

South Dakota Division of Insurance

To Protect Public Interest
Promote Competitive Markets
Facilitate the fair and equitable treatment of insurance consumers
Promote the reliability, solvency, and financial solidity of insurance Institutions
Enforce State Regulation of Insurance

April 6, 2006

SOUTH DAKOTA DATA		STATE RANK	% OF US
Premium Tax Collected	\$53,338,852	44	.40%
Total Revenue	\$64,065,578	44	.42%
Total Budget	\$1,713,328	50	.17%
Total Employment	28	51	.28%
Total Complaints/Inquiries	1224	48	.03%

NATIONAL INSURANCE PRODUCER REGISTRY

Beginning with 2006 company appointment renewals, the South Dakota (SD) Division of Insurance will require electronic appointment renewal processing with National Insurance Producer Registry (NIPR). The NIPR website will have the renewal invoice and a list of appointment renewals due for renewal on April 1, 2006. The invoices will not be displayed on the NIPR website after close of business Sunday, April 30, 2006 <http://www.licenseregistry.com/> *

INSIDE THIS ISSUE

- 2 From The Directors Desk
- 3 2006 Legislation
- 4 Sioux Falls Man Sentence
- 5 Did You Know.....

RISK POOL EXPANSION

SB200 - Providing relief to needy South Dakotans

SB 200 was enacted to help provide relief to those that are in individual health benefit plans in this state that are no longer being marketed and are paying astronomical health insurance premiums. These individuals have no way of avoiding paying such premiums without going uninsured. Many of them have health conditions that prevent them from obtaining insurance elsewhere and are stuck in closed blocks for which the premiums will only continue to escalate.

New federal legislation presents a unique opportunity to utilize federal funding to help needy South Dakotans who are caught in these closed blocks of business and are paying extreme premiums.

This legislation is enabling and contains safeguards to ensure risk pool solvency. The risk pool board is enabled to only allow those whose premiums exceed 200% of the risk pool premiums to be eligible. The board must ensure that the risk pool's financial solvency is not jeopardized by adding any such newly eligible individuals. The board can only allow such individuals to join the pool if federal funding is indeed available to cover expected losses. Lastly, the number of applicants enrolled into the risk pool pursuant to this legislation in any given calendar year can not exceed three percent of the total number of covered persons in individual health benefit plans that are no longer being marketed in this state.*



FROM THE DIRECTORS DESK

Hello to everyone! Well, it has already been eight months since my newest insurance dream started. I am sure all of you have insurance dreams but mine never imagined that I would be the Director of Insurance for South Dakota. The first eight months have been a challenge filled with my realization of the learning curve that lies before me. I will meet these challenges head on with the help of a wonderful and talented staff. We will maintain our open door status to the insurance industry as we regulate insurance in the best state in these United States. The Division of Insurance is available to attend and/or participate in your next insurance function.

I hope you will find this newsletter informative and helpful. This newsletter and division bulletins are designed to keep you updated on events and issues affecting insurance in South Dakota.

At the end of April, we will begin a new program in South Dakota to strengthen public knowledge of our insurance industry. "Project Image" will start by having a brainstorming conference with all interested insurance industry parties. An invitation will be sent shortly announcing the time and place. We have a great industry but it is time to increase public knowledge of what we are about.

Thank you for allowing me the privilege of being your South Dakota Insurance Director.

Merle

Certificates of Insurance

Certificates of insurance whether using an Accord form or some other form of certificate of insurance can't provide false information. SDCL 58-11-29 prohibits making any false or fraudulent statement on a certificate of insurance. An insurance agent may not issue a certificate of insurance that does not accurately represent the terms or conditions of the policy without authority from the insurer to alter the terms or conditions of that policy. Any requests to include a notice provision that binds the carrier when such provision is not contained in the policy would not be in compliance with SDCL 58-11-29. *

TERRORISM COVERAGE

Issues relating to farm coverages and the Terrorism Risk Insurance Acts of 2002 and TRIA of 2005 have come to the attention of the Division. One of those issues is the scope of the application of this federal law to farm coverages. The amendments to TRIA added to the types of insurance excluded from the definition of property and casualty insurance covered under the TRIA program. One of those newly excluded lines was Farmowners Multiple Peril. The federal regulation specifically references line 3 of the annual statement for that coverage. Therefore, other farm coverages such as fire, liability and umbrella which are reported on lines other than line 3 would not be excluded from TRIA.

