



2013 Agent Forums

Adam Hamm, Commissioner
North Dakota Insurance Department

ACA update

- ▶ Coming up in 2014
- ▶ Navigators
- ▶ Waiver for state innovation
- ▶ ACA delays / changes

Coming up in 2014

- ▶ Marketplace (formerly called Exchange)
 - One-stop online portal for individuals and small businesses to purchase health insurance and determine eligibility for public programs
 - Open for enrollment Oct. 1, 2013 and operational by Jan. 1, 2014
 - North Dakota's Marketplace will be run by the federal government
 - For Marketplace assistance, call 1-800-318-2596
 - HealthCare.gov is the website for the Marketplace

Coming up in 2014

- ▶ Annual and lifetime limits
 - No health plan can impose lifetime limits on coverage of essential health benefits (EHB).
 - For plans issued or renewed beginning Jan. 1, 2014, all annual dollar limits on coverage of essential health benefits are prohibited.
- ▶ Preexisting condition exclusions
 - Starting Jan. 1, 2014, a plan may not impose any preexisting condition exclusions on anyone.

Coming up in 2014

- ▶ Requirement to maintain minimum essential coverage
 - U.S. citizens and legal residents are required to have qualifying health insurance coverage. Those without coverage pay a penalty of the greater of (3 year phase in):
 - \$95 or 1% of taxable income in 2014
 - \$325 or 2% of taxable income in 2015
 - \$695 or 2.5% of taxable income in 2016

Coming up in 2014

- ▶ Requirement to maintain minimum essential coverage
 - After 2016, the penalty will be increased annually by the cost-of-living adjustment.
 - Exemptions: financial hardship, religious objections, American Indians, those without coverage for less than three months, undocumented immigrants, incarcerated individuals, those for whom the lowest cost plan exceeds 8% of income, and those with incomes below the tax filing threshold

Coming up in 2014

- ▶ Guaranteed issue and renewability in all markets
 - ACA requires guaranteed issue and renewability and allows rating variation based only on age (limited to 3 to 1 ratio), premium rating based on geographic area, family composition and tobacco use (limited to 1.5. to 1 ratio) in the individual and the small group market and the Marketplace.
 - Guaranteed issue is the right to purchase insurance without a physical examination; the present and past physical condition (pre-existing conditions) of the applicant are not considered.

Coming up in 2014

- ▶ Employers must offer coverage
 - ACA imposes a mandate on employers with 50+ workers to provide health insurance coverage. Employer Shared Responsibility payment for employers with 50+ employees was delayed until 2015
 - 50+ employees: employers must provide essential coverage or pay penalty of 2,000 per full time worker (excluding the first 30); if offer unaffordable coverage, pay 3,000 per employee receiving taxpayer assistance to buy it
 - 50 or fewer employees: exempt from mandate

Coming up in 2014

- ▶ Essential Health Benefits
 - All non-grandfathered health insurance plans offered in the small group and individual markets both inside and outside of the Marketplace must include the essential health benefits package.

Navigators

- ▶ Navigators—dealt with by federal regulation
 - Cannot be a health insurer or lobbyist for health insurance issuers
 - Must comply with federal training regulations
 - Must register with the Marketplace
 - Navigators selected for ND (awarded grants) are Minot State University and Great Plains Tribal Chairmen's Health Board

Role in FFM	Responsibilities
Navigators	Help establish eligibility and enroll, outreach, education, funded by federal grants
In-person assistance personnel	Same as navigator, funded through separate grants or state contracts (N/A for FFM)
Certified application counselors	Many of the same functions as Navigators (likely in hospitals and clinics)
Agents and brokers	Help enroll, compensated by insurance companies or consumers (per state law)

Role in FFM	Training required
Navigators	Federal training and certification
In-person assistance personnel	N/A
Certified application counselors	Federal training and certification
Agents and brokers	Federal training and certification

Agents, producers, web brokers in Marketplace

- ▶ Must obtain ID # from Marketplace through registration
- ▶ Must complete an online training course
- ▶ All state laws apply—licensure, appointments, CE

Waiver for state innovation

- ▶ A state may apply for a waiver for plan years beginning 01/01/2017 of the following requirements:
 - Requirements for Qualified Health Benefits Plans
 - Requirements for Health Insurance Marketplace
 - Requirements for reduced cost-sharing in qualified health benefits plans
 - Requirements for premium subsidies
 - Requirements for the employer mandate
 - Requirements for the individual mandate

Waiver for state innovation

- ▶ The state would receive funds for implementing the waiver equal to any subsidies or tax credits for which residents would otherwise receive if the state had not received a waiver.
- ▶ Federal Government has not released specific guidance yet on how states could qualify for waiver, but has made clear that a waiver does not mean a state gets out of the requirements of ACA—it simply means a state has come up with a different way of accomplishing ACA's goals/intent.

ACA delays / changes

- ▶ According to a Forbes review of a recent Congressional Research Service report, 41 of 82 deadlines set by ACA have been missed by the federal government
- ▶ Employer mandate delayed until 2015
- ▶ Marketplaces (state and federal) now won't have to verify an individual's health insurance status or income level—instead they will rely on “self-reported” information (referred to by critics since as “the honor system”). Federal Government says this information will be audited by the IRS

“As we shift into the ‘decade of the consumer,’ **costs will likely continue to increase**, leading to more calls for a public option to compete with a failed Affordable Care Act exchange system of private payers.

Once we leave the highway of affordability, all roads lead to a single-payer system.”

Mike Turpin
Executive Vice President And National
Practice Leader of USI Insurance Services

National updates

- ▶ A profile of the NAIC
- ▶ Industry wide hot topics

What is the NAIC?

- ▶ U.S. standard-setting and regulatory support organization
- ▶ 50 states, District of Columbia and the 5 U.S. territories make up the NAIC
- ▶ NAIC has 3 offices:
 - Washington, D.C.
 - Kansas City
 - New York
 - 465 full time employees

“The best argument for state regulation is the insurance industry, particularly life and property / casualty, which largely weathered the financial crisis with few losses for customers or threats to the financial system.”

USA Today

U.S. insurance market snapshot

- ▶ States regulate 6,115 U.S. insurers
- ▶ 11,531 regulators form the national system of state-based insurance regulation
- ▶ U.S. consumers spend \$1.6 trillion per year on insurance
- ▶ First in worldwide premium volume (32.85% of world market share)
- ▶ 24 of the world's 50 largest markets are individual US States

NAIC Leadership



James J. Donelon,
NAIC President
Louisiana Insurance
Commissioner



Adam Hamm,
NAIC President-Elect
North Dakota Insurance
Commissioner



Monica J. Lindeen,
NAIC Vice President
Montana Commissioner of
Securities and Insurance



Michael F. Consedine,
NAIC Secretary-Treasurer
Pennsylvania Insurance
Commissioner



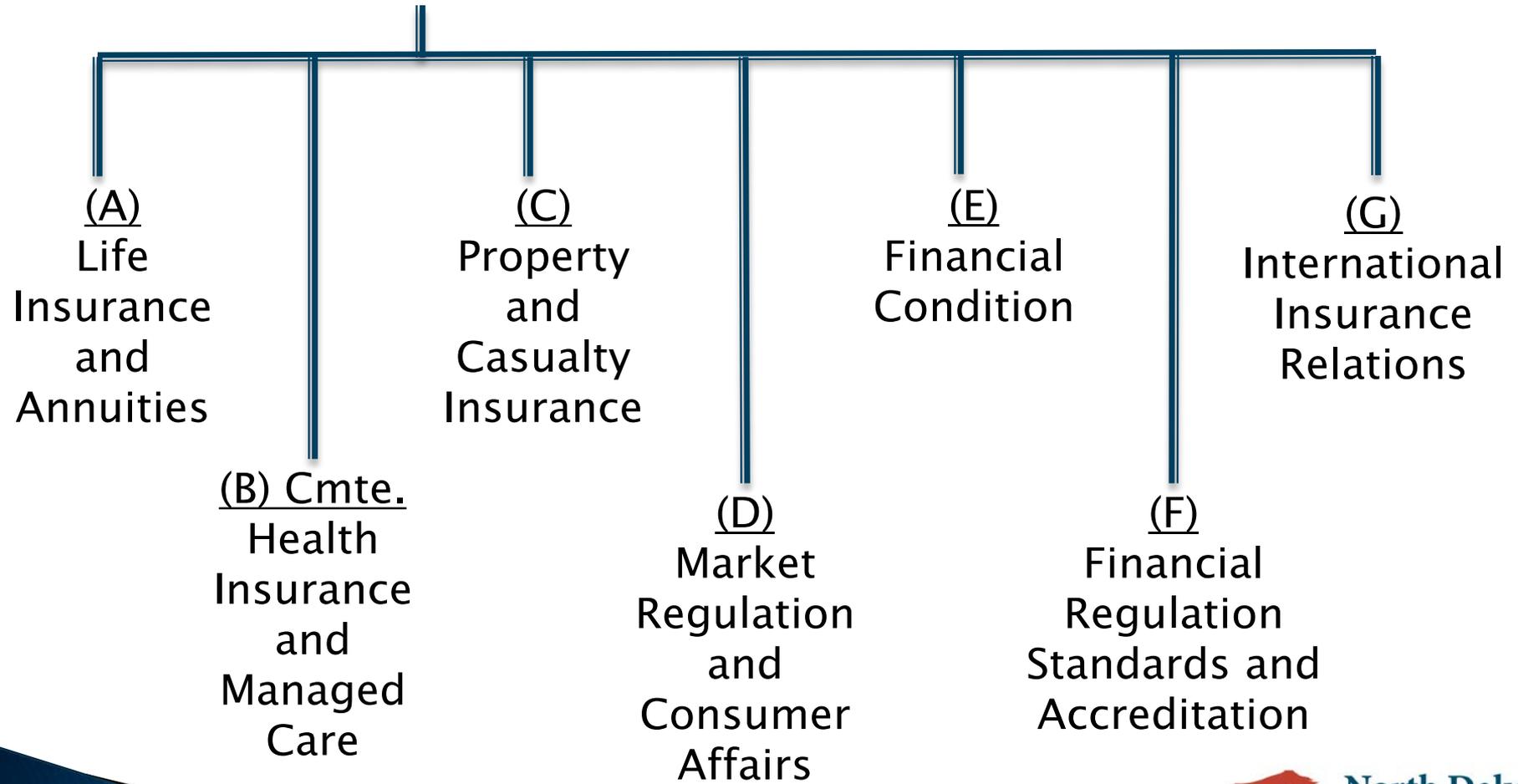
Ben Nelson,
NAIC Chief Executive
Officer



