numbers back to the claimants. Mr. White pled no contest to a felony count of theft by deception and received a sentence of five years' probation and an order of restitution.

Lancaster County District Court, Case CR18-623 State v. Vanessa D. Callahan

On February 19, 2019, Vanessa Callahan pled guilty to a charge of theft by deception and received two years' probation, ordered to pay \$1,025 in restitution, plus probation and court costs. Ms. Callahan alleged she was a passenger in a motor vehicle when it was involved in a collision and that she received injuries as a result. It was later determined Ms. Callahan was not in the vehicle at the time of the accident.

Lancaster County Court, Case CR18-6185 State v. Merry K. Mostrom

Merry Mostrom was charged with one felony count of insurance fraud after binding coverage for her vehicle and then reporting pre-existing vehicle damage as the result of a hit-and-run accident. It was found that Ms. Mostrom had been previously involved in an accident prior to binding insurance coverage. Charges were later amended to a Class I misdemeanor with Ms. Mostrom being ordered to pay a \$400 fine plus court costs.

Court Actions (cont.)

**Douglas County District Court, Case CR19-426
State v. Dierk D. Dorsey**

Dierk Dorsey was a licensed insurance agent when he was accused of diverting premiums for personal use. Mr. Dorsey was found guilty of four Class III felony counts of insurance fraud in Douglas County. On March 6, 2018, Judge Gregory M. Schatz sentenced Mr. Dorsey to five years' probation. Within weeks, Mr. Dorsey decided to continue with his illegal activities. Mr. Dorsey was charged with a Class IV Felony count of insurance fraud after selling a fraudulent certificate of insurance to an ex-client. The new charges resulted in Mr. Dorsey's probation being revoked. On June 4, 2019, Mr. Dorsey was sentenced to serve a consecutive jail term from 9-12 years for the five counts of insurance fraud.

**Sarpy County District Court, Case CR18-779
State v. Deng Atem**

Deng Atem was charged with felony insurance fraud after it was found he changed his auto policy's coverage in order to have vehicle damages sustained prior to his policy changes covered. Vehicle damages totaling \$6,164.60 would have been covered had the policy changes been in place during the loss event. After being found guilty of an amended charge of insurance fraud, Mr. Atem received two years' probation plus associated costs, and was ordered to pay restitution for investigative costs.

An updated checklist for Mobile Home Form & Rate Filings can be found on the Department's website.

A current listing of the contact information for each analyst and the lines of insurance assigned to review can be found on the Department's website.

PROPERTY & CASUALTY DIVISION

Mobile Home Form & Rate Filings

The Mobile Home Form & Rate Filings checklist has been updated and posted to our website. The form and rate filing **checklist** can be found on the Department's website at **doi.nebraska.gov** under Insurers/Property and Casualty Information/Filing Guidance.

Contact Information for Analysts

Questions regarding form and rate filings for all lines of insurance can be sent to the division staff member to which the filing has been assigned.

A current listing of the contact information for each analyst and the lines of insurance assigned to review can be found on the Department's website located at **doi.nebraska.gov/sites/doi.nebraska.gov/files/doc/P%26Cdistributionlist.pdf** .

LIFE & HEALTH DIVISION

Genetic Swabbing Update

The Department has investigated several instances of the swabbing of cheeks of senior citizens purportedly looking for genetic traces of cancer. In some instances, the consumer has been asked to sign documents that would allow them to be billed for the service in the event Medicare or their Medicare Advantage plan does not pay the bill submitted by the testing lab. Often, the person doing the swabbing will ask for the consumer's Medicare card as well to collect billing information.

Some genetic testing entities have now moved to "cloning" phone numbers and using those as a way to get a consumer to agree to accept a genetic testing kit.

Some genetic testing entities have now moved to "cloning" phone numbers and using those as a way to get a consumer to agree to accept a genetic testing kit. In one case, the number cloned was a state government phone number so it appeared to the consumer that the call was legitimate.

These tests are often billed at \$10,000 per test, and it is possible that if Medicare does not pay, the lab may submit a bill to the consumer.

Medicare and Medicare Advantage will only pay for the swabbing if certain criteria set forth by Medicare is followed. These tests are often billed at \$10,000 per test. It is possible that if Medicare does not pay, the lab may submit a bill to the consumer.

