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PUBLICATION FOR AGENTS AND ADJUSTERS FROM
THE STATE OF FLORIDA DEPARTMENT OF INSURANCE

Tom Gallagher
Treasurer/Insurance Commissioner/Fire Marshal

What's Inside:

Meet the commissioner	1,2
Case Notes	2
Advertising on the Internet	3
Compliance Corner	4
New bureau chief.. ..	4
Notice of repealed rule.....	4
Some records may be maintained electronically	5
Division of Fraud catches agents who steal.....	5
Notes from the CE corner	6
CE Question and Answer.....	6
ERISA	7
Applications Notice	7
FMAP customer connection	8
Company Liquidation	8
Viatical fraud	9
New Companies	10
Disciplinary Actions	11
Division phone numbers	12



Meet the insurance commissioner

Elected in November 2000, Tom Gallagher is serving as state treasurer, insurance commissioner and fire marshal.



Some of his top priorities for making insurance more available and affordable include revitalizing the health insurance market through small group health insurance reforms, strengthening the property insurance market, combating auto insurance fraud through PIP reforms, and improving the response and turnaround time of Department requests and filings. In addition, Gallagher hopes to continue to strengthen the Florida Hurricane Catastrophe Fund, which encourages insurers to commit capital to, and do more business in, Florida.

On behalf of homeowners in Florida, he wants to convince the Legislature to merge the two associations that both provide varying levels of coverage to those who can't obtain it in the private market. The new entity, Citizens Property Insurance Corporation, would offer one policy with full coverage, one agent to deal with and one adjuster to handle claims.

For the thousands of individuals with serious health problems unable to get insurance, he is proposing the Florida Comprehensive Health Association be reopened. He is also proposing changes to better regulate out-of-state health insurers, many of which offer low rates to lure consumers in. These carriers then hike premiums at the first sign of a health condition.

Gallagher is also advocating legislation to target and help eliminate auto insurance fraud. In recent years, the number of personal injury protection (PIP) claims has skyrocketed as a result of frequent lawsuits and fraudulent claims. Cracking down on this type of fraud would be beneficial to consumers since it tacks on as much as \$246 to the average family's auto insurance premiums.

Unlike the usual four-year term that insurance commissioners have in which to achieve their goals, Gallagher has two years, due to a constitutional amendment passed by Florida voters in 1998. The amendment mandates changing the Florida Cabinet structure so that the currently separate offices of state treasurer and state comptroller will be combined into one office — Florida's chief financial officer. Gallagher will work with the Legislature to develop a plan for merging the two offices this year.

Biographical information

Tom Gallagher was born in Wilmington, Delaware. The eldest of eight children, Gallagher moved to Florida in 1961 to attend the University of Miami, where he received a bachelor's degree in business administration. After college, he served in the U.S. Army as a member of the Presidential Honor Guard.

(Continued on page 2)

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Gallagher's public service began in 1974 when he was elected to, and served 13 years in the Florida House of Representatives. In 1987, he was appointed secretary of the Department of Professional Regulation where he was responsible for a budget of \$38 million and the regulation of 38 professions.

In 1988, Gallagher was elected to his first term as state treasurer and insurance commissioner. He established himself as an advocate for Florida consumers and built a reputation as a prudent, yet innovative, manager of state dollars. In the aftermath of Florida's most costly natural disaster, Hurricane Andrew, Gallagher provided on-the-scene assistance to consumers, stopped insurance companies from canceling policies and helped create the Joint Underwriting Association for those who could not get homeowners' insurance elsewhere.

Other accomplishments of Gallagher's first term include:

- ◆ The creation of Healthy Kids Corporation, which today provides health insurance to more than 260,000 children in the state.
- ◆ The Florida Catastrophe Fund, which holds and invests a portion of premiums collected by insurers so that in the event of a devastating hurricane, money will be available to help pay Floridians' claims. Today, the Catastrophe Fund is capable of providing protection against a hurricane causing up to \$16 billion in damage.
- ◆ Rewriting and reforming Florida's workers' compensation

laws. As a result, in 1994, Gallagher ordered a \$334 million reduction in workers' compensation rates. Businesses that were facing financial harm, even bankruptcy due to skyrocketing premiums, saw significant rate reductions.

◆ When a Pompano Beach consumer complained that Humana Health Insurance Company had overcharged his wife for health care benefits following surgery, Gallagher ordered an investigation that resulted in the return of \$4.3 million to 37,000 Floridians.

◆ When the Department determined that Metropolitan Life Insurance Company, one of the nation's largest insurers, had encouraged a nationwide deceptive sales campaign to defraud consumers, Gallagher appointed an outside investigator to examine the scope of the wrongdoing. Metropolitan Life subsequently agreed to a \$20 million penalty and an estimated \$75 million in potential restitution to consumers. This action and the size of the penalty were unprecedented in insurance regulation.

In 1998, Gallagher was elected to serve as Florida's commissioner of education, where he assisted students, parents, teachers and administrators by bringing strong and effective management to the office.

Gallagher's staff is available to assist with any concerns. Telephone: (850) 413-3100. E-mail: Gallagher@doi.state.fl.us. Write: PL-11, The Capitol, Tallahassee, FL 32399-0300.

Case Notes

The following are instances in which licensees or other persons violated the Florida Statutes or rules governing insurance activities. Below are the administrative actions the Department has taken against them.

CASE: An insurance agency was found to have unlawfully shared insurance commissions with an employee-leasing company on policies of health insurance, dental insurance, vision coverage and managed care contracts.

CONSEQUENCE: The agency entered into a Settlement Stipulation for Consent Order with the Department that provided for a \$100,000 fine and immediate cease and desist from all unlawful commission sharing. The agency was put on notice that any violation of these provisions may be deemed willful by the Department and may subject the agency to further punishment in accordance with Florida Statutes.

