



## 2014 Agent Forums

Presented by Rebecca Ternes  
Deputy Commissioner  
North Dakota Insurance Department

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## Department Update

- ▶ NAIC Presidency
- ▶ Commissioner on FSOC
- ▶ ACA role
- ▶ SERFF online
- ▶ Budget
- ▶ Staffing



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## Affordable Care Act

- ▶ Authority
- ▶ Filings outside the FFM
- ▶ Consumer assistance
- ▶ Provide data and advisory information to legislature and other officials
- ▶ Maintain contact with federal officials
- ▶ Coordinate with insurers
- ▶ Navigator grants renewed



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## ACA impact in North Dakota

- ▶ Insured/uninsured
- ▶ Number of insurers
- ▶ Policy benefits
- ▶ Premiums
- ▶ Policyholder knowledge
- ▶ Businesses



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## What's next for health care reform?

- ▶ SHOP Marketplace
- ▶ 2016- EHB changes?
- ▶ 2017 Waiver
- ▶ Judicial challenges



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## 2015 Legislative Session

- ▶ Holding Company Model Act
- ▶ Risk Based Capital (RBC) Model Act
- ▶ Own Risk and Solvency Model Act (ORSA)
- ▶ Principle based reserving (PBR)
- ▶ Appropriation
- ▶ Surplus lines tax reporting dates



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## Federal Update

- ▶ Terrorism Risk Insurance Act (TRIA)
  - Asking for long term reauthorization
  - Senate S. 2244 passed 7-year version
  - House bill (5-year) came out of committee with little support
- ▶ NARAB
  - Attached to both House and Senate TRIA bills
  - Prefer House version



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## Federal Update

- ▶ Insurance Capital Standards Clarification Act
  - Senate passed S. 2270 in June
  - Fed Reserve can tailor capital requirements for insurers
  - House passed a comprehensive package (H.R. 5461) that the Senate likely won't pass
- ▶ Policyholder Protection Act
  - Introduced in House (H.R. 4557)
  - Protects thrift holding companies from having any movement of capital from an insurer to a bank



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## Protecting the Future

- ▶ State-based regulation can best adapt to meet future challenges.
- ▶ Regulation is complex, and what works in one state may not work in another.
- ▶ State regulators protect consumers and promote competitive markets, ensuring a wide choice of secure products to help consumers prepare for the unexpected.

PROTECTING THE FUTURE



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# Consumer Assistance Division

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

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## Consumer Assistance Division (CAD)

- ▶ Supports the NDID Mission:
  - "... to protect the public good by fairly and effectively administering the laws of North Dakota. ... we will treat all of our constituencies with the highest ethical standards and respect they deserve."
- ▶ CAD focuses on assisting and educating consumers who have insurance issues in P&C, L&H, SHIC, Prescription Connection



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## Organizational Structure

Consumer Assistance Division	
• Property & Casualty Investigation	• Investigator - Kathy
• Life & Health Investigation	• Investigator - Cydra
• Hotline	• Investigator - Angela
• State Health Insurance Counseling (SHIC) <ul style="list-style-type: none"> <li>◦ Prescription Connection</li> </ul>	• Investigators - Holly & Heidi



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## 1702 South 12<sup>th</sup> Street, Bismarck Consumer Assistance Center



- Convenient: drive up to the door
- Accessible parking
- No steps



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## CAD Process of Investigation

We evaluate for the alignment of 3 components:



**Policy**  
What is the coverage  
Allowed or Excluded



**Insurer**  
What Actions did they  
Take on the claim



**Statutes**  
What State Law Allows  
Regulatory Authority

**If they are aligned; the system worked; teaching is offered**

If they are not aligned; something broke down; action results



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## CAD Case Type Level II

### ► Inquiry

- Phone, walk-in, email
- Further research
- Discussions
- Focus on resolution



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## CAD Case Type Level I

### ▶ Consumer Assistance

- Phone, walk-in, email
- All begin here
- May be elevated if further investigation warrants