Andrew Beal,
NAIC Chief Operating
Officer and Chief Legal
Officer

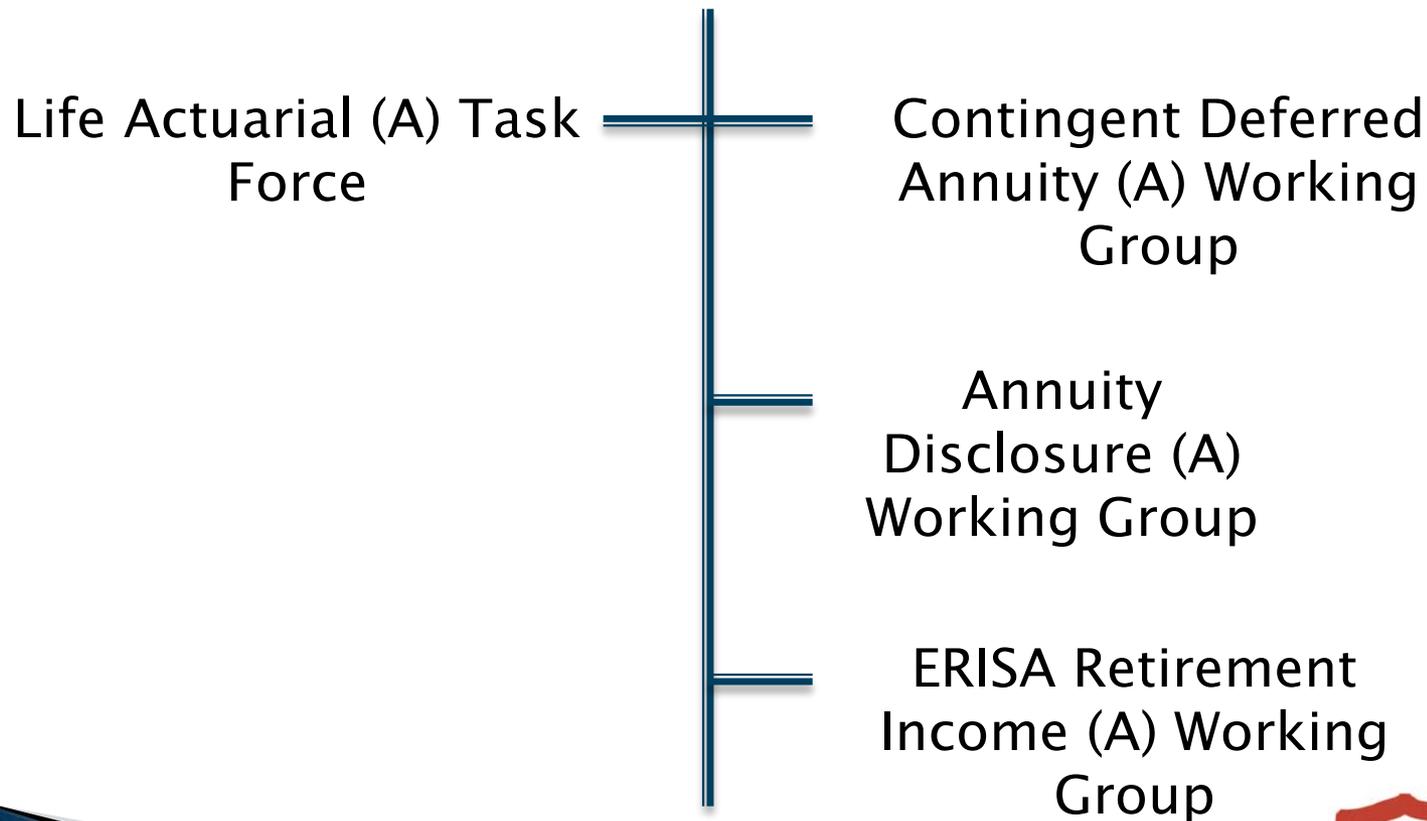
NAIC committee structure

Executive Committee



Parent committee structure

Life Insurance and Annuities (A) Committee



Developing a model law or regulation

Committee Chair



Executive Committee



Standing Committee



Task Force or Working Group

Propose

Approve

Assign

Developing a model law or regulation continued

Task Force or Working Group



Standing Committee



Executive Committee and
Plenary

Develop

Vote

Vote: Officially Approved
NAIC Model Law

Terrorism risk insurance: background

- ▶ Following 9/11, insurers and reinsurers pulled back from offering terrorism insurance coverage due to concerns about how widespread terrorism would become and the inability to calculate frequency, severity, and loss costs
- ▶ As a result, terrorism risk insurance was unavailable or extremely expensive, and many businesses weren't able to purchase it
- ▶ Major airlines and other businesses had their coverage cancelled with only a 7-day notice from insurers

Terrorism risk insurance: background

- ▶ Congress responded by passing the Terrorism Risk Insurance Act of 2002 (TRIA) to create a federal government backstop
- ▶ TRIA was reauthorized and modified in 2005 and 2007, and is now scheduled to expire on December 31, 2014

Overview of the TRIA program

- ▶ TRIA requires insurers to make terrorism insurance coverage available and establishes triggers/thresholds that must be met before an insurer is eligible for reimbursement
- ▶ Only certified acts of terrorism are eligible for TRIA coverage
- ▶ A terrorism event must be certified jointly by Secretary of Treasury, Secretary of State and Attorney General and the losses must exceed \$5M in the US

Overview of the TRIA program

- ▶ Federal government shares in an insurer's losses only if the industry's aggregate insured losses from certified acts of terrorism exceed \$100M
- ▶ Also, an insurer must meet a deductible of 20% of its annual premiums for federal government coverage to begin
- ▶ Once \$100M aggregate loss and 20% deductible are exceeded, federal government covers 85% of losses until the amount of losses totals \$100B
- ▶ After \$100B, there is no federal coverage and no requirement that insurers provide coverage

NAIC policy position and input to the President's Working Group

- ▶ State insurance regulators have supported TRIA from inception and its reauthorizations
- ▶ NAIC adopted a resolution in August of 2013 reiterating our support
- ▶ NAIC submitted formal comments to the President's Working Group on Financial Markets for its upcoming report to Congress examining the long-term availability and affordability of terrorism risk insurance

NAIC comments to Working Group

- ▶ State insurance regulators believe the presence of a federal partnership with private markets has provided a measure of security to the insurance industry by minimizing market disruptions and ensuring widespread availability and affordability of P&C insurance for terrorism risks
- ▶ This public–private partnership ensures that insurers bear primary financial responsibility and must make coverage available, while effectively capping the magnitude of losses

NAIC comments to Working Group

- ▶ State insurance regulators have not seen evidence that the marketplace is capable or willing to take on a substantial portion of the risk of providing terrorism risk coverage
- ▶ The difficulty in accurately determining frequency, severity and loss costs for terrorism makes coverage one that insurers would likely choose to avoid if given the opportunity
- ▶ If TRIA were allowed to expire, insurers might place limitations on policies to exclude terrorism coverage or withdraw from the market completely

NAIC comments to Working Group

- ▶ State insurance regulators encourage the development of a permanent solution to terrorism risk insurance in order to avoid market disruptions and the uncertainty associated with short-term reauthorizations
- ▶ NAIC recommends prompt Congressional action on a 10-year TRIA reauthorization prior to the program's expiration to minimize disruptions to the commercial insurance markets

Outlook for TRIA renewal

- ▶ Preliminary discussions underway in Congress on whether and how to reauthorize TRIA
- ▶ Program faces reauthorization at a very challenging time with increased scrutiny and wariness of federal government and taxpayer expenses
- ▶ US House Financial Services Committee Chairman Jeb Hensarling (R-TX) has called for increased private market participation and has voted against the last two TRIA reauthorizations

Outlook for TRIA renewal

- ▶ Senate Banking Committee Chairman Tim Johnson (D–SD) has historically supported the program, but he is not running for reelection in 2014
- ▶ Executive branch has been skeptical about TRIA in the past
- ▶ US House Financial Services Committee is holding hearings this fall and three TRIA extension bills have been introduced in the House, but no action taken so far

Outlook for TRIA renewal

- ▶ President's Working Group on Financial Markets and the Government Accountability Office (GAO) are each working on reports analyzing TRIA
- ▶ Those reports are expected to play an integral role in guiding Congress's views on reauthorization
- ▶ At this time, it's unlikely Congress will act quickly to reauthorize TRIA and will wait until closer to the expiration date to take action

NARAB II

- ▶ Legislation establishes NARAB entity through which producers could bypass states in seeking authority to do business on a nonresident basis
- ▶ NARAB would be governed by a board of directors consisting of a majority of state insurance commissioners with industry representation
- ▶ NARAB would establish classes and categories of membership and would be required to consider the PLMA and the highest state levels of insurance producer qualifications when establishing membership criteria