CASE: A life and health agent (who was president of a Florida viatical settlement broker firm) was indicted by a federal grand jury and charged with multiple counts of fraud and theft relative to viatical investments. The agent was one of several individuals who participated in a scam to defraud approximately 6,000 investors out of \$130 million.

RESULT: The Department moved quickly to file an Emergency

Order Prohibiting Participation against the agent, which prohibited any involvement by the agent in the viatical settlement industry. Subsequently, the agent surrendered his licenses to the Department, an act having the same force and effect as a revocation. The criminal charges are still pending.

CASE: The Department charged a general lines agent with misappropriation of funds and misrepresentation. The agent's license was revoked, but he made a motion for a hearing to have the judgment set aside. This motion was denied.

CONVICTION: Subsequent to his revocation, the former agent was arrested and convicted on criminal charges of grand theft, uttering a forged instrument, misappropriation of funds, false and fraudulent insurance claims and scheme to defraud.

CASE: A life, health and general lines agent had his license suspended for misappropriation of funds. In a series of administrative actions his license was reinstated then suspended again for 18 months. During his suspension, the agent was arrested on criminal charges stemming from his insurance activities. He was convicted on eight counts in the federal courts.

SENTENCE: He was sentenced to 27 months in prison and three years probation. The Department revoked his license as a result of his conviction.

Considering advertising on the Internet? Read this

By Bob Prentiss

A large part of the World Wide Web (www) is electronic commerce (e-commerce), and the advertising attendant thereto. Companies make Web pages on which their products are advertised and on which the viewer can purchase the products offered.

Hyperlinks play a very big role on the www. A hyperlink is a graphic or text that has imbedded in it an address to another site on the www. Clicking on the hyperlink on the originating site allows you to immediately move to the Web site that bears the address imbedded in the hyperlink — the destination site.

Amazon.com, an online bookseller, was perhaps one of the earliest e-businesses to take advantage of the commercial potential of hyperlinks. It worked like this: A person was viewing a Web page on a particular subject. The Web page referenced a book on that subject and set up a hyperlink directly to Amazon.com's Web site, directly to the page that showed the book. If the viewer clicked on the hyperlink he would immediately go to Amazon.com's Web page. If the viewer purchased a book while visiting Amazon.com's Web site, Amazon.com would pay the owner of the originating page a referral fee. The referral fee was production based; that is, it was only paid for actual sales, not just for visits.

An e-cottage industry has sprung up in which opportunistic persons build Web pages full of such links, with the sole intention of being in the referral fee business. This is becoming more and more popular in the insurance industry.

The issue posed is how may such originating sites, which deal with insurance, be remunerated.

It appears that there are three methods by which the originating site can receive remuneration for this service:

- fixed fee
- fee for each sale
- referral fee

Under the fixed fee method, the destination site would pay the originating site a fixed



fee for providing the link. This fee would be fixed, and payable regardless of whether any linked viewer actually purchased insurance, and regardless of whether any viewer actually took advantage of the hyperlink. The obligation to pay would arise regardless of whether a commission was paid. Lacking a commission, no commission is shared. This is analogous to a fee paid for advertising and does not constitute commission sharing.

At the other end of the continuum is a fee paid for each sale. In this situation unless there is a sale made at the destination site, no fee is paid to the originating site. The fee may either be fixed, that is, the same regardless of the amount of commission earned by the destination site, or it may be set as a percent of the commission. Regardless of which method is used to determine the amount of compensation, compensation based upon the sales made by the destination site constitutes commission sharing.

In between the above two situations is the referral fee, in which a set fee is paid to the initiating site for each referral made, that is, a set fee is paid to the originating site for each viewer who visits the destination site via the hyperlink on the originating site (fee per "hit"). Such a fee would be paid regardless of whether the viewer actually

purchases insurance through the destination site. The obligation to pay in this situation would also arise regardless of whether a sale occurred and, consequently, regardless of whether a commission was paid. Lacking a commission, no commission is shared. This would also be analogous to a fee paid for advertising.

Commission sharing is only permissible if the recipient is a licensed insurance agent, or a qualified insurance agency. Otherwise, pursuant to Sections 626.753, 626.794, 626.838 Florida Statutes, it is a violation of the Insurance Code.

If you or your client is an insurance agent licensed by the State of Florida, or a qualified insurance agency, any of the three methods of remuneration are acceptable. If, however, you or your client is neither an insurance agent licensed by the State of Florida, nor a qualified insurance agency, remuneration under the fixed fee method or the referral fee method described above are the only acceptable forms of compensation. If the remuneration is based upon actual sales, this compensation scheme would violate Florida law.

This informal opinion does not constitute a Declaratory Statement pursuant to chapter 120, F.S.

Bob Prentiss is a senior attorney with the Division of Legal Services.

Compliance Corner

The following are areas of concern in which we continue to see a pattern of noncompliance. This section has been created as a reminder to assist you in keeping your insurance business in compliance. The items listed are intended to be reminders only and are not the exact text of the Florida Statutes. The statute cites have been provided for your reference for reviewing all provisions of the statutes including any exemptions.

Return premiums

Agents must promptly return all unearned premiums and commissions owed to the consumer. 626.611(10), 626.561(1) and 626.621(4), F.S.

Appoint customer representatives

General lines agents are responsible for appointing their customer representatives and limited customer representatives. 626.072, F.S.

Maintain records

Agents must maintain all related records for a policy for at least three years after the last premium has been paid. Agents should maintain or have readily accessible such records of policies transacted by the agent so as to enable the policyholders and the Department to obtain all necessary information, including daily reports, applications, endorsements or documents signed or initialed by the insurer concerning such policies. 626.561(2) and 626.748, F.S.