The United States Department of Health and Human Services, Office of Inspector General (HHS-OIG) issued additional warnings on this practice. Individuals or companies who suspect they may have been the victims of genetic testing fraud are encouraged to contact HHS-OIG at oig.hhs.gov/fraud/hotline, call their toll-free number at 1-800-447-8477, or call the Department of Insurance at 1-877-564-7323.

MACRA – Reminder to Carriers

Carriers that sell Medicare Supplement are reminded that Nebraska has approved the necessary changes under Nebraska's Medicare Supplement regulation to implement the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA).

Nebraska has approved the necessary changes under Nebraska's Medicare Supplement regulation to implement the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA).

MACRA goes into effect on January 1, 2020. MACRA eliminates plans that have first dollar Part B coverage and thus eliminates plans C and F and makes Plans D and G the guarantee issue plans for "newly eligible" for Medicare. After that date, plans C and F cannot be sold to "newly eligible" for Medicare. "Newly eligible" is anyone who attains age 65 on or after January 1, 2020 or who first becomes eligible for Medicare benefits due to age, disability or end-stage renal disease on or after January 1, 2020.

Insurers' logos or names are being used to sell products on various internet websites, but in many instances the carriers do not sell those particular products in Nebraska.

Companies are responsible for the marketing activities of entities that they contract with for the purpose of selling their products.

Robo calls from a computer-generated audio program are reportedly being made to Nebraska consumers by entities claiming to be health care sharing ministries.

Health care sharing ministries are not regulated by the Department unless they are not in compliance with Neb. Rev. Stat. §44-311.

Unauthorized Use of Company Logos and Names

The Department has received information that insurers' logos or names are being used to sell products on various internet websites, especially those who sell short-term duration or healthcare sharing ministry plans. In many instances, the carriers do not sell those particular products in Nebraska. The marketer appears to be using the logo or trade name to entice the viewer to be sold a different plan that is not associated with the carrier.

The Department recommends that if a company sees this occurring or becomes aware of it from an outside source, the company notify the Department immediately and take remedial action as it sees fit. The Department will also work closely with carriers when it observes these activities.

Carriers can contact Martin Swanson, Administrator for Health Policy at martin.swanson@nebraska.gov or at 402-471-4648 if this type of activity is seen.

As a reminder, companies are responsible for the marketing activities of entities that they contract with for the purpose of selling their products.

Health Care Sharing Ministries

The Department has received reports of robo calls being made to Nebraska consumers by entities claiming to be health care sharing ministries. The calls appear to be coming from a human, but are from a computer-generated audio program.

Health care sharing ministries are not regulated by the Department unless they are not in compliance with Neb. Rev. Stat. §44-311. Additionally, when legitimate, health care sharing ministries are not an insurance product, may subject the consumer to pre-existing condition exclusions and adhere to the religious tenants of the organization. A health care sharing ministry does not have to pay claims since payment is voluntary. Moreover, medical providers are not required to accept discounts with the ministry without a contract.

Information on health care sharing ministries can be found in a **consumer alert** on the Department's website. Questions may be directed to Martin Swanson at martin.swanson@nebraska.gov or Laura Arp at laura.arp@nebraska.gov.

Pharmacy and Hearing Aid Benefits Update

Pharmacy Copay Coupons: The federal Centers for Medicare & Medicaid Services (CMS) released the final annual Notice of Benefit and Payment Parameters for the 2020 benefit year on April 18, 2019. The 2020 Payment Notice is available online at <https://www.govinfo.gov/content/pkg/FR-2019-04-25/pdf/2019-08017.pdf> and makes changes to regulations implementing the Affordable Care Act. One addition to the regulations of particular interest is at 45 CFR § 156.130(h), which has been interpreted by CMS to mean that drug coupons must be counted toward an insured's Maximum Out-of-Pocket (MOOP) where there is no generic alternative. Where a generic alternative is available, the drug coupons do not count toward MOOP.

CMS describes the rule in the preamble to the 2020 Payment Notice as follows. "Drug companies can offer consumers coupons to incentivize them to purchase the company's brand name drugs even when an appropriate, less-expensive generic medication is available. This rule allows issuers to stop applying the value of these coupons towards an enrollee's maximum-out-of-pocket costs in situations where a generic medication is available and medically appropriate, in order to encourage generic use and result in lower drug spending."

Going forward, insurers filing ACA-compliant major medical products for the individual, small group, and large group markets will be asked to describe how the policy discloses this limitation on the use of drug coupons to consumers. These insurers will also be asked to state whether the insurer has elected, voluntarily, to include drug coupons where there is no generic alternative, in the deductible.