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## CAD Case Type Level III

### ▶ Complaint

- Written
- Statute driven level
- Investigation requiring the company or agent to officially respond



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## All Cases—2013

- ▶ Consumer Assistance Cases = 6,948
- ▶ Elevated to Inquiry = 3,364
- ▶ Elevated to Complaint:
  - Company Complaints = 169
  - Agent Complaints = 26



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## 2013 Company Complaints

Type	Closed	Relief
Auto	79	\$105,900.20
Fire, allied/CMP	1	\$0.00
Homeowners	41	\$175,700.18
Life/annuity	3	\$0.00
Accident/health	22	\$114,595.81
Liability	12	\$2,118,267.79
Miscellaneous	0	\$45,719.86
<b>Total</b>	<b>169</b>	<b>\$2,560,183.84</b>




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## Company Complaints—Trend

Year	Closed complaints	Relief
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
<b>2013</b>	<b>169</b>	<b>\$2,560,183.84</b>




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## 2013 Agent Complaints

Type	Complaints Closed	Relief*
Auto	4	\$0.00
Fire, Allied/CMP	0	\$0.00
Homeowners	2	\$0.00
Life/annuity	10	\$2,803.15
Accident/health	8	\$2,000.57
Liability	0	\$0.00
Miscellaneous	2	\$2,479.19
<b>Total</b>	<b>26</b>	<b>\$7,282.91</b>




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## Agent Complaints—Trend

Year	Closed Complaints	Relief
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
<b>2013</b>	<b>26</b>	<b>\$7,282.91</b>

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## Hotline—Consumer Assistance

- ▶ Walk-ins to the department = 212
- ▶ Phone calls in and out = 15,103



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## SHIC/Prescription Connection

- ▶ 2013 State Health Insurance Counseling (SHIC) contacts = 9,758
- ▶ Prescription Connection (PC) assisted 8,181 people since inception
- ▶ 2013 PC helped 292 people resulting in a savings of over \$590,000



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## 2014 Part D Enrollment

- ▶ Oct. 15–Dec. 7: can enroll or change Part D and Medicare Advantage plans
  - Premiums, deductibles & formularies change every year
  
- ▶ Jan. 1–Feb. 15: Disenrollment and enrollment period in original Medicare for Medicare Advantage only




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## Part D Cost Sharing for 2015

Part D Benefit Parameters	CY 2014	CY 2015
Defined Standard Benefit		
Deductible	\$310	\$320
Initial Coverage Limit (Pre-Donut Hole)	\$2,850	\$2,960
Out-of-Pocket Threshold (To enter catastrophic phase)	\$4,550	\$4,700
Minimum Cost-sharing for Generic Drugs (Catastrophic Phase)	\$2.55	\$2.65
Minimum Cost-sharing for Brand Name Drugs (Catastrophic Phase)	\$6.35	\$6.60
Donut Hole Discount (Brand Name/Generic)	52.5% 28%	55% 35%




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## Increased Medicare Product Workload

- ▶ Since Jan. 1, 2011 baby boomers began to turn 65 (1946–1964)
  - Every day over 10,000 turn 65
  - Expected to continue for the next 15 years
  
- ▶ 65 and older make up 13 percent of population (2010 Census)
  - Anticipated increase to over 20 percent




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## Are They Ready For Retirement?

- ▶ Three out of four people start taking Social Security at age 62
  - Those born prior to 1959 (25–29% deduction)
  - Those born after 1959 (30% deduction)
    - Spouses have even greater deductions
- ▶ 35% of people over 65 rely almost entirely on Social Security payments




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## Affordable Care Act

- ▶ Federally Facilitated Marketplace (FFM)
  - Inquiries will be investigated and if FFM related referred to [www.healthcare.gov](http://www.healthcare.gov) or 1-800-318-2596 (National Call Center)
  - If state laws violated, investigation proceeds
  - Referrals made to agents and navigators