Keep a current binder book

Licensees conducting business under the Exchange of Business Statute (626.752, F.S.) must maintain a current binder book, and it should include all information as required by this statute.

Sharing commissions

An agent may only divide or share in a commission that is generated from a sale with another agent who is appointed and licensed to write the same kind of insurance that generated the commission. Commissions can also be paid or shared with an incorporated insurance agency. 626.753, 626.794 and 626.838, F.S.

Applications need agent information

Licensed agents must include their license number and name as it appears on their insurance license on all applications taken. This information can be typed, printed, stamped or handwritten as long as it is legible. 627.4085, F.S.

Welcome Aboard

The Division of Agents and Agencies Services welcomes Audrey Huggins as chief of the Bureau of Licensing. She comes to us from the Florida Department of Education where she was bureau chief in teacher certification.

Ms. Huggins has a wealth of experience in application processing and was responsible at the Department of Education for helping to develop and implement one of the most efficient automation units in state government for processing license applications. Her experience and expertise will help this Division elevate our licensing application receipt, processing and license issuance system to unprecedented levels.

Ms. Huggins is filling the position that was formerly held by Shirley Kerns. Ms. Kerns was promoted to an assistant division director position at the Florida Department of Labor and Employment Security.

Notice of repeal

Rule 4-151.011, Florida Administrative Code, applied to agents simultaneously holding a securities license and a life insurance agent's license. The rule required that these agents provide a copy of the 15-Day Notice, Form I-40 (FL), to the Department of Insurance in instances where a fixed life or annuity policy was being replaced with a variable life or annuity policy. This portion of Rule 4-151 was repealed effective Nov. 21, 2000, and the notice is no longer required.

Any other replacement forms required by Rule 4-151 still apply and must be completed in accordance with the rule.

If you have any questions, contact Bill Pace at (850) 413-5124. He is a senior management analyst for the Bureau of Life and Health Forms and Rates.

Some records may be maintained electronically

The State of Florida enacted the Uniform Electronic Transaction Act effective July 1, 2000. Under the terms of the act where the parties to a transaction have agreed to conduct the transaction by electronic means, if a provision of law requires a contract or other record to be in writing or requires a signature, electronic records and electronic signatures described in the law satisfy such requirements.



Further, if the parties have agreed to conduct a transaction by electronic means and a law requires information to be provided in writing to another person, the requirement is satisfied if the information is provided in an electronic record capable of retention by the recipient at the time of receipt.

A variety of provisions and requirements of

the Florida Insurance Code and related rules of the Florida Department of Insurance are affected by the new law. For example, numerous laws require disclosures and other documents to be “written.” Pursuant to the provisions of the act, where the parties have agreed to conduct an insurance transaction by electronic means and the recipient of an electronic record is able to print or store the record, electronic versions of a document now satisfy the requirements of a written document.

Similarly, where the requirements of the act are satisfied, electronic signatures as defined in the act satisfy requirements of the Insurance Code regarding signature of documents by any person.

The Insurance Code requires agents and

insurers to maintain records necessary to enable the Department to determine whether the licensees are complying with applicable requirements of the Insurance Code. Under the act as well as current Department practices, provided accurate and complete records are accessible for examination and audit purposes, retention of records in electronic format is permissible.

Finally, with respect to records that agents, insurers and others are required to file with the Department, the act permits a governmental agency to determine whether and the extent to which it will accept electronic records and signatures. The Department is currently in the process of developing systems to accept form and rate filings, insurance company applications, agent appointments, and other filings electronically. However these systems have not been finalized and have not been implemented. Therefore, unless otherwise instructed, regulated entities should continue to submit paper records to the Department.

Division of Fraud catches those agents who steal

By Stacey-Ann Clarke

The Division of Insurance Fraud (DIF) is sending a clear message to crafty insurance agents in Florida by arresting three agents, on separate accounts, who intentionally misrepresented themselves in order to defraud unsuspecting clients.

Guido Perou’s scheme was revealed when an insurance consumer complained about her insurance agent to a local television station help line. The consumer was led to believe that her homeowners and flood insurance were in place. She later discovered a problem when she tried to make a claim when her house was burglarized. This sparked a DIF investigation of Perou’s business practices.

The investigation revealed that Perou defrauded the Florida Residential Property and Casualty Joint Underwriting Association and U.S. Security Insurance Company of approximately \$5,600 in insurance premiums paid by a Miami-Dade homeowner. He was arrested and charged with organized fraud, theft and forgery.

Earlier this year, an investigation by DIF led to the arrest of former insurance agent Steven Gilliam. Investigators alleged that while operating his agency, Gilliam stole more than \$50,000 in insurance premium payments from seven customers. Gilliam represented himself to these customers as an agent of a recognized insurance company, and issued false documents to conceal his actions. Gilliam was arrested and charged with organized fraud in the first degree and multiple counts of grand theft.

Recently, Gilliam pled guilty to organized fraud and six counts of grand theft. Adjudication was withheld and he was ordered to pay \$50,881 in restitution. He was also required to reimburse DIF for the costs of the investigation. The judge also ordered Gilliam to be banned from any involvement in the insurance industry for life.

In another story, insurance agent, Eddie Logan Holman, will no longer take

advantage of the elderly. While employed by an insurance company he embezzled the funds of two elderly individuals seeking to purchase insurance through that company.



Holman told a 71-year-old man that the insurance company would issue him a life insurance policy. Holman collected the man’s down payment and never remitted the funds to the company.

The insurance company said that the man was never eligible for the life insurance coverage because of his age. He also convinced a 62-year-old diabetic woman that he could find her a cheaper health plan with another insurance company. Holman kept the woman’s premiums even though she was not eligible for coverage due to her illness.