There are concerns over the ability to exclude terrorism related to nuclear, biological and chemical perils. These terrorism risks are encompassed by TRIA. However, an insurer may exclude coverage for such perils provided that such exclusion is:

- 1) also applied to losses arising from events other than acts of terrorism, and
- 2) permitted by State law.

The Division does approve broad based exclusions for nuclear, biological and chemical risks and therefore such exclusions are permitted by State law. For farm coverages such as fire, liability and umbrella which are not excluded from TRIA, those insurers may include a broad exemption for nuclear, biological, and chemical perils that would encompass acts of terrorism within those exclusions.

Persons wanting additional information concerning TRIA can contact the Division of Insurance at 773-3563. Another source of information is the US Department of The Treasury which has significant resources on TRIA located on their website: <http://treas.gov/offices/domestic-finance/financial-institution/terrorism-insurance/regulations/> *

FISCAL YEAR 2005 PERFORMANCE INDICATORS

Agent Licenses Issued	9461
Agent Appointments Issued	49,605
Renewed Appointments	137,807
Agent Appointment Cancellation	13,550
Life/Health Filings Reviewed	6,830
Enforcement/New Open Files	593
Enforcement/Closed Files	692

2006 LEGISLATION

SB 44

An Act to repeal certain provisions regarding waiting periods for the filing of insurance rates. The legislation deletes the provisions of the law providing for a waiting period prior to new rates becoming effective for property casualty

SB 45

An Act to modify certain requirements for group health coverage for premature births, congenital defects, and birth abnormalities. The bill will alter the treatment of birth abnormalities and congenital defects so as to treat them as preexisting conditions rather than allowing the conditions to be excluded completely by replacement plans.

SB 46

An Act to clarify the taxes for certain life insurance premiums and annuity considerations. This bill would clarify the language so it is clear that the original intent of allowing a premium reduction only for that amount of a particular policy that was over \$100,000 for life insurance or \$500,000 for an annuity had the lower tax. The bill does contain a retroactive clause so that the legislation is effective back to the date of the original legislation in 2001

SB 47

An Act to allow health maintenance organizations to rate employer sponsored plans without prior approval. The bill will remove the requirement of HMO's filing of employer group health rates for approval. HMOs were the only group carriers that were required to file their group health rates.

SB 49

An Act to modify the requirements for health discount plans.
See Page 4 for details

SB 69

An Act to revise certain provisions relating to insurable interests and to declare an emergency. Clarifies that a trust can have an insurable interest but maintains the integrity of the current insurable interest standards by not expanding it to allow investor owned life insurance or allowing those that are not closely related to purchase life insurance.

SB 200

An Act to authorize the risk pool board to allow additional enrollees into the risk pool under certain circumstances.
See Page 1 for details

SB 201

An Act to revise the risk pool reimbursement method for certain health care providers. The bill increases the rate of reimbursement to medical providers from 115% of Medicaid to 135% of Medicaid, or approximately 17%.

HB 1042

An Act to revise certain requirements regarding the license renewal of insurance producers. The bill requires continuing education renewal of those insurance agents that are over 65 but does not require continuing education for those producers unless they actually sell, solicit or negotiate insurance.

HB 1043

An Act to revise certain provisions regarding life insurance exclusions. The bill would include group life and accidental death and dismemberment policies to the provisions of SDCL 58-15-45 which sets the permissible exclusions for life insurance policies.

HB 1044

An Act to clarify the application of certain provisions relating to the exemption of debt cancellation contracts from insurance regulation. The exemption for debt cancellation contracts from being regulated by the insurance title contains an incorrect cross reference to the banking laws.