Prescription Synchronization: On March 13, 2019, Governor Pete Ricketts approved LB 442, which will enable beneficiaries to synchronize their medications, so they can order and receive them on the same day each month instead of having to make multiple visits to the dispensing pharmacy. A copy of the bill can be found online at <https://nebraskalegislature.gov/FloorDocs/106/PDF/Slip/LB442.pdf>. This new law could reduce medication waste, as well as the poor healthcare outcomes that result from decreased medication adherence. LB 442 applies to individual and group major medical policies, hospital, medical, or surgical expense-incurred policies except for specified disease or limited-benefit coverage, and non-federal governmental self-funded plans.

The provisions in LB 442 are drafted to ensure that while the patient will pay a pro-rated daily cost-sharing rate for a partial supply to synchronize medications, a pharmacy will receive a full dispensing fee. Insurers are encouraged to incorporate this requirement into claims handling guidelines and contracts with pharmacies, pharmacy benefit managers, or other third party administrators.

Payment at Point of Sale: On April 24, 2019, Governor Pete Ricketts approved LB 316, which provides duties for pharmacists and contracted pharmacies regarding disclosure of cost, price, or copayment of prescription drugs, and prohibits insurers from requiring the insured to pay an amount that exceeds the lesser of: (a) the covered person's copayment, deductible, or coinsurance for that prescription drug, or (b) the amount any individual would pay for that prescription drug if the individual paid in cash.

Hearing Aids: On May 29, 2019, Governor Pete Ricketts approved LB 15 which created a new mandate on individual and large group plans to provide hearing aids for children. A copy of the bill can be found online at <https://nebraskalegislature.gov/FloorDocs/106/PDF/Slip/LB15.pdf>.

The law *does not* apply to “a group health plan offered by a small employer as defined in section 44-5260 or a policy providing coverage for a specified disease, accident-only coverage, hospital indemnity coverage, disability income coverage, Medicare supplement coverage, long-term care coverage, or other limited-benefit coverage.”

Beginning on January 1, 2020, plans must cover children (ages 0-18), for each ear affected by hearing impairment, including:

- (a) A hearing aid purchased from a licensed audiologist with the medical clearance from an otolaryngologist and costs related to dispensing such hearing aid;
- (b) Evaluation for a hearing aid;
- (c) Fitting of a hearing aid;
- (d) Programming of a hearing aid;
- (e) Probe microphone measurements for verification that hearing aid gain and output meet the prescribed targets;
- (f) Hearing aid repairs;
- (g) Follow-up adjustments, servicing, and maintenance of a hearing aid;
- (h) Ear mold impressions;
- (i) Ear molds; and
- (j) Auditory rehabilitation and training.

These items must be “covered on a continual basis to the extent that benefits paid for such items and services during the immediately preceding forty-eight-month period have not exceeded three thousand dollars.”

Replacement hearing aids and associated services should be covered within three months of the dispensing date if the hearing aid fails to meet prescribed targets or the hearing aid is unable to be repaired or adjusted.

If an insured child uses a hearing aid on the effective date of this law and the hearing aid has been deemed unrepairable or obsolete by the manufacturer of the device, the insured child is eligible to use the benefits required by this law towards the acquisition of a new hearing aid, parts, and associated services.

Coverage under this law must be subject to the same deductible, copayment, and coinsurance as similar covered items and services under the health plan.

Questions regarding these new mandates should be directed to Laura Arp, Life and Health Administrator at laura.arp@nebraska.gov or at 402-471-2201.

PRODUCER LICENSING DIVISION

Staff Update

Mary Kay McDonald has recently joined the division as a staff assistant. She will monitor and enforce licensing regulations and ensure that all producer and agency licenses are current and in compliance with state regulations and laws.

The appointment renewal window ends Wednesday, July 31, 2019.

2019 Appointment Renewal Process

The appointment renewal window ends Wednesday, July 31, 2019. All appointment renewals must be filed electronically through the NIPR at www.nipr.com/renWelcome.htm no later than 4:00 p.m. (CDT) on July 31.

All appointment renewals must be filed electronically through the NIPR no later than 4:00 p.m. (CDT) on July 31.

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. The NIPR announcement can be found at www.nipr.com/renewalsNE.htm.

Questions regarding the renewal process may be directed to NIPR Customer Service at customerservice@nipr.com or by calling 855-674-6477. Questions can also be sent to the Nebraska Department of Insurance at doi.licensing@nebraska.gov or by calling the Licensing Division at 402-471-4913.