NARAB II

- ▶ NARAB licensure would require an FBI criminal background check
- ▶ The nonresident state would not issue a nonresident license. Rather, if the NARAB member paid the nonresident state's fee, the producer could do business as a nonresident through NARAB membership provided the producer was authorized in the home state for those lines of business the producer sought to do as a nonresident
- ▶ States would retain their rights to supervise and discipline insurance producers and enforce laws and regulations on consumer protection and unfair trade practices

NARAB II

- ▶ Operational start-up issues for NARAB
 - Prescribe procedures for obtaining and utilizing fingerprints and criminal history information, including establishment of fees and security safeguards
 - Establish procedures for the submission of producers' fingerprints in order to request from U.S. Attorney General an FBI criminal history record check
 - Establish procedures for the handling and use of criminal history record check information received from AG, and proper disclosure of that information to state regulators, law enforcement and producers upon request

NARAB II

- ▶ Operational start-up issues continued
 - Determine whether to establish a central clearinghouse or utilize the NAIC or another entity for that purpose
 - Determine whether to establish a regulatory activities producer database or utilize the NAIC or another entity for that purpose
 - Determine how NARAB will act as licensing fee agent for states

NARAB II

- ▶ Preparing for membership applications
 - Establish membership criteria, including separate classes and categories of membership based on a determination that different duties require different standards
 - Include standards for personal qualification, education, training and experience, considering PLMA and highest levels under state law
 - Separate business entity class mandated
 - Determine how criminal history information will be utilized
 - Categories of membership based on licensing categories that exist under state laws

NARAB II

- ▶ Preparing for membership applications continued
 - Establish procedures for requesting assistance from states in investigating and evaluating eligibility for membership
 - Establish “reasonably consistently applied” standards for denial of membership

NARAB II

- ▶ Meeting membership criteria
 - State insurance regulators would have 10 business days to provide evidence that a producer doesn't satisfy membership criteria
 - Satisfaction of membership criteria means a producer can sell, solicit or negotiate insurance (and perform incidental activities) in any state for which the producer pays that state's licensing fee for any line(s) of insurance for which they are licensed in their home state

NARAB II

- ▶ Meeting membership criteria continued
 - The Association does not grant a license—NARAB membership operates similar to a passport, but ...
 - Membership is considered the equivalent of a nonresident license for the purpose of authorizing a producer to do business and subjecting the producer to state regulatory and disciplinary authority

NARAB II—legislative activity

- ▶ Two previous versions of NARAB passed the House, but never the Senate
- ▶ 2011–2012: New wave of insurance commissioners reassesses continuing support; result is that insurance regulators and producer trades agree on amendments to the bill and support
- ▶ 2012: Senate sponsorship emerges (Jon Tester (D–MT) and Mike Johanns (R–NE))
- ▶ 2013: Senate Banking Committee becomes engaged on NARAB II

NARAB II—legislative activity continued

- ▶ House moved forward with their NARAB II bill (HR 1155) and passed it on September 10th by an overwhelming vote of 397–6
- ▶ Senate Banking Committee marked up their NARAB II bill in June (S 534) and the Senate Banking Committee has approved it
- ▶ Senate and House bills are essentially the same

Unclaimed property exams update

- ▶ Within the last few weeks, North Dakota has reached its 7th multi-state settlement with insurance companies regarding life insurance practices. These companies are some of the largest life insurance companies in the world including Prudential, John Hancock, MetLife, AIG, ING, Nationwide and Transamerica (combined they represent approximately 40 percent of the national market for life and annuity products).
- ▶ North Dakota is part of these coordinated multi-state exams with 5 other lead states: California, Florida, Illinois, New Hampshire and Pennsylvania.

Unclaimed property exams update continued

- ▶ To date, North Dakota has received approximately \$1.44 million dollars as a part of these settlements.
- ▶ The focus of these exams is to investigate the insurance companies use of the Social Security Administration's Death Master File (DMF) to locate information about deceased policyholders. Life insurance companies often use the DMF to find out if policyholders of certain types of insurance have died.

Unclaimed property exams update continued

- ▶ The exams look at how insurance companies use information from the DMF to stop annuity payments to deceased customers and to pay benefits to life insurance beneficiaries.
- ▶ What the exams have revealed is that some insurance companies used the DMF information to stop annuity benefit payments to deceased policyholders, but did not have the same practices in place to identify beneficiaries who may be eligible for life insurance payments following the death of a policyholder—
Asymmetric use of the DMF.

Unclaimed property exams update continued

- ▶ In addition to the settlement amounts that the above mentioned companies have paid, these companies have also agreed to implement systems that will ensure that this does not occur again.
- ▶ Moving forward, the focus will continue to be on the examination of the remainder of the top 40 national life and annuity insurers. Once that process is complete, the NAIC may decide to explore the possibility of nationwide changes including the potential development of a model law.



Producer Licensing Division

Kelvin W. Zimmer
Director of Producer Licensing Division
North Dakota Insurance Department

Legislative update

- ▶ SB 2304: fingerprinting required with new resident agent applicants. Senate passed 47–0; House passed 89–3.
- ▶ HB 1098: disclosure of tax return information for insurance producers. House passed 86–0; Senate passed 45–0.
- ▶ HB 1181: domestic surplus lines insurers. House passed 88–0; Senate passed 46–0.

Producer numbers

- ▶ Resident producers: 5,718
- ▶ Non-resident: 48,819
- ▶ Surplus lines resident: 37
- ▶ Surplus lines non-resident: 1,035

Agents/brokers in FFM

Navigators/assisters in FFM

All state laws apply;
licensure, CE,
appointments

Need to receive federal
training and be certified

Complete Marketplace
online training (phase I)

Need to receive federal
training and be certified

Help enroll,
compensated by
insurance companies or
consumers (per state
law)

Can't sell, solicit or
negotiate insurance, must
refer individuals and
businesses to licensed
producers when questions
go beyond basic assistance

Agents/brokers in FFM

Navigators in FFM

States are primary regulatory authority

Federal authority

Complete security authentication and agent agreement (phase II)

FFM agent/broker training: Part I

- ▶ Agent/broker training for the federally-facilitated Marketplace (FFM) is now available. All training will occur online. Agents and brokers may begin their training immediately.
- ▶ To take the training now, visit Marketplace.MedicareLearningNetworkLMS.com
- ▶ Note: after completion of part I, agents/brokers should allow 48 hours for their training/testing results to be transmitted to CMS Enterprise Portal where Part II occurs.

FFM agent/broker training: Part II

- ▶ Part II of agent/broker registration process for the federally-facilitated Marketplace (FFM) has officially launched.
- ▶ Agents/brokers who wish to serve in the individual market may now complete identity proofing on the CMS Enterprise Portal:

<https://portal.cms.gov>

More resources

- ▶ www.IRS.gov
- ▶ www.CCIIO.cms.gov
- ▶ www.healthcare.gov
- ▶ <http://cciio.cms.gov/programs/marketreforms>
- ▶ <http://marketplace.cms.gov>
- ▶ www.healthcare.gov/marketplace/about/state-marketplace/index.html

North Dakota Insurance Department website



Adam Hamm, Commissioner

[Welcome](#) | [Ask Adam](#) | [Bio](#)



[Communications](#) [Prescription Connection](#) [SHIC](#) [Health Care Reform](#) [Enforcement](#) [Compliance](#) [Forms](#) [Special Funds](#)

Would you know what's missing?

An inventory of your home makes it easier to file an insurance claim after a natural disaster or a burglary.

[Download a free app!](#)



[CONSUMERS](#)

[PRODUCERS/AGENTS](#)

[COMPANIES](#)

Google™ Custom Search



Apply for
prescription assistance

Search for an agent,
agency or company

News

Insurance Department reaches multi-state life insurance settlement with ING
08/19/2013

Hamm: Background checks begin Sept. 1 for resident insurance agent applicants
08/12/2013

Insurance Department launches mobile website
07/19/2013

[view all news](#)

Calendar

PSI to take over ND agent

Fingerprinting and background checks begin Sept. 1

Effective Sept. 1, 2013, anyone applying to become a North Dakota resident insurance producer must undergo a criminal background check, including fingerprinting.

This requirement does not apply to individuals renewing a license or individuals who apply for a license within 12 months after their license was cancelled or expired, unless the license was suspended or revoked.

For more information, contact Producer Licensing Division Director Kelvin Zimmer at 701-328-2440 or kelzimmer@nd.gov.