HB 1045

An Act to modify the requirements for coordination of benefits between health plans. The bill revised how group and individual plans coordinate benefits when a person is covered by more than one plan.

HB 1058

An Act to revise certain provisions regarding investigations of the Division of Insurance.

Investigations by the Division of Insurance are to be completed within 24 months. If they are not completed within this time frame they must be presented to the Secretary of Revenue and Regulation. If after 60 days from the date it is provided to the secretary the investigation has not completed it must be turned over to the Attorney Generals office for review.

HB 1070

An Act to prohibit insurers from taking certain actions based on receipt of a notice of hearing and charges against insurance producers and to require that persons receiving such notice also receive notice of the final determination of the matter. If an agent has had a notice of hearing issued regarding his license, the director must send a letter to the licensee, the insurer, and the appointing agent of a producer, stating the final determination of the matter that was noticed for hearing. The legislation also prohibits the termination of an agent by an insurance company based solely upon the receipt of a notice of hearing.

HB 1072

An Act to direct the Department of Social Services to establish the South Dakota long-term care partnership program. This bill allows the Department of Social Services upon finalization of federal legislation to set up a long term care partnership program.

HB 1224

An Act to revise certain provisions regarding the prior approval of premium rates for certain health benefit plans. It will change the prior approval requirement for individual health plans which are actively being marketed in this state to a file and use format.

HB 1111

An Act to require certain third party administrators to provide reports of claims experience upon request. This bill will require that certain third party administrators provide reports of claims experience upon request by an employer.

HB 1188

An Act to revise certain insurance liquidity provisions for private placement policies. This legislation allows insurers the latitude to withhold cash values and death benefits beyond the normal time frames for variable life and annuity contracts, but only for qualified investors as defined under Securities laws. *

STIOUX FALLS MAN SENTENCED ON FELONY INSURANCE FRAUD CHARGES

A Former Sioux Falls insurance agent, Ryan Wingler, was sentenced March 10, 2006 to 21 years in prison and ordered to pay restitution to his victims after pleading guilty to six felony counts of insurance fraud and theft.

The charges stemmed from incidents in October 2003 through March of 2005 in which he embezzled funds from six elderly South Dakota residents totaling nearly \$350,000. An investigation by the Department of Revenue and Regulation's Division of Insurance and subsequent criminal investigation by the Insurance Fraud Prevention Unit revealed Wingler had sold fraudulent insurance policies to five of the victims and taken money from the sixth on the pretense of investing it for him. The Division of Insurance had first learned about Wingler's activities in November of 2004, quickly suspended his insurance agent license that December and ultimately revoked the license following a hearing.

Merle Scheiber, Insurance Division Director, says the case is a good reminder to people to contact the division or the Insurance Fraud Prevention Unit if they suspect they are the victim of fraudulent activities at 605-773-3563.

In the Wingler case, the insurance company he claimed to represent, Allianz, worked with the Division of Insurance to help some of Wingler's victims get restitution; the company has voluntarily reimbursed the majority of the amount embezzled to the victims.

★

THREAT OF AN OPTIONAL FEDERAL CHARTER

Senators Tim Johnson (D-South Dakota) and John Sununu (R-New Hampshire) will be introducing legislation providing for optional federal charters for insurance companies. Their legislation would establish a federal insurance regulator (Department of The Treasury) for insurance companies that choose to be licensed federally as opposed to state licensure. The federal entity would then be responsible for activities such as (1) company solvency, (2) market conduct, (3) accounting, (4) issuing charters to national life and P/C insurers, and (5) issuing licenses to agencies and producers. Although the current language does not prevent the collection of state premium taxes, many believe this is the first step in federal usurpation of the state premium taxes, which currently bring in more the \$50,000,000 annually to the state of South Dakota. Consumers have insurance with such insurance companies would no longer have the ability to contact local officials to get assistance with their insurance problems and instead would have to relay on some faceless bureaucrat in another state. Unfortunately, the federal track record in helping consumers with their problems on ERISA health plans has been abysmal. Director Scheiber has written to our Congressional delegation expressing his concerns with this ill-advised legislation. ★

