

NHID E-NEWS

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COMMISSIONER SEVIGNY SWORN IN FOR SECOND TERM

At a ceremony in the Executive Council chambers at the New Hampshire State House, Insurance Commissioner Roger Sevigny was sworn in for a second five year term by Governor John Lynch. Commissioner Sevigny's reappointment nomination was unanimously confirmed by the New Hampshire Executive Council.

Accompanying the Commissioner at the swearing-in ceremony were his wife Laura and daughter Ashley. Deputy Insurance Commissioner Alexander Feldvebel also attended.



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HEALTH INSURANCE - LIMITED BENEFITS

Over the past year, the Department has received numerous complaints concerning limited benefit health policies. This mirrors the national trend. The Wall Street Journal recently reported on several instances where individuals purchased limited benefit health insurance policies and discovered during the course of a serious illness that the policies paid only a small fraction of their medical costs. Many times, individuals purchase such policies without fully understanding the limited benefits provided by the policies.

Under the Department's administrative rules, specifically Ins 1901, a limited benefit policy cannot be sold as a group policy. Limited benefit group supplemental policies however, and individual limited benefit policies are permitted under the rules. In a recently issued bulletin, the Commissioner addressed the criteria for determining the difference between a group policy and a group supplemental policy. Referencing the federal standards set forth in HIPAA, the bulletin defines a group supplemental policy as a policy that only provides excepted benefits under HIPAA and that has a value that is equal to or less than 15% of the primary policy. In addition to the Department's bulletin, the federal government has issued two guidance documents pertaining to limited benefit or supplemental policies. Taken together, it is clear that the purpose of the federal guidance is to prohibit carriers from circumventing the standards that apply to primary group health plans or Medicare coverage by deeming the product supplemental. Under the terms of the recent bulletin issued by the Commissioner, a carrier that offers major medical coverage will be required to meet all the standards set forth in the Department's administrative rules for that type of coverage.

NEW HAMPSHIRE'S CIVIL UNION LAW – RSA 457-A:6

RSA 457-A:6 (2007 Chapter 58, HB 437) became effective January 1, 2008. This law allows same sex couples to enter into civil unions and gives a partner in a civil union the same legal rights as a married couple. The law does not change federal eligibility for COBRA nor does it impact the statutes or provisions for COBRA eligibility under federal tax law. Participants of ERISA plans are advised to consult their plans representative or legal counsel on the application of the civil union law.

NHID Bulletin INS 07-088-AB, issued December 18, 2007, addressed the law's impact and gave insurers direction when issuing policies/contracts in New Hampshire. The Department provided further guidance to insurers in the treatment of beneficiaries under annuity policies in NHID Bulletin INS 08-030-AB, issued May 6, 2008.

In response to the passage of RSA 457-A:6, and the Department's bulletins, insurers have been amending their policy forms, endorsements, rules, rates and rating plans. Thus far the Department has experienced few problems with these filings or with the insurers' transition and response to the new law.

HEADS-UP! PRODUCER AND ADJUSTER LICENSING & FEE CHANGES

Producers and adjusters need to be aware of recent changes to existing licensing laws and fees (HB 385; 2008 Chapter 18), effective July 11, 2008.

A Department published bulletin highlighting those changes may be found on-line at the Department's website: www.nh.gov/insurance

OVERVIEW - WORKERS' COMPENSATION LEGISLATION IN 2008

An exemption in workers' compensation law for construction jobs, allowing certain corporate officers and LLC members to exclude themselves from workers' compensation coverage, was disallowed in 2007 with the passage of House Bill 471, 2007 Chapter 323. Most of the workers' compensation legislation initiated in 2008 was in direct response to complaints received in relation to the passage of HB 471, including a bill passed in early January that reinstated the exemption for private (non-state) construction jobs and certain routine maintenance projects for the State.

While several other bills were introduced in 2008, to mitigate costs or re-allow more of the exemption, only one bill passed. HB 501 reinstates the exemption for those who are simply delivering or picking-up from state construction or public works jobs.

In a separate effort, the Workers' Compensation Task Force introduced SB 500. A separate article on the Task Force may be found in this edition of the NHID E-News.

THE WORKER'S COMPENSATION TASK FORCE, AN UPDATE

The original goal of the Task Force was to explore the adequacy of the current labor and insurance laws to determine the need for additional laws to facilitate detection and prosecution of workers' compensation insurance premium fraud. Recognition of the need for such discussions came about following meetings between the Insurance Department, the Department of Labor, labor union representatives and insurance carriers regarding widespread misclassification errors found in the NH workforce. Misclassification occurs when an employer reports a worker as an independent contractor to any State agency or the Internal Revenue Service, when the worker should have been classified as an employee and given all the benefits that come with that designation.