Quick links

- [Complaints](#)
- [Filing requirements for licensed companies](#)
- [Filing requirements for registered, other entities](#)
- [Fraud](#)
- [Health insurance plans](#)
- [Medicare](#)
- [Rate review process](#)
- [SBS Connect](#)
- [Surplus lines producers](#)



Sign up for email updates

CONSUMERS

PRODUCERS/AGENTS

COMPANIES

Google™ Custom Search



Producers/Agents

- Resident producer**
- Nonresident producer**
- Business entity**
- Continuing education**
- Other licenses**
- Miscellaneous**

Home > Producers/Agents

Producers/Agents

[Search for an agent, agency or company.](#)

Resident

- [Apply for a license](#)
- [Renew license](#)
- [Voluntarily cancel license](#)
- [Update name/address/email](#)
- [Print license](#)
- [Add line of authority](#)
- [Request letter of clearance](#)
- [FAQ](#)

Nonresident

- [Apply for a license](#)
- [Renew license](#)
- [Voluntarily cancel license](#)
- [Update name/address/email](#)
- [Print license](#)
- [Add line of authority](#)
- [FAQ](#)

Business entity

- [Apply for a license](#)
- [Voluntarily cancel license](#)
- [Update name/address/email](#)
- [Print license](#)
- [Add/remove Designated Responsible Licensed Producer](#)
- [FAQ](#)

Continuing ed

- [Producer: resident requirements](#)
- [Print/view education transcript](#)
- [Provider/course lookup](#)
- [Long-Term Care Partnership training](#)
- [Annuity suitability training](#)
- [FAQ](#)
- [Provider: general information](#)
- [Provider login](#)
- [FAQ](#)

Other licenses

- [Bail bond](#)
- [Consultant](#)
- [Title licensing](#)
- [Managing General Agent](#)
- [Third Party Administrator \(TPA\)](#)
- [Surplus lines](#)
- [Auto/car rental](#)
- [Life settlements](#)
- [FAQ](#)

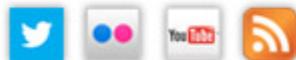
Miscellaneous

- [List request](#)
- [Fee schedule](#)
- [Company appointment list](#)
- [Company appointment/termination/renewal](#)
- [Crop hail insurers](#)
- [Agent forums](#)
- [Forms](#)
- [FAQ](#)

Quick links

- [Print license](#)
- [Renew license](#)
- [FAQ](#)
- [Print license](#)
- [Consultant](#)
- [Apply for a license](#)
- [Surplus lines](#)
- [Continuing education](#)
- [Renew license](#)
- [Resident producer](#)

Consumers	Producers/Agents
Companies	Communications
SHIC	Prescription Connection
Enforcement	Compliance
Health Care Reform	Special Funds
 Search for an agent, agency or company	
News	Calendar
Sign up for email updates	Report fraud



Google™ Custom Search

Search

 Click to call

 Contact us

View full site



	About Us	
<ul style="list-style-type: none"> Administration Division Agent Licensing Division Consumer Assistance Division Examinations and Company Licensing Division Legal Division Product Filing Division Special Funds Division 	<p>Programs</p> <p>The Department, established by the Legislature, is an agency headed by the Commissioner. The Department maintains its offices at the State Capitol, 1701 North Dakota Avenue, Bismarck and a third location in Grand Forks.</p> <p>Department members serve the public. The Department is devoted to insurance regulation. A number of employees perform the duties assigned to the Department by the Legislature.</p>	

All fees and fines paid by companies or agents are deposited into the Insurance Regulatory Trust Fund, from which the money to operate the Department is appropriated by the Legislature.

Access further Department information using the toolbar on the left. If you're not able to find what you need, please contact us.

insurance@nd.gov

701.328.2440
701.328.4880 fax

800.247.0560 toll free
800.366.6888 TTY line
888.575.6611 SHIC and Prescription Connection

Mission statement

It is the mission of the North Dakota Insurance Department to protect the public good by fairly and effectively administering the laws of North Dakota. We are committed to vigorous consumer protection efforts while fostering a strong, competitive marketplace that provide consumers with choices and access to high-quality insurance products and services at competitive prices. In pursuit of our mission, we will treat all of our constituencies with the highest ethical standards and respect they deserve.

 Click to call

 Contact us

View full site





Ethics for Insurance Producers

Presented by Jeff Ubben,
General Counsel
North Dakota Insurance Department

What Are Professional Ethics?

- ▶ Professional ethics are standards or codes of conduct set by people in a specific profession.
- ▶ Professional ethics are a system of expectations of those involved in a certain line of work to ensure that the profession does not condone bad, dishonest or irresponsible behavior if it does occur by someone in their field.



How Do Ethics Apply to Me?

Ethics give us a foundation for understanding the concepts of right and wrong. Ethics help us to have a ready understanding of how to react to a certain situation before the situation occurs.



Case Studies

The case studies will provide:

- Opportunities for identifying and analyzing ethical problems;
- Practice at applying ethical concepts, principles and theories to actual situations;
- Opportunities to identify and evaluate options for action in response to ethical problems.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Legal Duties of Producers

Producers have a responsibility to obey the laws and regulations that govern their profession.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Failure to meet legal obligations may result in a loss of license, fines, criminal prosecution, and other penalties.



New Insurance Fraud Penalties

- ▶ **SB 2074 – Penalties for insurance fraud (N.D.C.C. §26.1–02.1–05(1)).** This bill amends the criminal penalties for insurance fraud in N.D.C.C. § 26.1–02.1–05.
- ▶ Passed Senate (45–0) and House (83–9) during 2013 Legislative Session. Law became effective August 1, 2013.

New Insurance Fraud Penalties

- ▶ This new law adds a Class A felony for property or services retained above \$50,000; adds a Class B felony at the \$10,001 to \$50,000 level; and changes the Class C felony to the \$1,000 to \$10,000 level.
- ▶ Class A misdemeanor for \$1,000 and under.
- ▶ Previously, a Class C felony was the highest charge for insurance fraud (any amount of property or services retained above \$5,000).



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

New Insurance Fraud Penalties

- ▶ Maximum sentence for a Class A felony is 20 years' imprisonment, a fine of \$10,000, or both (restitution can and likely will also be ordered on top of any fine).
- ▶ Maximum sentence for a Class B felony is 10 years' imprisonment, a fine of ten thousand dollars, or both.
- ▶ Maximum sentence for a Class C felony is 5 years' imprisonment, a fine of five thousand dollars, or both.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

New Insurance Fraud Penalties

- ▶ The bill adds penalties for attempted insurance fraud at the Class A and Class B levels.
- ▶ Class B felony if the value of property or services attempted to be obtained exceeds \$50,000.
- ▶ Class C felony if value attempted to be obtained is between \$10,001 and \$50,000.
- ▶ A Class A misdemeanor if value attempted to be obtained is \$10,000 or less.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

New Insurance Fraud Penalties

Not so fun fact: Insurance Fraud is now the second most profitable crime in America, behind only ???

- ▶ Illegal drug sales

Source: NAIC

New Insurance Fraud Penalties

In summation, insurance fraud is a serious crime that has serious consequences.

Ethical Duties of Producers

Producers have a responsibility to behave in an ethical manner that is above that standard of conduct required for adherence to laws and rules.



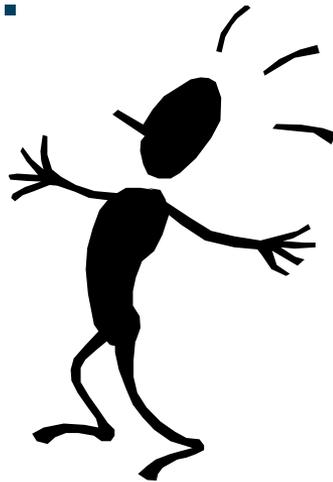
Ethics For Producers

- ▶ Codes of ethics define minimum behavior standards for a given profession.
- ▶ Producers may agree to abide by a code of ethics when they join a group or association that espouses such standards.



What Are Professional Ethics?

These codes of ethics help to prevent exploitation of the client and preserve the integrity of the profession. This is not only to the benefit of the client but to the benefit of those belonging to the profession.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Goal of Presentation

The purpose of this presentation is to reinforce a producer's ethical competence, contribute to a producer's understanding of the complexities of ethical decision-making, and provide tools to help a producer identify, prevent and constructively resolve ethical dilemmas.



State Regulation of Producers

Producers who fail to comply with regulatory requirements are subject to sanctions including:

- fines,
- probation,
- suspension of license,
- revocation of license,
- refusal to continue or issue a license.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Let's get to the case studies already!





North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study One

Alec has a large insurance agency and he likes to say thank you to his loyal customers. Each summer he books a tour bus and takes his 30 best clients to Deadwood for a weekend of gambling. He provides the transportation, one night in a hotel, three meals, and \$60 cash each for the slots.



Did Alec roll the dice with his license?

- A. No, it is a perfectly acceptable business practice to thank your clients with such a trip.
- B. No, it is okay as long as the cost of the trip is less than the amount of premium each client paid.
- C. Yes, this would be an illegal rebate.
- D. None of the above.

Rebating

Statutes governing rebating are found at:

- ▶ N.D.C.C. § 26.1-04-03 (8),
- ▶ § 26.1-04-06, and
- ▶ § 26.1-25-16.

Case Study One Discussion

If the cost does not exceed an aggregate retail value of \$50 per person per year, an insurance producer may give a gift, prize, promotional article, logo merchandise, meal, or entertainment activity directly or indirectly to a person in connection with marketing, promoting, or advertising the business.

N.D.C.C. sections 26.1-04-03(8), 26.1-04-06, 26.1-25-16).

Case Study One Discussion

The term "person" means the named insured, policy owner, or prospective client or the spouse of any of these individuals, but the term does not include a certificate holder, child, or employee of the named insured, policy owner, or prospective client.



Case Study One Discussion

Within the \$50 limit, an insurance producer may give a gift card for specific merchandise or services such as a meal, gasoline, or car wash but may not give cash, a cash card, any form of currency, or any refund or discount in premium.



Case Study One Discussion

An insurance producer may not condition the giving of a gift, prize, promotion article, logo merchandise, meal, or entertainment activity on obtaining a quote or a contract of insurance.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study One Discussion

Insurance producers may not “stack” rebates. For example, a producer may not give a \$50 gift to a client and the client’s wife and additional \$50 gifts to each of their two children.



Case Study One Discussion

- ▶ Likewise, a producer who sold a group health policy to a business with 30 employees may give a \$50 gift to the policyholder/business owner but may not give \$50 to each employee.
- ▶ This stacking of gifts is not allowed because it goes beyond the token thank you gift for doing business and crosses the line into being an inducement to buy insurance.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study One Discussion

An insurance producer may make a donation in any amount to a nonprofit organization that is exempt from federal taxation under Internal Revenue Code Section 501(c)(3) as long as the donation is not given as an inducement to obtain a quote or a contract of insurance.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study One Discussion

Any Questions on Rebating???