Verifying and Updating Email Addresses

To ensure you continue to receive all future notifications, please verify and update your email address online.

The division has transitioned its correspondence from paper mail to an email format. To ensure that you continue to receive all future notifications, please verify that we have your current email address.

Email addresses can be verified and updated online at www.statebasedsystems.com.

Exam Pass Rates

Exam pass rates are available on the Department's website.

Licensing exam pass rates are available on the Department of Insurance website. The monthly pass rates are organized by line of authority. Annual pass rate totals are also available for the past three years. The exam pass rates are located at doi.nebraska.gov/producers/provide-education.

LEGAL DIVISION

Staff Update

Thomas Green II joined the Department of Insurance in May 2019 as a staff attorney focusing primarily in workers' compensation and producer licensing matters. Prior to joining the Department, Tom was in private practice in his own firm and practiced primarily in the areas of insurance, business law, and estate planning. He received both his undergraduate and juris doctor degree from Creighton University.

Regulation Updates

Company Bulletins

CB-130 (AMENDED) - FILING GUIDANCE FOR INDIVIDUAL AND SMALL EMPLOYER MAJOR MEDICAL PLANS AND STAND-ALONE DENTAL PLANS IN NEBRASKA

CB-130 (Amended) was issued to provide guidance for filers of individual, small group and stand-alone dental plans (SADP), offered on and off the Federal Facilitated Marketplace, that wish to issue or renew plans in Plan Year 2020. The amended bulletin provides dates and corresponding actions that relate to plan year 2020. A copy of **CB-130 (Amended)**, dated April 23, 2019, can be found on the Department's website at doi.nebraska.gov.

CB-143 - INTERPRETATION OF "COVERED SERVICE" IN NEW LAWS ABOUT DENTAL PLANS

CB-143 was issued following the Legislature's amendment to the Administrative Procedures Act that defines a guidance document. The verbiage of CB-143, previously communicated in a Notice dated December 8, 2014, has been converted to a company bulletin as a result of the notice meeting the definition of "guidance document." A copy of **CB-143**, dated July 22, 2019, can be found on the Department's website at doi.nebraska.gov.

Regulations

Proposed Repeal of 210 Neb. Admin. Code §§ 4, 8, 74 and 75.

A public hearing has been scheduled for the proposed repeal of the regulations for August 28, 2019, at 10:00 a.m., at the Department of Insurance, 1135 M Street, Suite 300, Lincoln, NE. A copy of the **notice** can be found on the Department's website at doi.nebraska.gov.

Case Summary

Mark Diamond v State of Nebraska, Department of Insurance, 302 Neb. 892, 926 N.W.2d 71 (2019)

The Department of Insurance ("Department") filed an administrative action against Mark Diamond ("Diamond"), a non-resident insurance producer, in December 2016 for his failure to report the final disposition of a 2012 civil action filed against him by the United States and Colorado. As resolution of the 2012 civil action, Diamond entered into a consent judgment in March 2012, which included,

among other things, “confession of liability” to counts 6 and 7 of the complaint, constituting violations of the Mortgage Assistance Relief Services (MARS) rule § 1015.3(c) and § 1015.5(a). Specifically, the portions of the consent judgment at issue state that Diamond was “violating [§ 1015.3(c)] of the MARS Rule” and that he did so “by making a representation, expressly or by implication, about the benefits, performance, or efficacy of any mortgage assistance relief service without competent and reliable evidence that substantiate[d] that the representation [was] true.” Among other violations, the Director of Insurance found that Diamond’s admission to violating MARS rule § 1015.3(c) constituted an admission of fraud in violation of Neb. Rev. Stat. § 44-4059(1)(g) and levied a \$2,500 fine.

Diamond appealed and the District Court affirmed the Department’s order. Diamond appealed to the Nebraska Supreme Court and argued that the District Court erred in finding that he committed fraud in violation of Neb. Rev. Stat. § 44-4059(1)(g) because he never specifically admitted to fraud under MARS rule § 1015.3(c), nor was the word “fraud” used in that count.