The Task Force group was expanded to include input from representatives of the Department of Revenue Administration, the Department of Justice, the Department of Employment Security and representatives of non-union trade labor groups. Through this alliance HB 500 was initiated and drafted. In turn, Task Force members provided information requested by the Legislature regarding the need for statutory changes, including the technicalities and market forces that brought the State to this juncture. The bill was passed and signed, and will take effect this summer.

The next step for the Task Force is the development of educational tools to help NH businesses understand and comply with the new law. The group has also been working together to open lines of communication between State agencies to allow for information sharing about potential misclassification offenders. Intentional misclassification of NH workers cost NH taxpayers hundreds of thousands of dollars due to unreported business taxes, unemployment taxes and premium taxes. Consequently many state agencies can help to enforce compliance surrounding this issue of misclassification.

Over the summer months, by agreement with the Office of Information Technology, the Task Force will begin working on a webpage to help educate NH consumers, workers and employers about employee misclassification and its effect on the workers themselves and NH taxpayers. The webpage will also provide a one step tip sheet for any NH citizen to report potential employee misclassification to all of the concerned State agencies at the same time.

RULEMAKING – FALL 2007 / WINTER 2008

RULEMAKING – Winter/Spring 2008

The New Hampshire Insurance Department has adopted or currently has the following rulemaking in progress. For additional information refer to the NHID Website: www.state.nh.us/insurance

Ins 400 Life, Accident & Health Filings

This rule establishes standards and procedures for the filing of life, accident and health insurance forms to be used in the State. This rulemaking proceeding makes three amendments to Ins 400. It adds a definition of "SERFF"* to Ins 401.02; amends the time frame in which a policy may be returned to the insurer by the consumer; and amends the form filing, review and inventory procedures section of the rule to accommodate the new NAIC requirements for electronic filing known as SERFF* (systems for electronic rate and form filing). Currently in rulemaking process.

Ins 1003 - 1006 Claim Settlement

These rules continue the Department's intention of creating various parts to Ins 1000 addressing the different lines of insurance business. This proceeding continues that process by amending existing Ins 1000 to create new Part Ins 1003, Part Ins 1004, Part Ins 1005 and Part Ins 1006. Part Ins 1003 establishes claim settlement standards for accident and health insurance; Part Ins 1004 establishes claim settlement standards for life insurance and annuities; Part Ins 1005 establishes claim settlement standards for disability insurance; and Part Ins 1006 establishes claim settlement standards for miscellaneous accident and health insurance products. Currently in rulemaking process.

Ins 2600 Advertisements of Insurance

This rule establishes minimum criteria for advertisements of insurance to assure proper and accurate descriptions, to protect prospective purchases by providing that advertisements provide clear and truthful disclosures of benefits, limitations and exclusions, and to prevent unfair, deceptive and misleading advertising. This rule is divided into four Parts. Part Ins 2601 is an NAIC model specific to advertisements of accident and health insurance; Part Ins 2602 is an NAIC model specific to advertisements of Life Insurance and Annuities; Part Ins 2603 is specific to property and casualty insurance; and Part Ins 2604 covers all other insurance coverages. Part Ins 2602 and Part Ins 2603 are not NAIC models. Currently in rulemaking process.

Ins 3100 Electronic Filings

This rule requires that all rates, forms, rule submissions or filings by insurers, advisory organizations, nonprofit service organization, health maintenance organizations, fraternal benefit societies or their representatives be made electronically through the National Association of Insurance Commissioners (NAIC) system for electronic rate and form filing (SERFF), along with the EFT payment of any required filing fee. Currently in rulemaking process.

Ins 3509 Pre-need Life Insurance Minimum Standards for Determining Reserve Liabilities and Non-forfeiture Values

This rule is a new NAIC model establishing the use of minimum mortality standards for reserves and non-forfeiture values for pre-need insurance products by all insurers licensed to write those products approved in New Hampshire. The rule assures that companies will use a more conservative valuation basis for their pre-need policies. Adopted 08/26/08, Effective 09/02/08.

Ins 4400 Stop Loss Insurance

This rule implements the provisions of RSA 415-H by establishing the requirements and criteria for the actuarial certifications required for the issuance of stop loss insurance policies. Adopted 08/22/08, Effective 09/02/08.