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Two

Ernest is a new agent in a small town, family-run agency. Ernest sees that many clients pay their premium to the agency in cash or check, which is deposited into the agency's bank account. Ernest's paychecks sometimes bounce and several customers have come in lately complaining that they are getting notices of cancellation for nonpayment of premium.

Case Study Two

He also overheard the owner of the agency on the phone with several insurance company employees who sound like they're complaining that payments out of the sweep account have also bounced.



Case Study Two

What should Ernest do?

- A. Find a job in the oil field so his paychecks don't bounce.
- B. Report the situation to the Insurance Commissioner's office.
- C. Say nothing to anyone and hope this is just a temporary rough patch for the agency.
- D. Tell clients to find another agency.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Two Discussion

A person engaged in the business of insurance having knowledge or a reasonable belief that a fraudulent insurance act is being, will be, or has been committed must report it to the Commissioner. N.D.C.C. § 26.1-02.1-06.

** A person who provides non-public personal information to the commissioner pursuant to N.D.C.C. section 26.1-02.1-06 does not violate the insurance privacy law (NDCC § 26.1-02-27).

Case Study Two Discussion

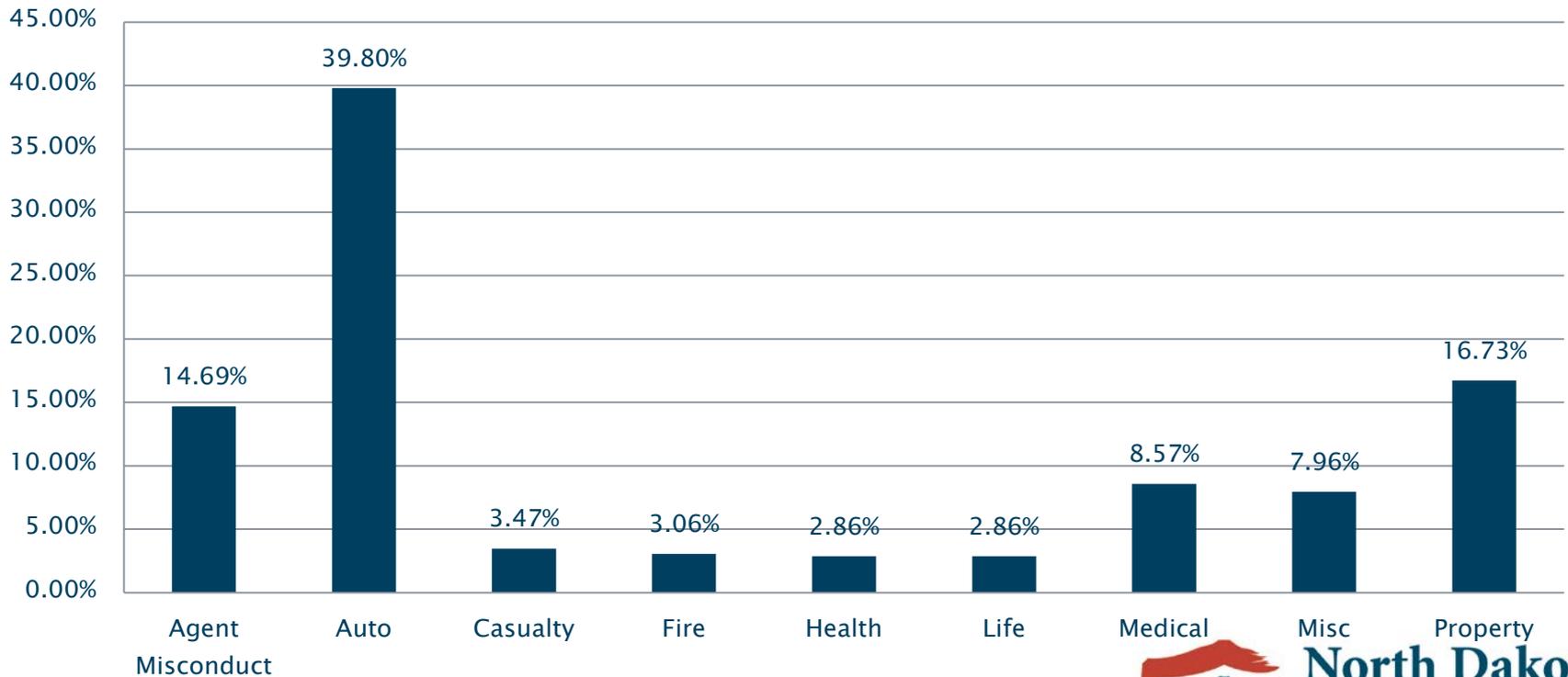
- ▶ The new insurance fraud penalties previously detailed would apply to this example of a fraudulent insurance act.
- ▶ Insurance producers must not use fraudulent, coercive, or dishonest practices and must not be incompetent, untrustworthy, or financially irresponsible. N.D.C.C. § 26.1–26–42.

Case Study Two Discussion

- ▶ The agency owner's license must be revoked if he is convicted of felony insurance fraud. He cannot be in the business of insurance with that type of felony conviction. N.D.C.C. § 26.1-02.1-02.1.
- ▶ Even if he isn't convicted of felony fraud, the license may be revoked, suspended or placed in a probationary status for using fraudulent, coercive, dishonest practices, or for financial irresponsibility. N.D.C.C. § 26.1-26-42

ND Fraud Statistics

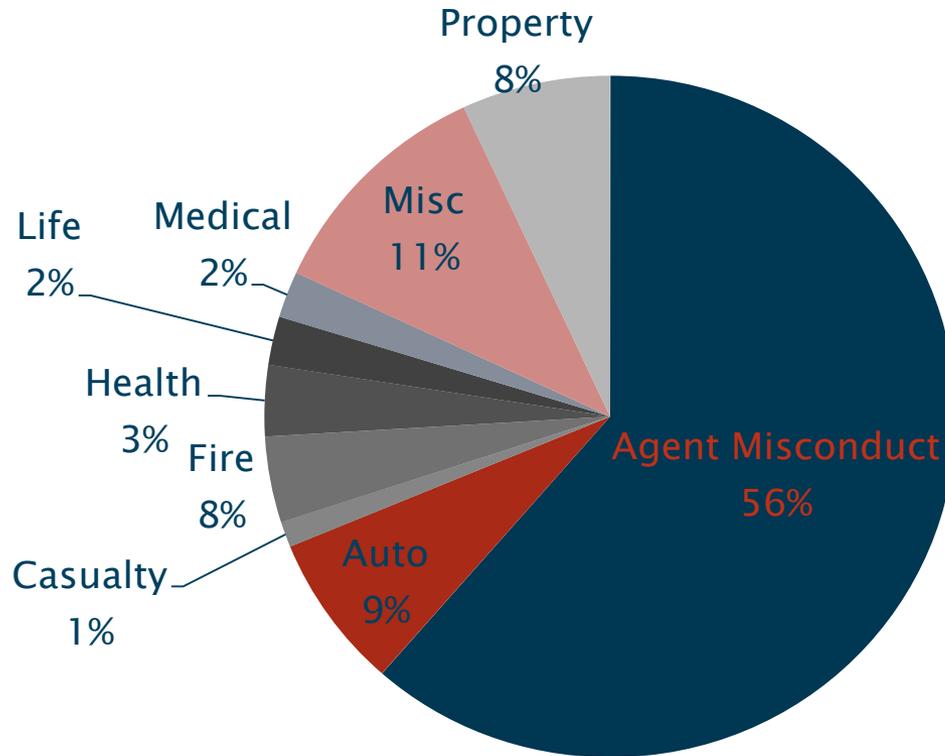
Percentage of Fraud Cases
By Case Type (2008 – September 9, 2013)



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

ND Fraud Statistics

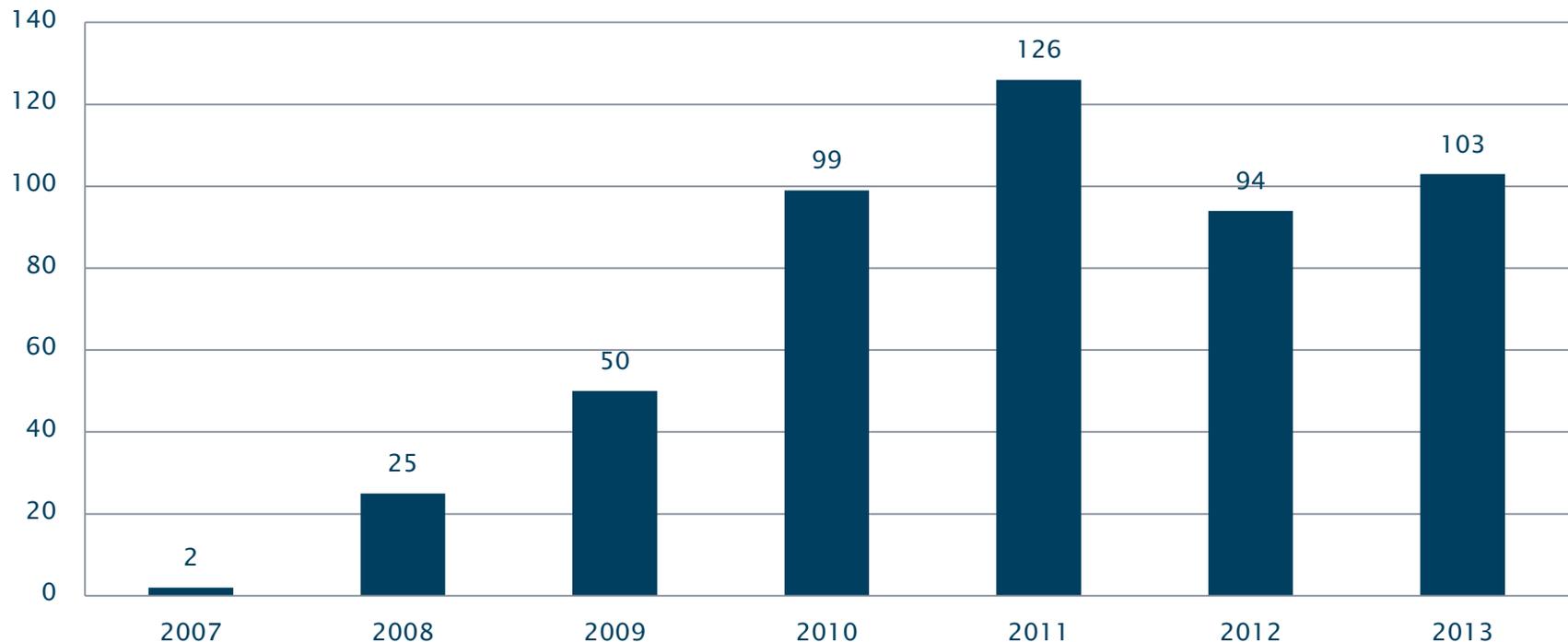
Actual Loss Amount – (2008 to September 9, 2013)