The Nebraska Supreme Court found the meaning of fraud is a question of statutory interpretation, and the interpretation of “fraud” under Neb. Rev. Stat. § 44-4059(1)(g) was a matter of first impression. While fraud is not expressly defined in the statute, the meaning has long been understood in Nebraska insurance law. The Court relied on two definitions of fraud in insurance statute interpretation. First, “fraud consists of some deceitful practice or willful device, resorted to with intent to deprive another of his or her right, or in some manner to do him or her an injury, and, as distinguished from negligence, is always positive, intentional.” Second, fraud, in the sense of a court of equity, “includes all acts, omissions, and concealments which involve a breach of legal or equitable duty, trust, or confidence, justly reposed, and are injurious to another, or by which an undue and unconscientious advantage is taken of another.”

In the context of the Insurance Producers Licensing Act, the Court held that a broad definition of fraud allows the Act to meet an obvious goal: “to protect the public from the unscrupulous behavior of licensees.” The Court determined that under Neb. Rev. Stat. § 44-4059(1)(g), fraud of an insurance producer means “any act, omission, or concealment which involves a breach of legal or equitable duty, trust, or confidence justly reposed, and injurious to another or by which an undue and unconscientious advantage is taken of another.”

After defining fraud, the Court looked to the facts of the case. Here, the Court determined the consent judgment described a “blatantly fraudulent scheme.” If the Court only looked at the liability in Count 6, which included the MARS violations, and applied fraud as used in Neb. Rev. Stat. § 44-4059(1)(g), Diamond admitted an omission that violated a legal duty where an undue and unconscientious advantage was taken of another. Even if Diamond was a “dupe” as argued, the Court reasoned that when the Legislature regulated insurance producers, it did not intend to condone a producer’s blind and deaf participation in a fraudulent scheme. Within the meaning of Neb. Rev. Stat. § 44-4059(1)(g), Diamond’s confession of liability constituted an admission of fraud. As such, the Court affirmed the lower court’s order.

Actions Taken Against Producers & Agencies

CAUSE NO.	ALLEGATION	DISPOSITION
<p>A-2162 Elizabeth Griggs Wilson Lincoln, NE NPN - 232460</p>	<p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(b), 44-4059(1)(h), 44-1524(1), 44-1525(10), 44-8106 and 44-8107(2). Violated any insurance law; used fraudulent, coercive, or dishonest practices; committed insurance unfair trade practice; made false representation of a policy; violated Nebraska Protection in Annuity Transaction Act.</p>	<p>Consent Order \$750 fine 5/30/2019</p>
<p>A-2170 Kyle Maring Oswego, NY NPN – 16532623</p>	<p>Violated <u>Neb. Rev. Stat.</u> §§ 44-9210(3)(b), 44-9211(1)(b), and 44-9211(1)(h). Violated any insurance law; used fraudulent, coercive, or dishonest practices; failed to notify Department of address change.</p>	<p>Order \$500 fine 5/21/2019</p>
<p>A-2172 Premier Claims, LLC Omaha, NE NPN – 18527733</p>	<p>Violated <u>Neb. Rev. Stat.</u> §§ 44-9210(3)(b), 44-9211(1)(b), and 44-9211(1)(h). Violated any insurance law; used fraudulent, coercive, or dishonest practices; failed to notify Department of address change.</p>	<p>Consent Order \$250 fine 4/10/2019</p>
<p>A-2175 Joseph L. Hurley and Joe Hurley Insurance & Financial Services, Inc. Omaha, NE NPN – 9851558 NPN - 17689814</p>	<p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(b), 44-4059(1)(g), 44-4059(1)(h), 44-4059(1)(l), 44-4054(8), 44-1525(10) and 44-1525(12). Violated any insurance law; committed insurance unfair trade practice; used fraudulent, coercive, or dishonest practices; accepted business from unlicensed individual; failed to notify Department of address change; made false representation of a policy; accepted applications by unlicensed producer.</p>	<p>Consent Order License Suspended 5/13/2019</p>
<p>A-2176 Caeli M. Hurley Omaha, NE NPN – 17251148</p>	<p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(b), 44-4059(1)(g), 44-4059(1)(h), 44-4059(1)(l), 44-4054(8), 44-1525(10) and 44-1525(12). Violated any insurance law; committed insurance unfair trade practice; used fraudulent, coercive, or dishonest practices; accepted business from unlicensed individual; failed to notify Department of address change; made false representation of a policy; accepted applications by unlicensed producer.</p>	<p>Consent Order License Suspended 5/13/2019</p>
<p>A-2179 Lorraine T. Tighe Spring Hill, FL NPN – 9779976</p>	<p>Violated <u>Neb. Rev. Stat.</u> §§ 44-4059(1)(b), 44-4059(1)(d), 44-4059(1)(e), 44-4059(1)(g), 44-4059(1)(h) and 44-1525(10). Violated any insurance law; misappropriated funds; intentionally misrepresented terms of an insurance contract; committed insurance unfair trade practice; used fraudulent, coercive, or dishonest practices; made false or fraudulent statements relative to an application for a policy.</p>	<p>Order License Revoked 5/7/2019</p>

Actions Taken Against Producers & Agencies (cont.)