Holman was arrested and charged with grand theft, uttering a forged instrument and theft of fiduciary funds.

Stacey-Ann Clarke is the managing editor of Voices newsletter with the Division of Insurance Fraud.

Notes from the CE corner:

CE Reduction

Individuals who hold a major lines license qualify for a reduction from 28 required hours of continuing education courses every two years to 20 hours of intermediate or advanced level continuing education courses every two years, if they meet the following criteria:

- The license they hold must be 02-14 Life and Variable Annuity; 02-15 Life, Health and Variable Annuity; 02-18 Life and Health; 02-20 General Lines; 01-20 Surplus Lines; 02-40 Health or the nonresident equivalent of these licenses.
- Their compliance period must *begin* on January 1, 1998, or later, and end on December 31, 1999, or later.
- They must have been licensed in Florida for six years or more as of the first day of their compliance period.



Licenses do not need to apply for this reduction. It will be

automatically applied when calculating compliance. This reduction is not applicable to the limited lines license types (04-40 Customer Representative, 04-42 Limited Customer Representative, 04-10 Title Agent or 02-33 General Lines Limited to Industrial Fire/Burglary).

Duplication of Courses

A licensee may not repeat the same course with the same provider within a three-year period. The duplication of a course within a three-year period will not be credited toward current CE requirements, nor may it be carried forward to the next compliance period. You may only take a particular course once every three years, and you are encouraged either to check your transcript or to call ASI at (888) 204-6214 if you are not sure whether the course is a duplicate.

Services provided by ASI

Here is a list of services that ASI provides for licensees who are required to meet CE requirements:

- Call ASI's FAX-BACK system at (888) 205-6251, and you can request a transcript through an interactive voice response system.
- You can obtain a list of course offerings in your area by calling (888) 204-6214.
- Call (888) 204-6246 to order forms. Available forms include: CLU/CPCU/College Degree and Experience Status, Nonresident Agent Certification, and Statement of Governmental Status.

CE Question and Answer

Q: I didn't take CE because I am no longer working in insurance. Will my license automatically expire?

A: No. If you no longer need your license, you should be sure to cancel all of your appointments and return your license ID card to the Department.

For example: An insurance agent quits the insurance business and terminates all of his appointments, effective April 1, 2001. He is still qualified to transact insurance for 24 months after the termination date — until March 31, 2003. If his compliance date falls anywhere within those 24 months, the agent will be responsible for CE. However, if he surrenders his license when he terminates his appointments, he will not be responsible for CE.

Q: Can I surrender my license to avoid CE?

A: You can surrender your license prior to a compliance date to avoid requirements or penalties. If you choose to surrender your license, the Department will cancel all of your appointments and change your license status to surrendered. You may reinstate

your license within 24 months of the date you last held an appointment for each class of license. However, you must first make up the credits you would have needed for the compliance period that you avoided.

Q: I have a general lines (or customer representative) license and am not appointed with any health insurer. How many health credits can I take in one compliance period?

A: You may fulfill up to 50 percent of your requirement with health credits.

Q: What is my requirement if I hold a general lines license and have obtained an appointment with a health insurer through this license?

A: The Department considered you to be dually licensed as a general lines agent and a health agent. You are required to complete 14 hours of property and casualty credits and 14 hours of health credits.

ERISA: Things may not be what they seem

By Luke Brown

It's a hard health insurance market. Health insurers and HMOs are not renewing many of your long-standing clients. Many of your clients may be facing rate increases. You are running out of alternatives. But this is still how you earn a living. Now, that's news, isn't it?

In a health insurance market like today's, some, claiming to have "the answer" have descended upon Florida. "The answer" is variously named: "ERISA plans," "union plans," "union ERISA plans," "association plans," "association ERISA plans," ERISA plans sold in the context of employee leasing arrangements, "health benefit trusts" and others.

Regardless of the name, they are mostly variations of the same theme: insurance programs or Multiple Employer Welfare Arrangements (MEWAs) disguised as something else. The risk for Florida's agents is that a lot of them are unauthorized, unlicensed and, therefore, illegal to sell. Far from being the answer, they endanger you, your client and its employees. Here's why:

In 1974, the U.S. Congress enacted the Employee Retirement Income Security Act (ERISA). Although very comprehensive and technical, ERISA in part allows an *individual employer* to establish and to fund a health plan for its own employees. Legitimate ones

may be exempt from Department of Insurance regulation. Much of what you are seeing now is not.

In the face of a difficult health insurance market, the purveyors of "the answer" have created products and plans, cloaked them with names, and filled them with terminology that may at first glance make them look like something other than insurance as you know it. You'll be told that they are exempt from Department regulation. Don't take it at face value. They have not been subjected to Department examination for actuarial soundness or solvency, and they are not backed by any guaranty fund in the likely event of insolvency. Your clients may not qualify for guaranteed-issue coverage once this "coverage" ends.

Some tips for analyzing plans claiming to be ERISA:

- Is the plan offered to more than one employer? Is everyone a prospect? Any plan involving more than one employer is a Multiple Employer Welfare Arrangement (MEWA) and is subject to licensure and regulation by the Department of Insurance.
- Does the employer have a voice in the day-to-day operation of the plan? A true ERISA plan must be single-employer based. Shouldn't the employer have power to control the health plan's operation? Does this plan provide for that control?

- Do the organizers or promoters tout their "substantial experience in the insurance industry"? (But didn't they say that this *wasn't* insurance?)

- Is someone making a profit? Don't be misled by mere claims that the entity is nonprofit; it's easy to print those words on letterhead and forms.

- Does the plan purport to be an association plan? Genuine out-of-state group association plans are not subject to Department regulation, but they are underwritten by authorized insurers (Section 627.654, Florida Statutes). The involvement of a stop-loss carrier at some attachment point is not the same as the plan being "underwritten."