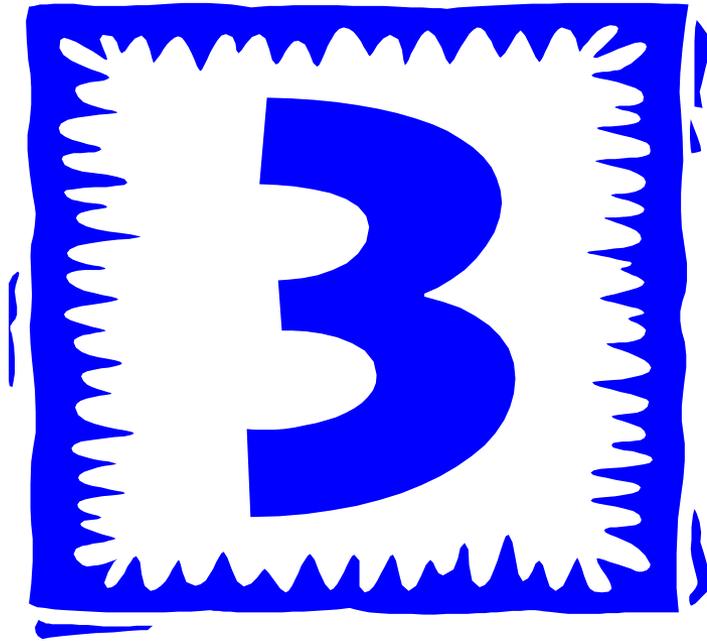
North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

ND Fraud Statistics

Reports to NDID Fraud Unit By Date Reported (2013 as of September 9th)



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Three

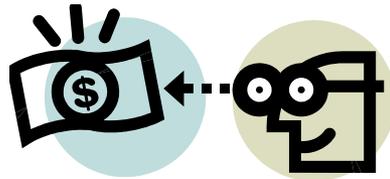
- ▶ Judy is seeing a new client, Lisa, who is 35 years old, single, with two kids and a mortgage. Judy could sell her a whole life insurance policy with \$30k in coverage for about \$40 per month. Or she could sell Lisa a 20 year term policy with \$350,000 coverage for about \$25 per month.
- ▶ Even though the term policy is \$15 less per month and has 10 times more coverage, Judy knows that selling the whole life policy will result in a much higher commission for her.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Three

- ▶ Even though Lisa needs more coverage than \$30,000, Judy tells her that she should buy the whole life policy because it is an investment and very soon the policy will pay for itself (even though that is not true).
- ▶ Lisa agrees to buy the whole life policy.



Case Study Three

What should Judy have done?

- A. Sell the whole life policy to Lisa even though it probably won't cover the mortgage and cost to raise the kids.
- B. Sell the term life policy to prevent loss of wages, child-care, or funeral expenses from being life-changing for Lisa's survivors.
- C. Get more information from Lisa about her long-term goals and needs.
- D. Refer her to another producer who sells more life insurance than she does.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Three Discussion

Producers are prohibited from making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy or for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance. N.D.C.C. § 26.1-04-03.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Three Discussion

Producers must not knowingly solicit, procure, or sell unnecessary or excessive insurance coverage to any person. N.D.C.C. § 26.1-26-42(8).



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Four

Tom, an insurance producer, borrowed \$20,000 from his client Ms. Pearson to be paid back in six months with 8% interest. Tom and Ms. Pearson execute a promissory note to this effect.



Case Study Four

- ▶ Tom assisted Ms. Pearson in cashing out two annuities with Big National Life Insurance Company. The annuity proceeds funded the loan to Tom.
- ▶ Tom did not pay back any of the \$20,000 or interest owed.

Case Study Four

When did Tom violate state laws and rules?

- A. As soon as he solicited or took the loan from the client.
- B. When he failed to repay the loan.
- C. He didn't violate any laws or rules because the U.S. Constitution protects people's freedom to engage in commerce.
- D. None of the above.



Case Study Four Discussion

A licensed insurance producer or consultant may not solicit or accept a loan from an individual with whom the insurance producer or consultant came into contact in the course of the person's insurance business, or sold an insurance policy to, within the past ten years.
N.D. Admin. Code § 45-02-02-14.1.

Case Study Four Discussion

This does not prohibit a licensed insurance producer or consultant from accepting loans from financial institutions; immediate family members, which shall mean only a spouse, parents, siblings, and children; or other loans upon the prior written approval of the insurance commissioner. N.D Admin. Code § 45-02-02-14.1.



North Dakota
INSURANCE
DEPARTMENT

PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Five

Jennifer is a producer who is helping Bob, a long-time, large commercial client, to find coverage at renewal. She is going to request quotes from several insurers.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Five

Bob states that he's sure she wants to help him secure the best premium possible and asks her to "downplay" the amount of prior losses he's had when she's giving information for the quotes.



Case Study Five

- ▶ This client represents a large part of the agency's business. So large, in fact, that if Bob takes his business elsewhere, the agency would have to lay off at least one employee.
- ▶ If they lose Bob's business, other commercial accounts would find out about it and could also leave because they might perceive the agency as not competent.

Case Study Five

Feeling a great deal of pressure, Jennifer provides information to several prospective insurers that doesn't mention several claims that Bob's business had over the past few years.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Five

Did Jennifer do anything wrong?

- A. No, it is her client who wasn't truthful.
- B. No, the insurer should look out for itself by doing follow up with Bob.
- C. Yes, she should have been honest about the client's loss history.
- D. Yes, but it's not really big enough to affect her license.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Five Discussion

- ▶ Jennifer has violated the duty of a producer to be honest.
- ▶ A producer's license may be revoked or suspended if the producer has used fraudulent, coercive, or dishonest practices, or has shown oneself to be incompetent, untrustworthy, or financially irresponsible.
N.D.C.C. § 26.1-26-42(6).

Case Study Five Discussion

- ▶ She has also committed insurance fraud, meaning the previously detailed new criminal penalties for insurance fraud apply.
- ▶ And, don't forget . . . A person engaged in the business of insurance having knowledge or a reasonable belief that a fraudulent insurance act is being, will be, or has been committed must report it to the Commissioner. N.D.C.C. § 26.1-02.1-06.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Five Discussion

- ▶ An insurance producer's license must be revoked if he or she is convicted of felony insurance fraud. A person cannot be in the business of insurance with that type of felony conviction. N.D.C.C. § 26.1-02.1-02.1.
- ▶ Even if not convicted of felony fraud, a producer's license may be revoke, suspended or placed in a probationary status for using fraudulent, coercive, dishonest practices, or for showing oneself to be incompetent, untrustworthy, or financially irresponsible. N.D.C.C. § 26.1-26-42.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Six

Vanessa operates her own agency. Her cash flow is kind of tight one month so she starts paying clients' premiums on a monthly basis even though they have paid her for the entire year's premium. She thinks there is no harm since the premium will get paid eventually and she can have the use of the money in the meantime.



Case Study Six

But Vanessa has some unexpected expenses and her financial situation gets worse. Pretty soon, she can't make even the monthly premium payments and several clients ask her why they are getting cancellation notices.



North Dakota
INSURANCE
DEPARTMENT

PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Six

She tells them it must be a mistake but they want proof that she paid the company. So she makes out a check to the company and sends a photo copy of it to the client to show it was paid.



Case Study Six

She doesn't, however, ever actually send the checks to the company. By this time her checks are bouncing right and left and she is charged with issuing checks without sufficient funds. She is convicted of misdemeanor NSF.



Case Study Six

What should Vanessa do now?

- A. Get credit counseling.
- B. Report her criminal conviction to the North Dakota Insurance Department.
- C. Report her criminal conviction to any other state in which she is licensed.
- D. Nothing.

Case Study Six Discussion

- ▶ Within 30 days after a criminal conviction, an insurance producer must report to the Commissioner any criminal conviction of the producer in any jurisdiction. N.D.C.C § 26.1–26–45.1.
- ▶ The report must include a copy of the initial complaint, the order issued by the court, and any other relevant legal documents.