Ins 4500 Annual Financial Reporting

This NAIC model rule is intended to enhance the Department's ability to surveil the financial condition of insurers. This rule implements provisions previously contained in the NAIC Annual Statement Instructions Manual and the NAIC Accounting Practices and Procedures Manual. In completing an annual report, the rule provides insurers with general and compliance requirements relating to report contents, the designation of an independent certified public accountant, the qualifications of the certified public accountant, the use of consolidated or combined audits, the scope of audit and report of independent certified public accountants; notification of adverse financial condition, communication of internal control related matters, inclusion of an accountant's letter of qualifications, access to workpapers, requirements of insurer audit committees, conduct of the insurer in preparation of the report, management's report of internal control over financial reporting. Adopted 08/26/08, Effective 01/01/09.

LEGISLATIVE WRAP-UP 2008

The Department actively participated in the Legislative Session weighing-in on numerous initiatives and assisting Senators and Representatives when requested with information and language. Further, the Department requested the introduction of the nine following bills:

HB 385, Producer Licensing Documents & Fees: Passed by House with Department amendments in March 2007. Retained by House Ways & Means in April 2007. Passed by House with amendment in January 2008 and by Senate in March 2008. 2008 CHAPTER 18, Effective July 11, 2008.

This bill addresses numerous provisions in the insurance laws including producer and adjuster licensing documents and fees, insurer managerial oversight and experience; producer address changes; statutes applicable to consultants; and the repeal of certain sections of the producer licensing law that are no longer applicable.

HB 696, Unclassified Positions: Passed by House with Department amendments in March 2007. Retained by House ED&A in April 2007. Found inexpedient to legislate by House in January 2008. See 2008 Senate Bill 536 below.

HB 858, Discount Medical Plans: Retained by House Commerce in March 2007. Passed by House and Senate with respective Department amendments in January and April 2008. 2008 CHAPTER 206 Effective January 1, 2009.

This bill establishes registration and operational requirements for discount medical plan organizations.

HB 1244, Auditable Policies: Passed by House and Senate with respective Department amendments in March and April 2008. 2008 CHAPTER 211 Effective August 15, 2008.

HB 1244 clarifies the timelines and communication requirements associated with audits of auditable basis insurance policies, like workers' compensation policies. It ensures that clear communication between the insurer and insured takes place, and provides that audits are conducted promptly, unless a bona fide dispute exists. Further, HB 1244 requires that audits are completed and refunds are paid to the insured within a certain time frame.

HB 1245, Document Production: Passed by House with Department amendments March 2008, and by Senate April 2008. 2008 CHAPTER 67 Effective July 20, 2008.

House Bill 1245 provides that information obtained by the Department during an investigation is confidential and not subject to disclosure to third parties. The legislation enhances and protects the Department's ability to obtain what might otherwise be considered proprietary information from insurance companies and confidential information from consumers during an investigation. It allows the Department to share the information obtained with other regulatory and law enforcement entities, and to share non-proprietary or privileged information with a consumer about that consumer's own policy or claim.

HB 1246, Insurance Claims Adjusters; P&C Underwriting Guidelines; Use of Credit Information; Disapproval of P&C Policy Forms: Passed by House with Department amendments March 2008. Passed by Senate in May 2008. 2008 CHAPTER 212 Effective June 16, 2008.

This bill clarifies the definition of "insurance claims adjuster" in the existing law. It also provides specificity to a section of the law applicable to insurance consultants. It clarifies the filing requirements for underwriting guidelines for personal lines coverages, provides rulemaking authority regarding the use of credit information and gives the commissioner the authority to disapprove property and casualty forms filings that do not conform to public policy and are not in the best interests of New Hampshire consumers.



LEGISLATIVE WRAP-UP 2008 CONT.....

HB 1279, Surplus Lines Statute Applicability; Consumer Guaranty Contracts, Redomestication: Passed by both House and Senate with respective Department amendments in March and May 2008. 2008 CHAPTER 255 Effective August 25, 2008.

House Bill 1279 clarifies insurance statute applicability to unadmitted surplus lines companies authorized to do business in the state, and it amends RSA 415-C to provide greater consumer protections for unfair trade practices. The bill also delineates the corporate documents required to be filed when a foreign insurer redomesticates to New Hampshire.

HB 1376, Penalties: Passed by House with Department amendment March 2008. Passed by Senate April 2008. 2008 CHAPTER 153 Effective June 6, 2008.

This bill specifically ensures that the penalty provision at RSA 400-A:15 is applicable to statute, and it enacts a penalty provision for RSA 400-B Market Conduct Record Retention and Production.

