

CHAPTER Ins 4600 ANTIFRAUD PLAN STANDARDS

Authority: RSA 400-A:15, I; ***RSA 408-D:17***; RSA 417:31; RSA 541-A:21, ***VI(a)(2)***

Readopt with amendment Ins 4601, effective 11-14-11 (Document #10024), to read as follows:

PART Ins 4601 ANTIFRAUD PLANS

Ins 4601.01 Purpose. The purpose of this chapter is to establish standards for the insurance fraud investigation unit, insurance company special investigative unit (SIU), and any other interested parties regarding the preparation of an antifraud plan that meets the mandated requirements for ~~[submitting]~~ ***developing an antifraud*** plan ~~[with the department]~~ pursuant to RSA 417:30.

Ins 4601.02 Applicability and Scope. This chapter shall be applicable to every insurance company licensed to write direct business in this state, except for insurance companies writing only credit, home warranty, travel, or title insurance.

Ins 4601.03 Definitions.

- (a) "Commissioner" means the insurance commissioner.
- (b) "Department" means the New Hampshire Insurance Department.
- (c) "National Association of Insurance Commissioners (NAIC)" means the organization comprised of elected or appointed state government officials of the 50 states, the ~~[d]~~District of ~~[e]~~Columbia and the U.S. territories whose departments regulate the business of insurance.
- (d) "National Health Care Antifraud Association (NHCAA)" means the organization founded in 1985 by private health insurers and federal and state governments whose activities focus exclusively on fighting health care fraud.
- (e) "National Insurance Crime Bureau (NCIB)" means the not-for-profit organization created by the insurance industry to address insurance-related crime.
- (f) "Online Fraud Reporting System (OFRS)" means the online fraud reporting system developed by the NAIC for regulators, consumers and insurance industry to report insurance fraud.
- (g) "Special Investigations Unit (SIU)" means the non-law enforcement units of an insurer or insurer affiliated entity whose sole mission is to detect, deter, defeat, and report insurance fraud. An SIU includes any of the following:

- (1) An internal unit of the insurance company;
- (2) An external unit of more than one insurance company that is part of the same insurance holding company system; or
- (3) An independent third-party unit under contract with an insurer or insurers.

Ins 4601.04 Antifraud Plans ~~[Submission Requirement]~~***Submitted Upon Request***.

(a) An insurer, ~~[if required]~~ ***if requested*** by the department, subject to RSA 408-D:14 and RSA 417:30, shall submit to the commissioner a detailed description of the company's antifraud plan.

(b) A ~~[H]~~***ny*** antifraud plans ***so*** submitted shall be subject to review by the commissioner.

Ins 4601.05 Antifraud Plan Requirements.

(a) The antifraud plan shall be an acknowledgement by the insurer and its SIU that they have established criteria that shall be used to detect suspicious or fraudulent insurance activity relating to the different types of insurance offered by that insurer.

(b) One SIU antifraud plan may cover several insurer affiliated entities if one SIU has the fraud investigation mission for all entities.

(c) The following information shall be included in the [submitted] antifraud plan to satisfy the requirements of this chapter, RSA 408-D:14, and RSA 417:30:

(1) General information requirements including:

- a. An acknowledgment that the SIU has established criteria that shall be used for the investigation of acts of suspected insurance fraud relating to the different types of insurance offered by that insurer;
- b. An acknowledgment that the insurer or SIU shall record the date that suspected fraudulent activity is detected[;] and shall record the date that reports of such suspected insurance fraud were sent directly to the department, with a specific time frame which is consistent with RSA 417:28;
- c. A provision stating whether the SIU is an internal unit or an external or third-party unit;
- d. If the SIU is an internal unit, provide a description of whether the unit is part of the insurer's claims or underwriting departments, or whether it is separate from such departments;
- e. A written description or chart outlining the organizational arrangement of the insurer's antifraud positions responsible for the investigation and reporting of possible fraudulent insurance acts, including:
 1. If the SIU is an internal unit, the insurer shall provide general contact information for the company's SIU;
 2. If the SIU is an external unit, the insurer shall provide:
 - (i) The name of the company or companies used;
 - (ii) Contact information for the company;
 - (iii) A company organizational chart; and
 - (iv) The person or position at the insurer responsible for maintaining contact with the external SIU company; **and**
 3. If an external SIU is employed for purposes of surveillance, the insurer shall include a description of the policies and procedures implemented;
- f. A provision where the insurer provides the NAIC individual and group code numbers;
- g. A statement as to whether the insurer has implemented a fraud awareness or outreach program. If the insurer has an awareness or outreach program, a brief description of the program shall be included; **and**

h. If the SIU is a third-party, a description of the insurer's policies and procedures for ensuring that the third-party unit fulfills its contractual obligations to the insurer and a copy of the contract with the third party vendor[-];

(2) Prevention, detection, and investigation of fraud information, including:

- a. A description of the insurer's corporate policies for preventing fraudulent insurance acts by its policy holders;
- b. A description of the insurer's established fraud detection procedures, such as technology and other detection procedures;
- c. A description of the internal referral criteria used in reporting suspicious claims of insurance fraud for investigation by the SIU;
- d. A description of the SIU investigation program, such as by business line, external form claims adjustment, vendor management standard, operating procedures; and
- e. A description of the insurer's policies and procedures for referring suspicious or fraudulent activity from the claims or underwriting departments to the SIU[-];

(3) Reporting of fraud information, including:

- a. A description of the insurer's reporting procedures for the mandatory reporting of possible fraudulent insurance acts to the commissioner pursuant to RSA 408-D:14, RSA 417:28, and RSA 417:30;
- b. A description of the insurer's criteria or threshold for reporting fraud to the commissioner; [~~RSA 408-D:14, RSA 417:28, and RSA 417:30~~] and
- c. A description of the insurer's means of submission of reports of suspected fraud to the commissioner, such as through the NAIC, OFRS, NICB, NHCAA, electronic state system, or other *means*[-];

(4) Education and training information, including, if applicable, a description of the insurer's plan for antifraud education and training initiatives of any personnel involved in antifraud related efforts. [~~Which~~]**Such** description shall include:

- a. The internal positions the insurer offers regular education and training, such as underwriters, adjusters, claims representatives, appointment agents, and attorneys, etc.;
- b. If the training will be internal [~~and~~]or external;
- c. Number of hours expected per year; and
- d. If training includes ethics, false claims, or other legal-related issues[-];

(5) Internal fraud detection and prevention information, including:

- a. A description of the insurer's internal fraud detection policy for employees, consultants, or others, such as underwriters, claims representatives, appointed agents, etc.; and
- b. A description of the insurer's internal fraud reporting system.

Ins 4601.06 Compliance with 18 USC 1033 & 1034. The insurer shall include a description of its policies and procedures for candidates for employment, and existing employees, for compliance with 18 USC 1033 & 1034.

Ins 4601.07 Regulatory Compliance. Pursuant to RSA 417:30, the department shall review insurer antifraud plans, *as needed*, in order to determine compliance with appropriate state laws. Further, the department shall, in accordance with RSA 417:30, IV, take appropriate administrative action against an insurer that fails to comply with the mandated requirements [~~and~~]or state laws.

Ins 4601.08 Confidentiality of Antifraud Plans. [~~The~~]*Any requested* submission of required information shall not constitute a waiver of an insurer's privilege, trade secret, confidentiality, or any proprietary interest in its antifraud plan or its antifraud related policies and procedures. The commissioner shall maintain the antifraud plan as confidential. Submitted plans shall not be subject to RSA 91-A, if submitted properly under the state statutes or rules which would afford protection of these materials under RSA 408-D:14 and RSA 417:30, II.

Ins 4601.09 Required Antifraud Plan Submission. ~~An insurer shall submit its antifraud plan within 90 days of receiving a certificate of authority. Plans shall be submitted every 5 years thereafter. An insurer shall submit revisions to its plan within 30 days of a material change being made.]~~ Waiver of Rules.

(a) The commissioner, upon the commissioner's own initiative or upon request by an insurer, shall waive any requirement of this chapter if such waiver does not contradict the objective or intent of the rule and:

- (1) Applying the rule provision would cause confusion or would be misleading to consumers;*
 - (2) The rule provision is in whole or in part inapplicable to the given circumstances;*
 - (3) There are specific circumstances unique to the situation such that strict compliance with the rule would be onerous without promoting the objective or intent of the rule provision; or*
 - (4) Any other similar extenuating circumstances exist such that application of an alternative standard or procedure better promotes the objective or intent of the rule provision.*
- (b) No requirement prescribed by statute shall be waived unless expressly authorized by law.*
- (c) Any person or entity seeking a waiver shall make a request in writing.*
- (d) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any.*

APPENDIX

Rule	Specific State Statute that the Rule Implements
Ins 4601.01	RSA 400-A:15, I.; RSA 408-D:14; RSA 408-D:17 ; RSA 417:23; RSA 417:31
Ins 4601.02	RSA 400-A:15, I; RSA 408-D:17 ; RSA 417:30; RSA 417:31
Ins 4601.03	RSA 400-A:15, I; RSA 417:31; RSA 541-A:21, VI(a)(2)
Ins 4601.04	RSA 400-A:15, I; RSA 408-D:14; RSA 417:30
Ins 4601.05	RSA 400-A:15, I; RSA 408-D:14; RSA 408-D:17 ; RSA 417:28, RSA 417:30; RSA 417:31
Ins 4601.06	RSA 400-A:15, I; RSA 417:31; 18 USC 1033 & 1034
Ins 4601.07	RSA 400-A:15, I; RSA 417:30 [RSA 417:31]
Ins 4601.08	RSA 400-A:15, I; RSA 400-A:16, [RSA 400-A;]RSA 400-A:[36, III]37; RSA 408-D:14; RSA 408-D:17 ; RSA 417:30; RSA 417:31
Ins 4601.09	RSA 400-A:15, I; RSA 541-A:22, IV