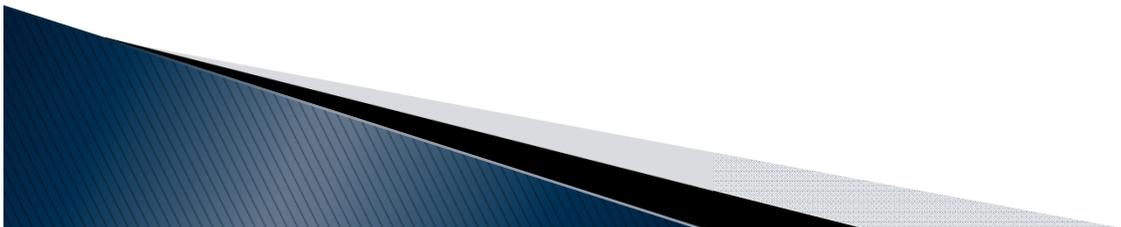
Case Study Six Discussion

- ▶ The report can be made electronically through the NIPR attachments warehouse.
- ▶ This system can be used to simultaneously report to all states in which the producer is licensed.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

VII



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Seven

Reed sells group life and health policies to small businesses. He met with Laddie, one of his clients who owns a bakery. Laddie agreed to buy group health insurance from Reed and signed paperwork that Reed put in front of him. A few months later, Laddie realized that the amount being automatically debited from his business account for the health insurance was more than Reed told him.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Case Study Seven

Laddie calls the company and is told the amount being taken from his account is for a group health policy as well as a group life policy that he had specifically told Reed he did not want. At about the same time, Ken, who managed a small business and had purchased group health insurance through Reed learned that his business also was being charged for a group life insurance policy of which he was unaware.

Case Study Seven

Upon investigation, the Insurance Department finds that there are many more small businesses that Reed signed up for group life coverage they did not want.



Case Study Seven

What should happen to Reed?

- A. He should be required to repay the commissions he earned from the bogus sales.
- B. His license should be revoked.
- C. His license should be suspended.
- D. His employer should decide what consequences he should pay.

Case Study Seven Discussion

By creating applications for insurance policies that clients did not want and accepting commissions for those policies, Reed improperly presented to an insurer false or misleading information as part of, in support of, or concerning a fact material to an application for the issuance or renewal of an insurance policy.

Case Study Seven Discussion

By accepting advance commissions for the policies Reed engaged in an act of theft by deception or otherwise, or embezzlement, abstracting, purloining, or conversion of moneys, funds, premiums, credits or other property of an insurer, reinsurer, or person engaged in the business of insurance in violation of N.D.C.C. § 26.1-02.1-02.1(1).

Steps In Analyzing Ethical Issues

Identify that an ethical issue exists. This is probably the most important step. Ask yourself:

Could this decision or situation be harmful to someone? To my client? To me? To the insurance companies I represent?

Does this decision involve a choice between a good and bad alternative, or perhaps between two "goods" or between two "bads"?



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Weigh the Options

- ▶ What are the options for acting? Have I identified all the options?
- ▶ Which option leads me to act as the sort of person I want to be?
- ▶ Which option will produce the most good and do the least harm?
- ▶ Which option best respects the rights of all who have a stake?
- ▶ Which option passes your personal “gut” check?



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Weigh the Options

Ask yourself: would I be comfortable telling my mother, a newspaper reporter, or the Insurance Commissioner, which option I have chosen?

Any Questions???



Product Filing Division

Chrystal Bartuska
Product Filing Division Director
North Dakota Insurance Department

Agenda

- ▶ Rate and form filing process and stats
- ▶ Legislative Updates
- ▶ Property and Casualty
- ▶ Life and Health

Rate filing process

- ▶ NDID utilizes State Electronic Rate and Form Filing system (SERFF).
- ▶ Effective 1-1-2010 the NDID began using the SERFF system as the sole repository for all filings.
- ▶ Very few of the filings still come in as paper filings.
- ▶ Public access computer – no internet access

Filing stats

- ▶ Filings received by NDID:
 - Jan. 1, 2013 to Aug. 31, 2013: 4,316 total
 - 2012 filings: 5,655 total
 - 2011 filings: 5,940 total

Legislative update

- ▶ HB 1168: open enrollment. House passed 91–0; Senate passed amended 45–0. House passed amended 91–0.
- ▶ HB 1034: health care reform study. House passed 93–1; Senate passed 47–0.
- ▶ HB 1362: Medicaid expansion. House passed 57–36; Senate passed 33–14.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Legislative update

- ▶ HB 1150: county mutual restrictions. House passed 89–0; Senate passed 47–0.
- ▶ HB 1194: short-term care insurance. House passed 88–0; Senate passed 46–0.
- ▶ HB 1196: foreign language policies. House passed 68–23. Senate passed amended 25–22. House passed amended 49–42.



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Property and casualty

- Filing process and requirements
- 2012 Market Analysis Summary
- Rate Filing Trends/Concerns
 - Surplus Lines
 - Coverage Levels
 - Usage Based insurance

P&C filing process

- ▶ Forms are all prior approval
- ▶ Rates
 - Commercial
 - File and use
 - No annual limit on changes
 - Personal
 - One filing per calendar year
 - Under 5% does not require prior approval
 - Over 5% does require prior approval



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Market Analysis Report summary

- ▶ Personal Auto – A highly competitive market
- ▶ Commercial Auto – A highly competitive market
- ▶ Commercial Multi-peril Package – A highly competitive market
- ▶ Farmowners – A less than competitive market
- ▶ Homeowners – A moderately competitive market
- ▶ Medical Malpractice – A less than competitive market
- ▶ Other Liability – A moderately competitive market
- ▶ Crop Hail – A less than competitive market



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Loss Ratios– Homeowners and Auto

Homeowners		Private Auto		Commercial Auto	
2008	73%	2008	57%	2008	53%
2009	46%	2009	57%	2009	55%
2010	48%	2010	56%	2010	47%
2011	53%	2011	58%	2011	57%
2012	22%	2012	54%	2012	68%



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Loss Ratios– continued

Crop/Hail		Farmowners		Multi-Peril	
2008	55%	2008	65%	2008	58%
2009	20%	2009	58%	2009	43%
2010	58%	2010	101%	2010	40%
2011	147%	2011	96%	2011	62%
2012	31%	2012	45%	2012	33%

For more information on the 2013 Market Analysis visit:

www.nd.gov/ndins/communications/studiesandreports

Rate filing trends / concerns

- Surplus Lines
- Coverage Levels
- Usage Based insurance

Life and health

- ▶ Filing process and requirements
 - All prior approval
 - Small group and individual– July 31st
 - All Small group effective January 2015
- ▶ ACA quick bits
- ▶ LTC

L&H rate requirements

- Minimum loss ratio requirements
- Key assumption is trend
- Other factors are considered
- Principle: benefits must be reasonable in relation to premiums charged



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Essential Health Benefits(EHB)

- ▶ Items and services in 10 categories:
 - Ambulatory patient services
 - Emergency services
 - Hospitalization
 - Maternity and newborn care
 - Mental health, substance abuse disorder services
 - Prescription drugs
 - Rehabilitative and habilitative services and devices
 - Laboratory services
 - Preventive, wellness, chronic disease management
 - Pediatric services, including dental and vision



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Essential Health Benefits (EHB)

- ▶ Will have to be included in nongrandfathered plans
 - Individual and small group markets
 - In and outside of the Marketplace, Medicaid benchmark and benchmark-equivalent and basic health programs



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

EHB benchmark plan

- ▶ If a state did not choose a benchmark plan, the default plan is the small group plan with the largest enrollment
- ▶ Approved plan will be the benchmark for 2014 and 2015. HHS intends to review and update EHB for 2016 and beyond.

ND's EHB

- ▶ Recommended the Sanford Health Plan plus the CHIP pediatric dental and vision benefits

ND Plans– Major Medical

Company	Marketplace / Outside Market only	New product or product adjusted for metallic levels/EHB	On/off Marketplace
BCBS	Marketplace plans	All new	Both
Sanford	Marketplace plans	All new	Both
Medica	Marketplace plans	All new	Both
Time Insurance	Outside market only	All new	Off only
John Alden	Outside market only	All new	Off only
Celtic Insurance	Outside market only	All new	Off only



North Dakota
INSURANCE
DEPARTMENT
 PROTECTING THE PUBLIC GOOD
 ADAM HAMM, COMMISSIONER

ND plans– Dental

Companies that filed with full pediatric dental:

- Blue Cross Blue Shield of North Dakota
- Sanford
- Time Insurance
- John Alden

Companies that filed standalone dental plans:

- Best Life and Health Insurance
- The Guardian Life Insurance Company of America
- Delta Dental
- Renaissance Life & Health Insurance Company of America—certified

ACA Changes

- ▶ 2010 provisions (most apply to grandfathered and *non-grandfathered plans)
 - Extend coverage for young adults up to 26
 - No pre-existing condition exclusions for children
 - Federal high risk pool created

- * Eliminate cost-sharing for preventive services
- * Internal/external appeals established
- * Eliminate lifetime limits for EHB and restrict annual limits

Changes in rating factors & benefits

- ▶ Rating factors are now 3 to 1
- ▶ Geographic location
- ▶ Tobacco use
- ▶ Age
- ▶ Various ACA fees

- ▶ Mental health, substance abuse disorder services
- ▶ Pediatric vision

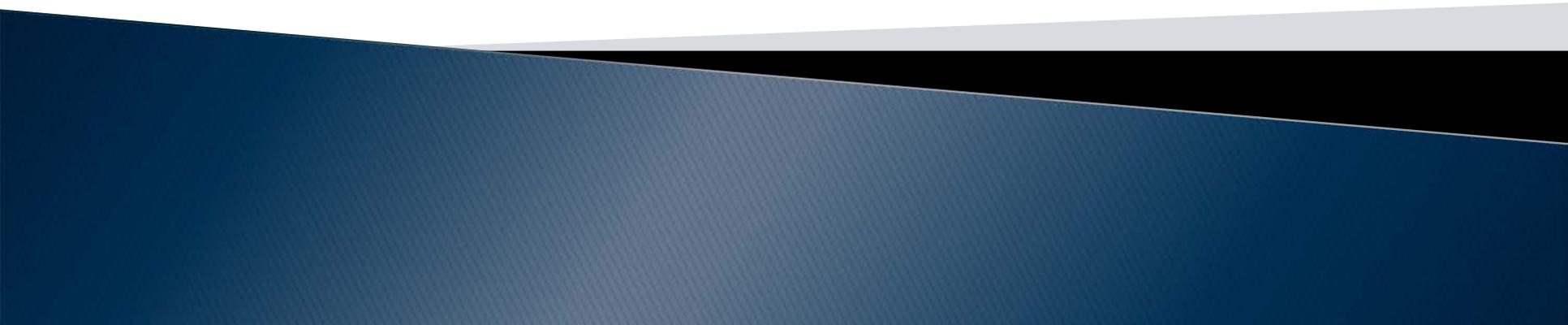


North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Long-term care

- ▶ Rate increases requests ranging from 10% to 90%
- ▶ Consumers range from small group to very large group of consumers that are impacted by increases.