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PROHIBITED AGENT/BROKER BEHAVIOR	APPROPRIATE AGENT/BROKER BEHAVIOR
Don't state from Medicare or use Medicare in a misleading manner. I.e., don't state 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 or the person requested contact from, for the duration of that transaction, and for the scope of products.
Don't solicit potential enrollees door-to-door.	May call own clients to discuss new plan options.
Don'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.
Don't approach people with Medicare in common areas (parking lots, hallways, lobbies, sidewalks).	May initiate a phone call to confirm an appointment. The scope of the appointment may be changed with appropriate documentation.
Don't conduct sales activities in healthcare settings except in common areas. Improper areas include waiting, exam and hospital patient rooms, dialysis centers and pharmacy counter areas.	May 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.
Don't make unwarranted 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. I.e., an agent/broker can't begin by selling a supplement and then offer an MA or PDP.	Must secure a signed "scope of appointment" prior to the appointment. I.e., provided that the person has completed the scope of appointment form following a marketing or sales event, the future appointment may take place immediately after marketing or sales meeting.
Don't provide meals to potential enrollees at sales presentation.	May provide refreshments and light snacks to potential enrollees at sales presentations.
Don'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 only upon request.
Don'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.
Don't offer gifts to potential enrollees of more than \$15. If offered, it must be made available to all even if they do not enroll.	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.

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## Producer Licensing Division

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

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## Agent Licensing Division

- ▶ Three agent licensing specialists
  - Application review and approval
  - Renewal review and approval
  - Agent and agency assistance
  - Continuing education course review and approval
  - Maintaining systems
  
- ▶ Collaboration with other divisions



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## N.D.C.C. 26.1-26-13.3

- ▶ Requires finger prints for all first time applicants applying for a North Dakota resident producer license
  
- ▶ Effective Sept. 1, 2013
  
- ▶ 663 prints taken



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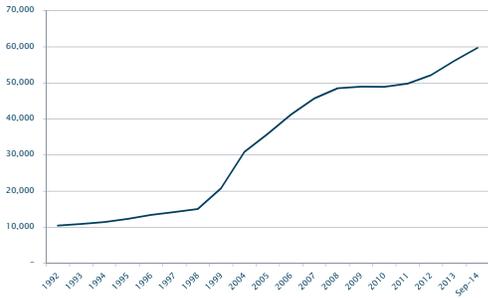
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### Total Licensed Producers




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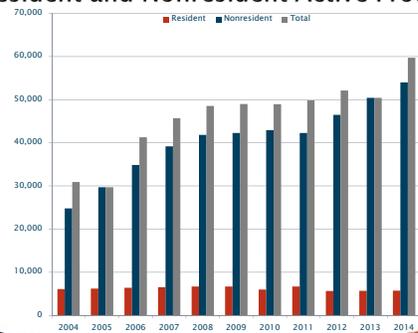
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### Resident and Nonresident Active Producers




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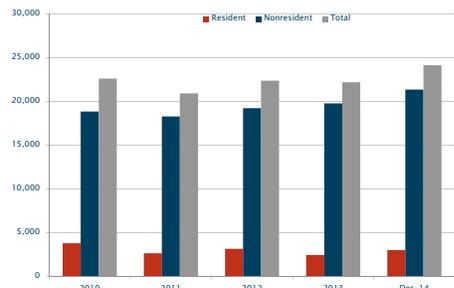
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### Resident and Nonresident Renewal Notices Sent




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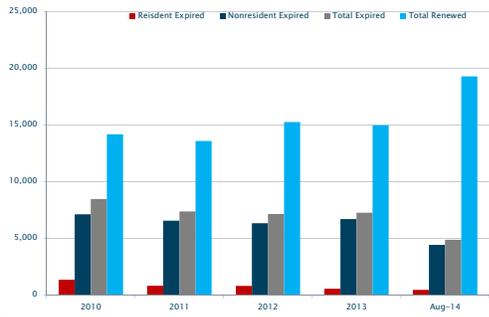
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## Resident and Nonresident Expired