HB 1378, Surplus Lines and Unauthorized Insurers Late Fees: Passed by House with Department amendment March 2008. Passed by Senate April 2008. 2008 CHAPTER 154 Effective June 6, 2008.

HB 1378 subjects surplus lines and unauthorized insurers to the same interest penalty charges and timely mailing provisions as those for licensed insurers for the failure to pay premium taxes on time.

HB 1578, Insurance Fraud: Passed by House with Department amendments March 2008. Passed by Senate with non-Department amendments May 2008. House non-concurred and requested Conference Committee in May 2008; Senate Acceded; No Agreement Reached.

This bill clarifies laws relative to insurance fraud, including addition of a fine for failure to report fraudulent claims, specifying the Commissioner's use of fraud information, adding insurance producers to the laws regarding theft by misapplication, defining insurance document for the purposes of forgery, and changing premium fraud to a criminal offense.

HB 1605, Accident and Health Insurance; CCRC's: House voted Interim Study March 2008.

HB 1605 requires that out-of-state policies affecting residents of NH be submitted and approved for use. It defines "business location" to match the provisions of RSA 420-G. It corrects a 2007 error by including in the definition of dependents those who are physically or mentally incapable of earning their own living. HB 1605 makes it an unfair trade practice to refuse to insure risks solely based on civil union status, and corrects the definition of continuing care retirement communities to prevent the inadvertent inclusion of non-CCRC's.

SB 369, Storage and Towing: Passed by Senate January 2008; House voted Interim Study May 2008 at request of Department.

SB 369 provides the Department with rulemaking authority regarding the storage and towing of motor vehicles. The Department determined that the language of the bill might result in unintended consequences, and requested that it be voted interim study.

SB 536, Department Positions: Passed by the Senate March 2008. Passed by the House with Amendment April 2008. Senate concurred May 2008. 2008 CHAPTER 387 Effective September 9, 2008.

This bill reconverts three existing classified positions to unclassified status. The positions of compliance and enforcement counsel, insurance fraud examiner, and the property and casualty actuarial analyst, which is retitled to property and casualty assistant actuary, are affected. Further SB 536 retitles the existing unclassified position of legal counsel to general counsel.

ENFORCEMENT ACTIONS

Stephanie L. Shackford, INS No. 07-080-EP, 2/12/08, Hearing Order, License granted with conditions.

Judy Yamada, INS No. 08-018-EP, 4/4/08, Consent Order, Misstatement on producer license application. Fined \$500.

MyClosing Space, LLC, INS No. 08-023-EP, 5/06/08, Consent Order, Unlicensed solicitation for sale of insurance.

CPM Insurance Services, INS No. 08-009-EP, 3/10/08, Consent Order, Misstatement on producer license application. Fined \$1500.

Madison Title Agency, LLC, INS No. 08-022-EP, 5/13/08, Consent Order, Misstatement on producer license application. Fined \$500.

Colin P. Lindsey, INS No. 08-013-EP, 5/08/08, Consent Order, Revoked license, violations under RSA 402-J.

Balcarres Group, LLC, INS No. 08-013-EP, Hearing Order, Revoked License, violation under RSA 402-J.

Peter Minkow, INS No. 08-047-EP, Consent Order, transacting business with expired license, Fined.

Connecticut Attorneys Title Insurance Company, INS No. 08-049-EP, Consent Order, producers transacting business with expired license, Fined.

INSURANCE FRAUD - CASE RESOLUTIONS

Automobile Insurance Fraud:

State v. Travis Powell
Rockingham County Superior Court 03/24/08, Guilty Plea to Insurance Fraud, Class A Felony
Sentence: 6 months in House of Corrections, suspended \$2,000 Fine or Community Service and Apology Letter
Carrier: Progressive Insurance Company

Workers' Compensation Related Crimes:

State v Donald Rankin
Sullivan County Superior Court 05/12/08, Guilty Plea to Theft by Deception, Class A Felony
Sentence:
6 months in House of Corrections, suspended for 3 years
\$4000 fine suspended for 3 years
200 hours Community Service and Apology Letter
\$2,279.40 Restitution
Remain of Good Behavior
Carrier: MEMIC

Workers' Compensation Related Crimes:

State v. Dorothy Olson
Hillsborough County North Superior Court
01/30/08, Guilty Plea to Falsifying Physical Evidence, Class B Felony
Sentence:
6 months in House of Corrections, deferred
\$2,000 Fine
\$7,412.94 Restitution
Carrier: Broadspire