Thank you for your time.





Consumer Assistance Division

Presented by David Zimmerman,
Director, Consumer Assistance Division
North Dakota Insurance Department

Consumer Assistance Division (CAD)

- ▶ Supports the NDID Mission:
 - “ ... to protect the public good by fairly and effectively administering the laws of North Dakota. We are committed to vigorous consumer protection efforts while fostering a strong, competitive marketplace that provide consumers with choices and access to high-quality insurance products and services at competitive prices. In pursuit of our mission, we will treat all of our constituencies with the highest ethical standards and respect they deserve.”
- ▶ CAD serves as the “front door” of the NDID & focuses on assisting and educating consumers who have insurance issues that fall within its four functional areas
 - P&C, L&H, SHIC, Prescription Connection



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Organizational Structure

Consumer Assistance Division

• Property & Casualty Investigation	• Investigator – Kathy Wolf
• Life & Health Investigation	• Investigator – Cydra Sauter
• Hotline	• Investigator – Angela Voegele
• State Health Insurance Counseling (SHIC) <ul style="list-style-type: none">◦ Prescription Connection	• Investigators – Holly Brockman & Heidi Tibor

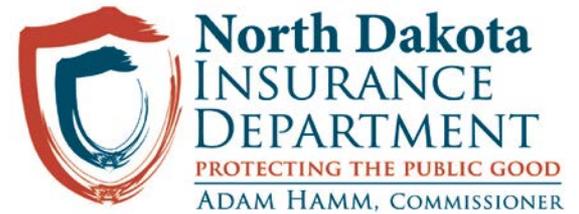


North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

1701 South 12th Street, Bismarck Consumer Assistance Center



- Access to assistance for Medicare, Prescription Connection, property & casualty, and life & health insurance issues
- Convenient: drive up to the door
- Accessible parking
- No steps



CAD Legislative Update

- ▶ HB 1117: confidentiality of consumer assistance records. House passed 87-0; Senate passed 46-0.
- ▶ Drafted as a consumer protection bill
- ▶ Prior to this legislation the information we could redact was Social Security numbers
- ▶ Now (effective August 1, 2013) we can redact any personal medical and financial information provided by the consumers



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Complaints 2012

- ▶ Company complaints received=180
- ▶ Agent complaints received=25

2012 Company Complaint Details

Type	Complaints closed	Relief*
Auto	77	\$96,263.28
Fire, allied/CMP	9	\$47,180.54
Homeowners	31	\$42,972.95
Life/annuity	7	\$14,643.88
Accident/health	36	\$86,197.01
Liability	7	\$66,401.06
Miscellaneous	13	\$272,504.14
Total	180	\$626,162.86

Company Complaints – Trend

Year	Closed complaints	Relief*
2002	378	\$829,627.21
2003	310	\$867,895.37
2004	278	\$373,651.94
2005	220	\$437,139.32
2006	205	\$434,564.99
2007	201	\$422,665.85
2008	241	\$521,251.11
2009	236	\$656,361.44
2010	211	\$565,938.69
2011	197	\$1,150,882.61
2012	180	\$626,162.86
Total	2,657	\$6,886,141.39

2012 Agent Complaint Details

Type	Complaints Closed	Relief*
Auto	4	0
Fire, Allied/CMP	1	0
Homeowners	5	0
Life/annuity	8	\$223,879.99
Accident/health	4	\$501.99
Liability	1	0
Miscellaneous	2	0
Total	25	224,381.98



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Agent Complaints – Trend

Year	Closed Complaints	Relief*
2002	51	\$22,447.20
2003	56	\$14,093.10
2004	33	\$55,730.99
2005	44	\$386,861.77
2006	25	\$26,365.65
2007	32	\$32,647.98
2008	34	\$44,778.30
2009	28	\$34,294.31
2010	24	0
2011	17	\$104,783.00
2012	25	\$224,381.98
Total	369	\$946,384.28

Hotline—Consumer Assistance

- ▶ Walk-ins to the department=119
- ▶ Phone calls received and made=8,289

SHIC/Prescription Connection

- ▶ 2012 State Health Insurance Counseling (SHIC) contacts=11,372
- ▶ Prescription Connection (PC) has helped 7,889 people since the program began
 - 2013 through July - Savings of > \$425K

Part D 2013 Enrollment

- ▶ Oct. 15–Dec. 7: can enroll or change Part D and Medicare Advantage plans
- ▶ Premiums, deductibles & **formularies** change every year, so it's important to review plans
- ▶ Jan. 1–Feb. 15: Medicare Advantage policyholders can only use this period to disenroll and enroll in original Medicare



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Part D Cost Sharing for 2014

Part D Benefit Parameters	CY 2013	CY 2014
Defined Standard Benefit		
Deductible	\$325	\$310
Initial Coverage Limit (Pre-Donut Hole)	\$2,970	\$2,850
Out-of-Pocket Threshold (To enter catastrophic phase)	\$4,750	\$4,550
Minimum Cost-sharing for Generic Drugs (Catastrophic Phase)	\$2.65	\$2.55
Minimum Cost-sharing for Brand Name Drugs (Catastrophic Phase)	\$6.60	\$6.35
Donut Hole Discounts (Brand Name / Generic)	52.5% / 21%	52.5% / 28%



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Increased Medicare Product Workload

- ▶ Since January 1, 2011 the baby boomers began to turn 65 (1946–1964)
 - Every day > 10,000 turn 65
 - This rate is expected to continue for the next ~ 17 years
- ▶ 2010 Census—65 & older 13% of population
 - Anticipated that this will increase to > 20%

Are They Ready For Retirement?

- ▶ ~ 3 out of 4 people start taking Social Security at age 62
 - Those born prior to 1959 – 25% deduction
 - Those born after 1959 – 30% deduction
- ▶ 35% of people over 65 rely almost entirely on Social Security payments



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

Affordable Care Act & Consumers

- ▶ Federally Facilitated Marketplace
 - Consumer complaints will be investigated as always, and if determined to be related to the Marketplace all will be referred to www.healthcare.gov or 1-800-318-2596 (the National Call Center)
 - If State laws are violated then NDID will continue to investigate the issue brought forward
 - Referrals will be made to Agents & Navigator groups identified for the state when consumers are asking for assistance



North Dakota
INSURANCE
DEPARTMENT
PROTECTING THE PUBLIC GOOD
ADAM HAMM, COMMISSIONER

PROHIBITED AGENT/BROKER BEHAVIOR	APPROPRIATE AGENT/BROKER BEHAVIOR
Can't state that they are from Medicare or use "Medicare" in a misleading manner. For example, they can't state that they are endorsed by Medicare, are calling on behalf of Medicare, or that Medicare asked them to call or see the beneficiary	May call someone with Medicare who has expressly given permission. The permission applies only to the plan or agent/broker the person that requested contact from, for the duration of that transaction, and for the scope of products
Can't solicit potential enrollees door-to-door	Can call their own clients to discuss new plan options
Can't send unwanted emails, text messages, or leave voicemails	May call or visit someone with Medicare who attended a sales event if the person gave permission
Can't approach people with Medicare in common areas (i.e. parking lots, hallways, lobbies, sidewalks)	May initiate a phone call to confirm an appointment. Scope of the appointment may be changed with appropriate documentation
Can't conduct sales activities in healthcare settings except in common areas. Improper areas include waiting rooms, exam rooms, hospital patient rooms, dialysis centers and pharmacy counter areas	Can conduct sales activities in common areas of healthcare settings. Appropriate common areas include hospital or nursing home cafeterias, community or recreational rooms, and conference rooms
Can't make unwanted calls, including contacting people with Medicare under the guise of selling a non-Medicare Advantage (MA) or non-Prescription Drug Plan (PDP) product and allow the conversation to turn to MA or PDP. For example, an agent/broker can't begin by selling a Supplement & then offer an MA or PDP	Must secure a signed "scope of appointment", prior to the appointment. For example, provided that the person has completed the scope of appointment form following a marketing/sales event, the future appointment may take place immediately after marketing/sales meeting
Can't provide meals to potential enrollees at sales presentation	May provide refreshments and light snacks to potential enrollees at sales presentations
Can't conduct marketing or sales activities at an educational event (such as discuss plan benefits)	May schedule appointments with people who live in long term care facilities upon request
Can't market non-health related products (such as annuities and life insurance) to potential enrollees during MA or PDP sales activities or presentations	May leave cards behind for clients to give to their friend or family. The "referred" person has to contact the agent/broker directly
Can't offer gifts to potential enrollees of more than \$15. If a gift is offered it must be made available to all potential enrollees even if they do not enroll in a plan	May make sales presentations to groups of people without documenting scope of appointment with each individual since such documentation is only required for personal/individual sales events