Ask hard questions. Make them commit. Conduct your own due diligence.

By the way, it is both a violation of the Insurance Code and a crime to solicit or to sell an unauthorized insurance product; by touching it, you will jeopardize your Florida insurance license. Likewise, if an unauthorized insurer fails to pay claims, the agent who sold the product is responsible for payment (Section 626.901, F.S.).

In sum: If it seems too good to be true, it probably is. STAY AWAY FROM IT.

Luke S. Brown is a senior executive attorney and unauthorized entities supervisor with the Division of Fraud.

NOTICE

Effective May 1, 2001, the Department of Insurance will resume processing all applications for licenses not requiring examinations. The application form and all current information will be available on the Division of Agents and Agencies Services page of the Department's Web site, **www.doi.state.fl.us**. Until further notice, ASI will continue accepting telephone applications for all licenses requiring examinations.

Mail application to:
State of Florida, Department of Insurance
Revenue Processing Section
Post Office Box 6000, Tallahassee, FL 32314-6000.
Call (850) 413-3137 with any questions.

Let FMAP connect you to customers for free

The Florida Market Assistance Plan (FMAP*) offers agents and consumers a way to connect free of charge.

Information on agents and companies writing various coverage is collected, maintained and updated by FMAP through questionnaires completed by agents licensed in the State of Florida. FMAP has a toll-free number for consumers to call from any place in the United States. This phone line receives approximately 100 phone calls per day for homeowners', commercial and specialty lines of insurance.

FMAP's services include an agent referral service, a commercial application program and Florida Residential Property and Casualty Joint Underwriting Association (FRPCJUA) policy data reports.

The agent referral service is designed to match consumers who cannot find property insurance with agents who are writing new business. All property and casualty lines of

business, excluding workers' compensation, employers' liability, malpractice and motor vehicle coverage, are included.

A computer database stores information on participating agents and the types of policies they can write, which can be accessed when consumers call the FMAP Customer Service Center. The FMAP representative matches

consumers with agents who can write the type of policy they need within the individual consumer's geographical area. As market availability changes, agents can notify FMAP to update their referral information.

The commercial application program assists agents in locating coverage for commercial residential risks in the voluntary market. All new and renewal FRPCJUA commercial residential applications must be submitted to FMAP. FMAP identifies agents or authorized insurers maintained in its database and sends them the FRPCJUA application. If the agent or insurer submits

a qualified quote, the risk is ineligible for the FRPCJUA.

Agents may obtain FRPCJUA policy data reports to review information about FRPCJUA policies. For a nominal fee, reports are available in Dbase format on CD-ROM or on three-inch diskettes for personal residential policies in Dade, Broward and Palm Beach counties as well as the remainder of the state. Statewide reports on mobile home policies and commercial residential policies are also available. These reports allow agents to make offers of coverage to policyholders whom they can place in the private market.

Many agents are already participating in the FMAP programs and often write several new policies each month. Agents wanting to participate in these programs may call (800) 675-5342 or (850) 513-3815 for more information. An agent referral service questionnaire is also available on the FRPCJUA's Web site, www.frpcjua.com. Once at the Web site, you click on the link to the "Florida Market Assistance Program." From that screen, you click on the red link on the left side of screen that says, "Agent Referral Service." That will take you to the agent questionnaire, which you may mail or fax to FMAP (the address and fax number are on the form).

**FMAP was created by the Florida Legislature in 1985 as a service organization designed to assist consumers in obtaining property and casualty insurance coverage from authorized insurers in the private market.*



Company Liquidation

On January 18, 2001, the Honorable Nikki Clark entered an Order Appointing the Florida Department of Insurance as Receiver for Purposes of Liquidation, Injunction and Notice of Automatic Stay against Queensway Casualty Insurance Company, a property and casualty insurer.

The company is located at 10199 Southside Blvd., Ste. 200, Jacksonville, FL 32256. All claims shall be filed with the Receiver on or before 11:59 p.m. on January 18, 2002.



Please refer any questions to our consumer hotline at (800) 882-3054.

Viatical settlements and the reporting of fraud

This article is taken from a memorandum that the Division of Fraud issued on October 3, 2000, to viatical brokers. We find this information to be helpful to all licensed agents. Its purpose is to inform licensed viatical settlement providers and licensed viatical settlement brokers doing business in Florida of the applicability of newly created section 626.99278 Florida Statutes, and the amendment of section 626.99275 F.S., pertaining to prohibited acts and penalties, and section 817.234 F.S., pertaining to false and fraudulent insurance claims.

New reporting of fraud

All viatical settlement providers, viatical settlement brokers, viatical settlement sales agents and their employees are required to submit to the Department of Insurance, Division of Insurance Fraud, a report or information of their knowledge or belief that a fraudulent insurance act or any act or practice which, upon conviction, constitutes a felony or a misdemeanor under the Insurance Code (or under sections 817.234, F.S., Insurance Fraud, and 626.99275, F.S., Prohibited practices, penalties) is being or has been committed.

Anti-fraud plans now apply

By December 1, 2000, every licensed viatical settlement provider and viatical settlement broker must have adopted an anti-fraud plan and filed it with the Department of Insurance, Division of Insurance Fraud.

The anti-fraud plan should include the following.

- A description of the procedures for detecting and investigating possible fraudulent insurance acts and procedures for resolving material inconsistencies between medical records and insurance applications.
- A description of the procedures for the mandatory reporting of possible fraudulent insurance acts to the Division of Insurance Fraud.
- A description of the plan for anti-fraud education and training of underwriters or other personnel.
- A written description or chart outlining the organizational arrangement of the anti-fraud personnel who are responsible for the investigation and reporting of possible fraudulent insurance acts and investigating unresolved material inconsistencies between medical records and insurance applications.