INSURANCE COMPANIES IN SOUTH DAKOTA

		STATE RANK	% OF ALL U.S.
DOMESTIC	46	41	0.59%
LICENSED	1380	32	17.74%

HEALTH DISCOUNT PLANS

2006 Legislation: SB 49

The popularity of discount medical plans is a relatively new phenomenon. Health Discount Medical Plans are not insurance. The plans generally consist of, but are not limited to, programs offering discounts on physician, prescription drugs, vision, dental, chiropractic, or massage therapy services.

We currently have 43 companies registered in the State of South Dakota. Each of these companies is listed on the South Dakota Division of Insurance website.

Only those actually providing the discount plans will be required to be registered under this law. This will shift the focus from marketers of health discount plans on to the medical plan organization which is actually collecting the fees and controlling the networks.

Consumer Complaints will be handled by the South Dakota Division of Insurance. You may file a complaint by contacting the Division at 605-773-3563 or by sending a written complaint to

South Dakota Division of Insurance
445 E Capital Avenue
Pierre, SD 57501 ★

TOTAL DIRECT WRITTEN PREMIUMS IN SOUTH DAKOTA

	STATE RANK	% OF U.S.
\$3,419,639,838	49	0.26%

South Dakota Division of Insurance Contact Information

Director	Merle Scheiber		Merle.scheiber@state.sd.us
	Eva Briggs	Senior Secretary	Eva.briggs@state.sd.us
Legal	Andrew Fergel	Senior Counsel	Andrew.fergel@state.sd.us
	Matthew Fonder	Division Counsel	Matthew.fonder@state.sd.us
	Cindy Koupal	Division Counsel	Cindy.koupal@state.sd.us
	Linda Robinson	Legal Assistant	Linda.robinson@state.sd.us
Compliance	Jill Kruger	Compliance Agent	Jill.kruger@state.sd.us
	Paula Gregg	Compliance Agent	Paula.gregg@state.sd.us
	Cathy Holden	Life/Health Compliance Agent	Cathy.holden@state.sd.us
	Heather Bilbrey	Life/ Health Compliance Agent	Heather.bilbrey@state.sd.us
	Patsy Mehlhaff	Property/ Casualty Compliance Agent	Patsy.mehlhaff@state.sd.us
	Gaylord Sonnenschein	Property/ Casualty Compliance Agent	Gaylord.sonnenschein@state.sd.us
	Tami Carroll	Secretary	Tamara.carroll@state.sd.us
Policy Analysis & Legislation	Randy Moses	Assistant Director	Randy.moses@state.sd.us
	Melissa Kusser	Senior Policy Analyst	Melissa.kusser@state.sd.us
	Vicki Riveness	Property/Casualty Rate/Form Analyst	Vicki.riveness@state.sd.us
	Patsy Mehlhaff	Workers Compensation Rate Form Analyst	Patsy.melhaff@state.sd.us
	Jeff Smith	Life/Health Rate/Form Analyst	Jeff.smith@state.sd.us
	Tom Schultz	Life/Health Rate/Form Analyst	Tom.schultz@state.sd.us
	Gretchen Brodkorb	Secretary	Gretchen.brodkorb@state.sd.us
Financial and Licensing	Wendell Malsam	Assistant Director	Wendell.malsam@state.sd.us
	Connie Hohn	Senior Financial Analyst	Connie.hohn@state.sd.us
	Seth Doyle	Financial Statement Analyst	Seth.doyle@state.sd.us
	Charlene Squires Keller	Assistant to Assistant Director	Charlene.squireskeller@state.sd.us
	Luann Johnson	Program Assistant I	Luann.johnson@state.sd.us
	Jo Mikkelsen	Continuing Education Coordinator	Jo.mikkelsen@state.sd.us
	JoAnne Shoup	Senior Secretary	Joann.shoup@state.sd.us
	Penney Wagoner	Accounting Assistant	Penney.wagoner@state.sd.us
	Terra Zeller	Licensing Coordinator	Terra.zeller@state.sd.us
	Tonna Finch	Licensing Coordinator	Tonna.finch@state.sd.us