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## Renewal Reminders

- ▶ Every two years in your birth month
- ▶ 90 days prior
- ▶ All CE requirements must be met
  - 24 total hours
  - Must include three hours in ethics
- ▶ Midnight is the deadline




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[www.nd.gov/ndins/producers](http://www.nd.gov/ndins/producers)

North Dakota Insurance Department  
Adam Hamm, Commissioner

Communications | Prescription Connection | BIOC | Health Care Reform | Enforcement | Compliance | Forms | Special Funds

CONSUMERS | PRODUCERS/AGENTS | COMPANIES

**Producers/Agents**

Resident producer  
Nonresident producer  
Business entity  
Continuing education  
Other licenses  
Miscellaneous

**Producers/Agents**

Search for an agent, licensee or company

**Resident**

Initial license  
Renewal license  
Transfer of license  
License suspension  
License reinstatement  
License transfer

**Nonresident**

Initial license  
Renewal license  
Transfer of license  
License suspension  
License reinstatement  
License transfer

**Business entity**

Application for license  
Renewal license  
Transfer of license  
License suspension  
License reinstatement  
License transfer

**Continuing ed**

Initial license  
Renewal license  
Transfer of license  
License suspension  
License reinstatement  
License transfer

**Other licenses**

Initial license  
Renewal license  
Transfer of license  
License suspension  
License reinstatement  
License transfer

**Miscellaneous**

Initial license  
Renewal license  
Transfer of license  
License suspension  
License reinstatement  
License transfer

**Quick links**

Home  
FAQ  
Contact Us  
About Us  
Privacy Policy  
Terms of Service  
Accessibility

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## Mobile access



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## Test Review

- ▶ Working with PSI and panel of experts
- ▶ Reviewed all test outlines and questions
- ▶ Reviewed to date
  - Life and annuity
  - Accident and health
  - Property
  - Casualty
  - Personal Lines



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## Test Review Cont.

- ▶ Future review
  - Bail Bond
  - Crop-Hail
  - Consumer
  - Legal Expense
- ▶ Looking for agents to assist



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## NARAB II Legislation

- ▶ What is the National Association of Registered Agents and Brokers?
  - Pending before the U.S. Congress
  - Streamline nonresident licensing across states
  - Doesn't change requirements at the state level
  - Solely voluntary
  - Will be a cost
  - Legislation is still pending



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## Back in Ten!

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## Ethics for Insurance Producers

Presented by Jeff Ubben  
General Counsel  
North Dakota Insurance Department

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## Ethics

- › What are professional ethics?
- › What are the duties of insurance producers?
- › Why does the Insurance Department care?



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## State Regulation of Producers

Failure to comply may result in:

- › Fines
- › Probation
- › Suspension of license
- › Revocation of license
- › Refusal to continue or issue a license



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## Case Study #1

Fred has a large insurance agency and he likes to say thank you to his loyal customers. Each winter, he books a hotel conference room and hosts a "Client Appreciation Night" and pays for all of his customers to enjoy a three course meal, open bar, and a DJ playing music.

The average cost of providing the meal, open bar, and music exceeds \$50 per person.

Has Fred done anything wrong?



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### Did Fred put his producer license at risk?

- A. No, it is a perfectly acceptable business practice to thank your clients in this manner.
- B. No, because the Insurance Department will not be able to prove the cost of the evening.
- C. Yes, this would be an illegal rebate.
- D. None of the above.



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### Rebating

Statutes governing rebating are found at:

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



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### Case Study #1 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.



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## Case Study #1 Discussion

- ▶ “Person”
- ▶ What can be given within the \$50 limit?
- ▶ What can’t be given in the \$50 limit?
- ▶ Conditions on the gift
- ▶ Stacking
- ▶ Charitable donations



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## Case Study #2

Goodanoff Insurance Company offers a “safe driver discount” on your auto insurance premiums if you have been accident free for at least three years.



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## Is the safe driver offer rebating?