The Division of Insurance Fraud will review all anti-fraud plans for sufficiency. The Division of Insurance Fraud will notify the viatical settlement provider or viatical settlement broker of any deficiencies.

Immunity provisions

Immunity from civil liability for insurers provided for in section 626.989(4)(d), F.S., now applies to viatical settlement providers, viatical settlement brokers and viatical settlement sales agents.

Section 626.989(4)(d), F.S., reads:

“In addition to the immunity granted in paragraph (c) persons identified as designated employees whose responsibilities include the investigation and disposition of claims relating to persons suspected of committing fraudulent insurance acts with other designated employees employed by the same or other insurers whose responsibilities include the investigation and disposition of claims relating to fraudulent insurance acts, provided the department has been given written notice of the names and job titles of such designated employees prior to such designated employees sharing information. Unless the designated employees of the insurer act in bad faith or in reckless disregard for the rights of any insured, neither the insurer nor its designated employees are civilly liable for libel, slander, or any other relevant tort, and a civil action does not arise against the insurer or its designated employees:

1. For any information related to suspected fraudulent insurance acts provided to an insurer; or
2. For any information relating to suspected fraudulent insurance acts provided to the National Insurance Crime Bureau or the National Association of Insurance Commissioners.

Provided, however, that the qualified immunity against civil liability conferred on

any insurer or its designated employees shall be forfeited with respect to the exchange or publication of any defamatory information with third persons not expressly authorized by this paragraph to share in such information.”

If a viatical settlement provider or a viatical settlement broker does not provide the Division of Insurance Fraud with a list of designated employees, it simply will not enjoy the immunity provided under this provision.

Viatical settlement providers and viatical settlement brokers must update with the Division of Insurance Fraud their list of designated employees, when new employees are so designated or when employees leave or change job titles. Because the master list of “designated employees” maintained by the Division of Insurance Fraud is subject to constant change, it will be nearly impossible to publish an accurate list at any given time. Thus, in order to protect an insurer’s designated employees pursuant to this provision, it is suggested that written communications between insurers read substantially as follows:

I am a designated employee pursuant to s. 626.989(4)(d), F.S., for the _____ Insurance Company and request the following information _____. Please ensure that the person who responds to this request is also a designated employee pursuant to s. 626.989(4)(d), F. S.

Contact information

Questions or requests for copies of the law may be directed to Senior Management Analyst Denise Prather at the Florida Department of Insurance, Special Investigation Unit Section, Division of Insurance Fraud, 200 E. Gaines Street, Larson Building, Tallahassee, Florida 32399-0324, or by telephone at (850) 413-4036.

New Companies and Acquisitions

(July 1, 2000 to December 31, 2000)

Association Casualty Insurance Company was approved as a foreign property and casualty insurer on Dec. 4, 2000. Lines of business: Fire, Allied Lines, Commercial Multi Peril, Inland Marine, Workers' Compensation, Other Liability, Commercial Auto Liability, Commercial Auto Physical Damage, Fidelity, Glass, Burglary and Theft. Address: P.O. Box 9728, Austin, TX 78766-9728.

American Equity Specialty Insurance Company was admitted as a foreign property and casualty insurer on July 25, 2000. Lines of business: Fire, Allied lines, Homeowners Multi Peril, Commercial Multi Peril, Inland Marine, Other Liability, Commercial Auto Liability, Commercial Auto Physical Damage, Glass, Burglary and Theft, Mobile Home Multi-Peril, Mobile Home Physical Damage. Reinsurance: Ocean Marine, Private Passenger Auto Liability, Private Passenger Auto Physical Damage, Fidelity and Surety. Address: 7676 E. Pinnacle Peak Road, Scottsdale, AZ 85255-3404.

Developers Surety and Indemnity Company was authorized for its certificate of authority as a foreign property and casualty insurer on Dec. 29, 2000. Line of business: Surety. Address: 17780 Fitch, Suite 200, Irvine, CA 92614-6060.

Economy Premier Assurance Company was approved as a new foreign property and casualty insurer on Dec. 12, 2000. Lines of business: Fire, Allied Lines, Homeowners Multi-Peril, Ocean Marine, Inland Marine, Earthquake, Other Liability, Private Passenger Auto No-Fault, Private Passenger Auto Liability — PIP, Private Passenger Auto Physical Damage, Glass, and Burglary and Theft. Address: 500 Economy Court, Freeport, IL 61032.

Highmark Casualty Insurance Company was admitted as a foreign property and casualty insurer on Dec. 29, 2000. Lines of business: Workers Compensation. Address: P.O. Box 535061, Pittsburgh, PA 15253-5061.

HIP Health Plan of Florida, Inc. was approved for its certificate of authority as a Health Maintenance Organization on Oct. 17, 2000. Address: 300 South Park Road, Hollywood, FL 33021-8593.

Lincoln General Insurance Company was admitted as a foreign property and casualty insurer on July 7, 2000. Lines of business: Fire, Allied Lines, Commercial Multi Peril, Inland Marine, Workers' Compensation, Other Liability, Private Passenger Auto Liability, Commercial Auto Liability, Private Passenger Auto Physical Damage, Commercial Auto Physical Damage, Fidelity, Surety, Burglary and Theft. Address: 3350 Whiteford Road, York, PA 17402-9081.

NHP Successor Corp. was approved on Nov. 9, 2000 as a Health Maintenance Organization. Address: 7600 Corporate Center Drive, Miami, FL 33126-1219.

PACO Assurance Company, Inc., was approved as a foreign property and casualty insurer on Dec. 29, 2000. Lines of business: Medical Malpractice. Address: 110 Westwood Place, Ste. 100, Brentwood, TN 37027-5075.