PREMIUM BY TYPE OF INSURER IN SOUTH DAKOTA

LINE OF BUSINESS	PREMIUM WRITTEN	STATE RANK	% OF US
Property and Casualty	\$1,404,034,940	46	.30%
Life	\$1,001,318,677	46	0.21%
Health	\$894,381,697	46	0.25%
Fraternal	\$102,691,826	21	1.47%
Title	\$17,212,698	49	0.11%
SOUTH DAKOTA TOTAL	\$3,419,639,838	49	0.26%

Fight Fake Insurance

While all Insurance Companies may seem to be legitimate at first glance, regrettably some are not. Fake companies are preying on consumers, promising on protection and peace of mind when adversity strikes. They actually fall apart like a house of cards when it is time to pay a claim. We would like to encourage all consumers to Stop, Call, and Confirm that they are dealing with a legitimate company before doing business. *

CALENDAR OF EVENTS

CONTINUING EDUCATION

DUE: APRIL 30, 2006

Check the Division of Insurance Website for renewal information

RENEWAL FEE

DUE: APRIL 30, 2006

Check the Division of Insurance Website for renewal information

RULES HEARING

PLACE: GOVERNORS LARGE CONFERENCE ROOM

TIME: 9:00 A.M. AND 10:00 AM

The first hearing will involve rules relating to continuing education, long term care life insurance riders, and Credit Life, Health and Life insurance applications. The second hearing will pertain to Risk Pool rules.



WORKERS COMPENSATION

Workers' compensation insurance may become more competitive thanks to the implementation of new measures announced by Insurance Division Director Merle Scheiber.

According to Scheiber, the new schedule rating program gives workers' compensation insurers more flexibility in the way rates for employers are calculated and permits additional ways for employers to qualify for rating credits. Scheiber says the program provides some important opportunities for insurers.

"The new schedule rating plan not only provides for more flexibility for the rating of workers' compensation insurance but the plan requires safety inspections and surveys to be completed by the insurers," Scheiber said. "Most employers will be able to request an on-site safety inspection."

Except for minimum premium policies, the new schedule would be open to all employers regardless of how much premium was paid under the workers' compensation policy.

Also implemented was a Take-Out program that provides access for insurance companies and agents to the list of employers who are in the residual market pool because the employer is unable to find acceptable workers' compensation insurance elsewhere. Access to the list allows companies who want to be more competitive to solicit these employers directly. Employers who are in the residual market are paying substantially higher premiums than are available to those who qualify in the open market. *

DID YOU KNOW.....

GROSS STATE PRODUCT FOR SOUTH DAKOTA (\$MILLIONS)

	2002	2003	2004
Finance and Insurance	\$4,854	\$4805	\$5244
Federal Reserve Banks, Credit Intermediation & Related Activities	\$4336	\$4226	n/a
Securities, Commodity Contracts & Investments	\$85	\$105	n/a
Insurance Carriers & Related Activities	\$429	\$471	n/a
Funds, Trusts, & Other Financial Vehicles	\$4	\$4	n/a

INSURANCE INDUSTRY EMPLOYMENT IN SOUTH DAKOTA

	2002	2003	2004
Insurance Carriers and Related Activities	5416	5521	5676
Direct Property & Casualty Insurance Carriers	1360	1339	1285
Agents, Brokers, and Other Related Activities	2892	3008	3236

Visit the NAIC Consumer Education
Web Site and
"Get Smart About Insurance"

<http://www.insureuonline.org/>

The South Dakota Division of Insurance opened 1078 files through our consumer assistance program and recovered \$2.1 million dollars in consumer money in 2005.

A consumer may file a complaint by calling 605-773-3563 or sending a written complaint to:

South Dakota Division of Insurance
445 E Capitol Avenue
Pierre, SD 57501