- A. Yes, you cannot provide for a discount of an insurance premium.
- B. Yes, this discount is an illegal inducement for the customer to purchase insurance.
- C. No, so long as it is actuarially justified and has been previously approved by the Department prior to being offered.
- D. No, because rebating laws do not apply to insurance companies.



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## Types of Advertising Covered

- ▶ Advertisement is broadly defined and includes:
  - Audiovisual material
  - Newspaper, radio, magazine and TV content
  - Billboards
  - Sales aids, lead cards, form letters, and other printed or published materials
  - Sales talks and presentations
- ▶ Life Insurance – North Dakota Admin Code 45-04-10
- ▶ Accident & Health Insurance – North Dakota Admin Code 45-06-04



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## Advertising Compliance

- ▶ Both the insurance company and the producer/broker are responsible for ensuring all advertisements comply with the law.
- ▶ You **cannot** assign responsibility to a third-party printer or mailing company.
- ▶ Agents should review all third-party material.
- ▶ Insurers are required to maintain a file of all advertisement material.



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## Non-compliance penalties

- ▶ Fine of up to \$10,000 per violation
- ▶ Suspension, revocation or non-renewal of producer license
- ▶ Other allowable administrative action



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## Common Violations

- ▶ Failing to include the name of the insurer, producer or broker
- ▶ Using misleading wording
- ▶ Failing to include the words “life insurance”
- ▶ Improperly using the phrases related to medical exams
- ▶ Failing to include any reductions, exclusions or limitations on benefit amounts
- ▶ Putting important information in small font



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## Case Study #3

Ted is a new agent in a small town, family-run agency.

Ted sees that many clients pay their premium to the agency in cash or check, which is deposited into the agency's bank account.

Several customers have come in lately complaining that they are getting notices of cancellation for nonpayment of premium and he's heard sweep account checks have bounced too.



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## What should Ted do?

- Find a job in the oil and gas or banking industry so his paychecks don't bounce.
- Report the situation to the Insurance Department.
- Say nothing to anyone and hope this is just a temporary rough patch for the agency.
- Tell clients to find another agency.



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### Case Study #3 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. N.D.C.C. § 26.1-02-27.



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### Case Study #3 Discussion

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.



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### Case Study #3 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.



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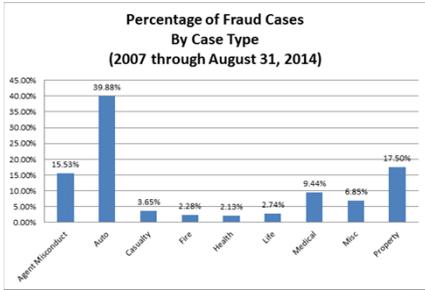
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## ND Fraud Statistics




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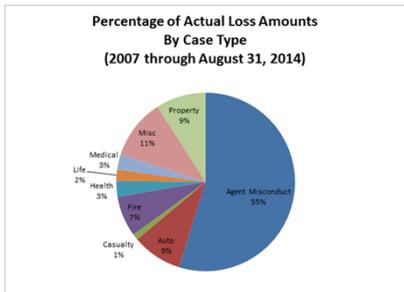
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## ND Fraud Statistics




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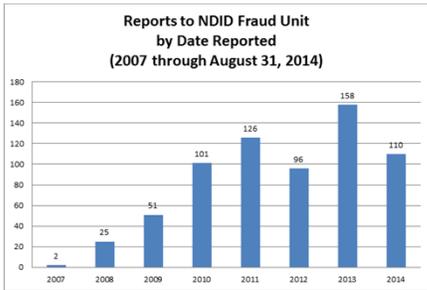
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## ND Fraud Statistics




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# Insurance Fraud Enforcement

Presented by Officers Dale Pittman and Greg Nelson  
Investigators  
North Dakota Insurance Department

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## Insurance Fraud Overview

- ▶ When it costs the insurers, it costs everyone
- ▶ \$80 – \$120 billion a year in the U.S.
- ▶ \$950 per family per year
- ▶ Criminals gain and innocent people pay
- ▶ Some victims lose a lifetime of savings
- ▶ Health and property are endangered

The massive size of the industry provides more opportunities and bigger incentives for committing illegal activities.