Peninsular Life Insurance Company was authorized for redomestication to Florida from North Carolina on Dec. 29, 2000. Address: P.O. Box 10234, Raleigh, NC 27605.

Princeton Insurance Company was approved as a foreign property and casualty insurer on Aug. 2, 2000. Lines of business: Fire, Allied Lines, Commercial Multi Peril, Inland Marine, Medical Malpractice, Workers' Compensation, Other Liability, Glass, Burglary and Theft. Address: 746 Alexander Road, Princeton, NJ 08540-6305.

QBE Insurance Corporation was admitted on Nov. 9, 2000 as a foreign property and casualty insurer. Lines of business: Fire, Allied Lines, Commercial Multi Peril, Inland Marine, Other Liability, Private Passenger Auto Liability, Commercial Auto Liability, Private Passenger Auto Physical Damage, Commercial Auto Physical Damage, Reinsurance. Address: 88 Pine Street, 16th Floor, New York, NY 10005-1801.

Sentinel Insurance Company, Ltd. was approved for its certificate of authority as a foreign property and casualty insurer on Nov. 9, 2000. Lines of business: Fire, Allied Lines, Homeowners Multi Peril, Commercial Multi Peril, Ocean Marine, Inland Marine, Medical Malpractice, Earthquake, Workers' Compensation, Other Liability, Private Passenger Auto Liability, Commercial Auto Liability, Private Passenger Auto Physical Damage, Commercial Auto Physical Damage, Fidelity, Surety, Glass, Burglary and Theft, Boiler and Machinery, and Industrial Fire. Address: Hartford Plaza, Hartford, CT 06115-2531.

The acquisition of **United HealthCare of Florida, Inc.** by United HealthCare, Inc. was approved on Dec. 29, 2000. Address: 800 North Magnolia Avenue, Ste. 600, Orlando, FL 32803-3263.

USPlate Glass Insurance Company was approved as a foreign property and casualty insurer on Aug. 18, 2000. Line of business: Glass. Address: 1 Westbrook Corporate Center, Ste. 535, Westchester, IL 60154-5740.

Disciplinary Actions

July 1, 2000 – November 30, 2000

Many of the following disciplinary actions have been resolved through consent orders based upon settlement stipulations in which there was no finding or admission of guilt by the licensee. The Department believes that notification of these actions is in the public interest and, although every effort is made to provide correct information, our readers are cautioned to check with the Department before making a decision based upon this listing. License reinstatements that were effective as of January 18, 2001, are reflected herein.

This listing does not reflect pending appeals or requests for hearings. Inquiries should be directed to: Florida Department of Insurance, Bureau of Agent and Agency Licensing, 200 East Gaines Street, Tallahassee, FL 32399-0319; telephone (850) 413-3137, ext. 1101.

Warning: No part of this listing may be used by a licensee to gain a competitive advantage over any person named herein. Any licensee who does so may be in violation of Section 626.9541(1)(c), Florida Statutes.

REVOCATIONS

LAST NAME	FIRST and MIDDLE	CITY	STATE
ANTOINE	Harold George	Gainesville	FL
BARTHELEMY	Timothy Howard	Destin	FL
BOSCH	Belinda Jane	Geneva	FL
BREWSTER	Gerald R.	North Lauderdale	FL
CABRERA	Carlos Alberto	Hialeah	FL
CARBO	Jose Raimundo	Miami	FL
CASHULETTE	Charles Rene	Deland	FL
COPELAND	Vicki Harley	Tallahassee	FL
COUGHLIN	Karen Alice	Virginia Beach	VA
COWART	Billy Randolph	Jacksonville	FL
CRUMP	Nathaniel Albrie	Neptune	NJ
CULPEPPER	John Rodney	Southport	FL
DAVIS	Willie James	North Miami Beach	FL
DECOLA Jr.	John Francis	Zephyrhills	FL
DIMAIO	Thomas James	Port Saint Lucie	FL
EVERETT	Winnie	Clewiston	FL
FINKLIN	Major Robert-Lee	Miami	FL
FRANCISCO	Daniel	Naples	FL
GRUMLEY	Brian Elijah	New Britain	CT
GUTIERREZ	Alicia	Miami	FL
GUTIERREZ	Kenneth	Orlando	FL
HASSELL	James Reynold	Pensacola	FL
HERRERO	Remy	Miami	FL
HUECHTKER	Charles Morton	Houston	TX
HUSSION	Shannon Christopher	San Diego	CA
ILONZO	Bona Ifeoma	West Palm Beach	FL
IRVING	Shenelle Rhunette	Orlando	FL
ISIDORE	Helen J.	Tampa	FL
JOHNSON	Erica Nicole	Tampa	FL
KAFANTARIS	James George	Coral Springs	FL
KRAUSE	Diane Louise	Venice	FL
LAMBIASE	Chandra Marie	Miami	FL
LAMONT-TYREE	Sandra	Jacksonville	FL
LANGTON	Lawrence Richard	Caledonia	MI
LEVY	Raphael R.	Lake Worth	FL
LIMA	Joseph Ramon	Miami	FL
LIOY	Marie Loretta	Lakeland	FL
LOPEZ	Dawn Annette	Fort Pierce	FL
LYONS	Temika Roshelle	Sarasota	FL
MAHONEY	Willis David	Fort Myers	FL
MARCHBANKS, Jr.	Dennie Ernest	Lakeland	FL
MARTINEZ	Cruz	Pensacola	FL
MCEACHIN	Robin Randall	Tallahassee	FL
MCGRIFF	Cheryl Renee	Tampa	FL
MERACLE	Elsie Ann	Merrillville	IN
MILLETTE	Robert A.	Cape Coral	FL
MITCHELL	Nathaniel Patricio	Miramar	FL
MUNFORD	Jeffrey	Brooksville	FL
NEELY	Jack Stuart	Tallahassee	FL
NICOLEAU	Elliott	Miami	FL
OBERST	Jeanette Rose	Daytona Beach	FL
PEREZ	Maria Nievez	Miami	FL
PEROU	Guido	Miami	FL
POLK	Gregory Daniel	Orlando	FL
RAYMOND	Daniel R.	Kansas City	FL