CAUSE NO.	ALLEGATION	DISPOSITION
<p>A-2180 Weston Mock Davenport, IA NPN – 16841833</p>	<p>Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(g), 44-4059(1)(h), and 44-4059(1)(i)</u>. Violated any insurance law; committed insurance unfair trade practice; used fraudulent, coercive, or dishonest practices; action against license in another state.</p>	<p>Consent Order \$1,200 fine 5/2/2019</p>
<p>A-2181 Jeffrey Thompson Littleton, CO NPN - 6732506</p>	<p>Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(h), and 44-4065(1)</u>. Violated any insurance law; used fraudulent, coercive, or dishonest practices; failed to report administrative action to the Department.</p>	<p>Order Licensed Revoked 5/30/2019</p>
<p>A-2182 Marlene Meier Rapid City, SD NPN - 17629488</p>	<p>Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(b), 44-4059(1)(e), 44-4059(1)(g), 44-4059(1)(h) and 44-1525(10)</u>. Violated any insurance law; intentionally misrepresented terms of an insurance contract; committed insurance unfair trade practice; used fraudulent, coercive, or dishonest practices; made false or fraudulent statements relative to an application for a policy.</p>	<p>Consent Order License Revoked 5/3/2019</p>
<p>A-2183 Rebecca L. Marble Hastings, NE NPN - 18739171</p>	<p>Violated <u>Neb. Rev. Stat. §§ 44-4059(1)(a); 44-4059(1)(b), 44-4059(1)(h) and 44-4065(1)</u>. Provided misleading or incorrect information on licensing application; violated any insurance law; used fraudulent, coercive, or dishonest practices; and failed to report administrative action to the Department.</p>	<p>Consent Order \$200 fine 5/15/2019</p>
<p>A-2184 Richard M. Hill Lincoln, NE NPN – 246423</p>	<p>Hearing requested for reconsideration of denial of an application for resident producer license.</p>	<p>Order License Granted 6/13/2019</p>
<p>A-2186 Premier Claims, LLC Omaha, NE NPN - 18527733</p>	<p>Violated <u>Neb. Rev. Stat. §§ 44-9211(1)(b), and 44-9211(1)(h)</u>. Violated any insurance law; used fraudulent, coercive, or dishonest practices.</p>	<p>Order \$1,000 fine and Suspension 7/1/2019</p>

EXAMINATION DIVISION

Pre-Need Examinations Completed During Second Quarter, 2019

Campbell-Aman Funeral Home, LLC
Carpenter Breland Funeral Home of McCook, Inc.
Chermok Funeral Home, Inc.
John A Gentlemen Mortuaries, Inc.
Quality Memorials
Ramekers & Sharman, Inc. dba Miller Funeral Home
Reichmuth Funeral Homes, Inc.
Resseguie Funeral Home, Inc.
Wyuka Funeral Home and Cemetery

Financial Examinations Completed During Second Quarter, 2019

5 Star Life Insurance Company
Assurity Life Insurance Company
Blue Cross and Blue Shield of Nebraska, Inc.
Farmers Mutual Insurance Company of Nebraska
First National Life Insurance Company of USA
HeartlandPlains Health
Nebraska Total Care, Inc.
Omaha Health Insurance Company
Sapphire Edge Inc.
WellCare of Nebraska, 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 doi.nebraska.gov. Copies can be obtained from the Department at a cost of \$.50 per page.

Congratulations

NDOI Employees of the Quarter



- ☆ **Matt Holman, General Counsel**
- ☆ **John Koenig, Insurance Claims Investigator**



Department Calendar

- September 2:** Department Closed – Labor Day
- October 14:** Department Closed - Columbus Day Observed
- October 22:** **Insurtech on the Silicon Prairie**—event cohosted by NDOI & The Nebraska Insurance Federation
To register and learn more, visit:
www.siliconprairienebraska.com/
- November 11:** Department Closed - Veterans' Day