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

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## Who commits insurance fraud?

- ▶ Consumers
- ▶ Insurance producers
- ▶ Companies and employees
- ▶ Related service providers
- ▶ Unlicensed entities and individuals



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

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What does insurance fraud look like?

Consumer Fraud

- ▶ Staged accidents
  - Tipping a car over with a skid steer and reporting it as a single vehicle rollover
  - Intentionally causing traffic accidents
- ▶ Post-dated loss
- ▶ Material misrepresentation to an insurance company about a loss



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What does insurance fraud look like?

Agent Fraud

- ▶ Provide elderly client a bogus replacement annuity contract and pocket the money
- ▶ Agent takes premium payments but does not remit full amounts to the insurance company
- ▶ Agent creates fake policies and pockets all premiums



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What does insurance fraud look like?

- ▶ Individuals failing to disclose medical conditions on applications
- ▶ Policyholders faking medical bills or prescription bills
- ▶ A medical professional billing an insurance company for fake or inflated patient services Duplicate billing
- ▶ Faking the death of a child through a phony death certificate to collect



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## Insurance Fraud Discovery

- ▶ Most claims called in to a company 800 number
- ▶ Calls to agents
- ▶ If fraud is suspected the claim is referred to the Special Investigative Unit (SIU) of a company
  - Investigator conducts interviews and collects evidence
  - Focus on determining obligation
  - If investigator suspects fraud they must refer the case



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## Referral Process

- ▶ Most ND cases come from insurance companies through the National Association of Insurance Commissioners (NAIC) web site.
- ▶ Civilians can also make online referrals through the NAIC.

<https://eapps.naic.org/ofrs/>



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## Prioritization Process

Insurance Department uses a numeric prioritization based on:

- ▶ Severity of the crime
- ▶ Insurance Claim History
- ▶ Criminal History of Suspect
- ▶ Mitigating factors



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## Investigation Process

- › Collect the claim file(s) and decipher them
- › Gather evidence
- › Interview suspects and witnesses
- › Work with local, state and federal law enforcement
- › Coordinate with the State's Attorney office in the respective county



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## Notable Cases

### Sead and Senad Mustafic

- › Fargo area accidents
- › 37 accidents +
- › \$70,000



Brothers Sead and Senad Mustafic



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## Notable Cases

### Farah Ibrahim

- › Fargo area life insurance case
- › Life insurance on 9-year old son
- › Kenyan death certificate



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## Notable Cases

### Alan Henning

- › Minot area insurance agent
- › CEO of a county mutual insurance company
- › Nigerian scam
- › 1.2 Million
- › Serving time in federal prison



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## Notable Cases

### David Glessner

- › Grand Forks insurance agent
- › Received \$64,000 in premiums for fictitious insurance policies
- › Pled guilty to felony theft of property and was sentenced
- › C&D and then revocation



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## Notable Cases

### Jeffrey Neppl

- › Fargo insurance agent
- › Scammed three individuals out of \$520,000
- › Convinced clients to cash out annuities and then deposited the money into his personal account
- › C&D, revocation and Class B felony charges filed



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## Notable Cases

### Brent Kitzan

- ▶ Bismarck/Mandan area insurance agent
  
- ▶ Stole approximately \$1.2 million from 21 different victims
  
- ▶ Pled guilty to over 20 felonies charges and is currently serving a prison sentence at the State Penitentiary.



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## Steps In Analyzing Ethical Issues

- ▶ Identify that an ethical issue exists. 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?



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## Steps In Analyzing Ethical Issues

- ▶ Weigh the options
  - What are all of the options for acting?
  - 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?



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## Steps In Analyzing Ethical Issues

Would I be comfortable telling my mother, a newspaper reporter, or the Insurance Commissioner which option I have chosen?



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## Department Panel Q and A



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