2008 COMPANY CHANGES

COMPANY NAME CHANGES

Old Name	New Name	Effective Date
Corporate Health Insurance Company	Aetna Health Insurance Company	01/01/08
American Skandia Life Assurance Corporation	Prudential Annuities Life Assurance Corporation	01/01/08
Nutmeg Life Insurance Company	Accendo Insurance Company	09/07/07
Phoenix Indemnity Insurance Company	Hallmark Insurance Company	02/11/08
Manulife Insurance Company	John Hancock Life & Health Insurance Company	04/04/08

NEWLY LICENSED COMPANIES

Company Name	Type of License	Effective Date
Great Western Insurance Company	Life	01/17/08
Independence Casualty Insurance Company	Property and Casualty	01/25/08
Endeavour Insurance Company	Property and Casualty	01/25/08
Atlantic Charter Insurance Company	Property and Casualty	01/25/08
Allstate Fire and Casualty Insurance Company	Property and Casualty	02/05/08
Advantage Workers Compensation Insurance Company	Property and Casualty	02/07/08
Berkshire Hathaway Assurance Corporation	Property and Casualty	02/10/08
Phoenix Indemnity Insurance Company	Property and Casualty	03/14/08
Continental Indemnity Company	Property and Casualty	03/18/08
Riverport Insurance Company	Property and Casualty	03/28/08
Courtesy Insurance Company	Property and Casualty	03/31/08
Essentia Insurance Company	Property and Casualty	03/31/08
Progressive Universal Insurance Company	Property and Casualty	04/18/08
The Hanover National Insurance Company	Property and Casualty	05/01/08

AMENDED LICENSES

Company Name	Line of Business	Effective Date
Beazley Insurance Company, Inc.	Paragraph I, VI, VII and VIII	01/28/08
Hiscox Insurance Company Inc	Paragraph VI and VIII	01/21/08

COMPANY MERGERS

Old Name	With and Into	Effective Date
MetLife Life and Annuity Company of Connecticut	Met Life Insurance Company of Connecticut	12/07/07
Westport Insurance Corporation	Employers Reinsurance Corporation	01/01/08
CUNA Mutual Life Insurance Company	CUNA Mutual Insurance Society	12/31/07
Transcontinental Insurance Company	National Fire Insurance Company of Hartford	12/31/07
The Fidelity Mutual Life Insurance Company	Commonwealth Annuity and Life Insurance Company	05/01/08

COMPANY REDOMESTICATIONS

Company Name	From and To	Effective Date
North American Company for the Life and Health Insurance	Illinois to Iowa	10/01/07
Great Northern Insurance Company	Minnesota to Indiana	11/30/07
Valiant Insurance Company	Iowa to Delaware	12/10/07
Accendo Insurance Company	Iowa to Utah	11/08/07
Ticor Title Insurance Company	Florida to Nebraska	09/28/07
The American Insurance Company	Nebraska to Ohio	12/31/08
United General Title Insurance Company	Colorado to California	12/19/07

2008 COMPANY CHANGES CONT.....

REMOVE RESTRICTIONS

Company Name	Restriction Removed	Effective Date
Jefferson Insurance Company	Servicing Existing Business Only	01/07/08
Arbella Protection Insurance Company	Servicing Existing Business Only	02/10/08
Everest Reinsurance Company	Limited to Reinsurance Only	05/27/08

RELICENSED FOLLOWING ACQUISITIONS

Company Acquired Name	Acquired By	Effective Date
Valiant Insurance Company	Ariel Holdings, Ltd	10/01/07
NorGuard Insurance Company	Clal Insurance Enterprises Holding, LTD	05/30/07
EastGuard Insurance Company	Clal Insurance Enterprises Holding, LTD	05/30/07
AMGuard Insurance Company	Clal Insurance Enterprises Holding, LTD	05/30/07
Alea North America Insurance Company	Fin Acquisition Limited	07/05/07
American Progressive Life & Health Ins. Co.of NY	Welsh, Carson, Anderson & Stowe	09/06/07
Alta Health & Life Insurance Company	CIGNA Corporation	03/18/07

NHID STAFF NEWS

Introducing New Hires:

The following individuals joined the Department over the last few months.

Jennifer Goodwin - Account Clerk III, Business Office

H. Kurt Gillies - Insurance Company Examiner I, Financial Examinations

Position Changes:

Cheryl Gagnon, Business Division to Licensing Unit

Lisa Campbell, Consumer Division to Business Division

Deirdre Fitzpatrick, Licensing Unit to Life, Accident and Health Division

Karen Cassin, Consumer Division to Administration

Cheryl Frey, LAH Form Filings to LAH Market Conduct Unit

Karen McCallister, Fraud Unit to LAH Market Conduct Unit