REICH	Randy Scott	Lake Helen	FL
RHINESMITH	Richard Frank	Lakeland	FL
RICO	Rafael	Miami	FL
SALOMON	Miguel Alberto	Miami	FL
SAUNDERS	Derek M.	Red Bank	NJ
SCARBROUGH	Kim Marie	St. Petersburg	FL
SCOTT	Gerald Laselle	Micanopy	FL
SELLERS	Linda Carole	Seminole	FL
SIMMONS	Jennifer Leigh	Orange Park	FL
SNYDER	Douglas William	Granada Hills	CA
SPENCE	Claude W.	Foley	AL
SPENCER	Anthony George	Palm Bay	FL
ST. PIERRE	Virgil Dean	Port Charlotte	FL
STANDISH	Charles	Otisfield	ME
STRONG	Everett Pierson	Clifton Park	NY
SUAREZ	Enriqueta	Miami	FL
TEITELBAUM	Frank	West Palm Beach	FL
THOMAS	Wanda Michelle	Tallahassee	FL
THOMPSON	Michele Amelia	Jacksonville	FL
WEITHORN	Victor Isaac	Miami Beach	FL
WILKINSON	Stephen Morris	Pensacola	FL
WILLIAMS	David Jay	Ocala	FL
WILLIAMS	Richard Leopold	Miami	FL

SUSPENSIONS (licenses or appointments)

LAST NAME	FIRST and MIDDLE	CITY	STATE
ALLEN	John Carlos	Miami	FL
BELL	Samuel Lee	Clearwater	FL
BRIGGS	Richard Dean	Gainesville	FL
BROWN	Linda Hackney	Holly Hill	FL
CALL	James Walter	Naples	FL
CARTER	Fred	Lakeland	FL
CHADICK, Jr.	Paul Joseph	Largo	FL
CLAUDE	Ernest	Miami	FL
COBB	Peggy Jo	Pensacola	FL
COLLINS	Christopher Michael	Casselberry	FL
DAVIS	Ronald Gene	Clearwater	FL
DAWKINS	Richard Hardy	Toccoa	GA
DOBARGANES	Alfredo	Miami	FL
DUBOIS	Emmanuel	Miami	FL
ELIE	Gregory Henry	Greer	SC
FOGLE	Jeremiah	Winter Haven	FL
GAMBER	Doddie Jean	Bradenton	FL
GORDON	Colin Scott	Port Saint Lucie	FL
HAMILTON*	Robert James	Gainesville	FL
*License reinstated on 12/20/00			
HARDING	Cynthia Lou	Spring Hill	FL
HEINTZ	Robert Laverne	Alachua	FL
HILL	Grant B.	Naples	FL
HURLEY	Kristi Ann	Seminole	FL
JULIAN	Eric Harry	Clearwater	FL
KOLAZ	Carla Sue	Sarasota	FL
LANE, II	Stewart Spencer	Bradenton	FL
LANG-SAMSON*	Tamara Lee	Phoenix	AZ
*License reinstated on 1/17/01			
LEWIS	Sandi Janet	Orlando	FL
LUGG*	Deanne Margaret	Miami	FL
*License reinstated on 10/1/00			
LUTES	Judy A.	Apache Junction	AZ
MAGGI*	Robert A.	Clearwater	FL
*License reinstated on 1/10/01			
MASSI, III	William	Vero Beach	FL
MAYFIELD	Eric Paul	Longwood	FL
MAYNARD	Robert Bruce	Venice	FL
MCILWAINE	Bruce Ernest	Sarasota	FL
NEAD	Scott Alan	Port Saint Lucie	FL
NICHOLS, Jr.	Howard David	Clearwater	FL
PALMERI	Philip	Sorrento	FL
PANAGOS	Richard Edward	Delray Beach	FL
RIVERS	Hilda E.	Tampa	FL
SILBE	Ruth Gay	Leesburg	FL
SPERANZA	Kevin	Pinellas Park	FL
TRUEBLOOD	Robert Wesley	Hobe Sound	FL
VALONE	William James	Northport	NY
VEITCH	Dale Edward	Daytona Beach	FL
VELICHKO, III	Andrew	Sarasota	FL

Correction

In the last issue of *The Intercom*, Lillie Ponder Mooney was listed as having had her license revoked. This was in error. The Department works hard to produce an error-free list, but occasionally we make a mistake. When we do, we like to apologize.

THE INTERCOM

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Editor/Publisher
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We welcome suggestions and inquiries concerning *The Intercom*. Written suggestions should be mailed to Heather Mendelson, Florida Department of Insurance, 200 E. Gaines St., Room 416.4, Tallahassee, FL 32399-0318. ©Copyright all rights reserved. Reproduction in whole or in part without permission is prohibited.

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Department web site: www.doi.state.fl.us



If your name, residence address, principal business street address or mailing address changes, you must notify the Department within 30 days of the change. Licensees who fail to comply are in violation of Chapter 626.551, F.S., and are subject to investigation and possible disciplinary action.

Please mail your notice of change to:
Bureau of Agent and Agency Licensing
Department of Insurance
200 E. Gaines St.
Tallahassee, FL 32399-0319

A name change necessitates the re-issuance of your insurance license. Please remember to enclose the \$5 fee and a copy of your marriage certificate, divorce decree or other documentation at the time you request re-issuance.

Department of Insurance
Division of Agents and Agencies Services
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