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ROLES AND MECHANISMS OF STATE AGENCIES

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ROLES AND MECHANISMS
OF
STATE AGENCIES

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DIVISION OF INSURANCE

Consumer Complaint and Investigation - The function of this section is to investigate and resolve individual consumer complaints that are filed with the division. Statistical data that is collected by this section is utilized by the market conduct section as a means to identify licensees or trade practices that warrant further examination.

DIVISION OF INSURANCE

OVERVIEW OF FUNCTIONS

Market Conduct Surveillance

The functions of this section are to review all rate and form filings submitted by insurance companies and to perform market conduct examinations on insurance companies or producer licensees to ensure that the consumer is treated fairly in the insurance marketplace.

Form filings refer to the process in which all forms which make up an insurance contract must be filed with, and approved by, the division before they can be used in the marketplace by an insurer. Division staff are required to determine if the filing is in compliance with specific statutory provisions and/or does not contain provisions which are ambiguous, misleading, inconsistent, or deceptively affects the risk purportedly covered. Generally, the division has 30 days in which to disapprove a filing or it is deemed approved. However, a form may be disapproved at a later date by an order of the director which may be appealed through an administrative hearing requested by the affected insurer and possibly, ultimately, by appeal to the court. (The appeal process is also available for a disapproval that takes place initially.) Literally thousands of these filings are received annually for all types of insurance (with the exception of reinsurance, and wet marine and transportation insurance for which filings are not required). The division has five people to review the property/casualty form filings and one person to review life and accident and health insurance filings. (See AS 21.42 and specifically AS 21.42.120-130.)

Rates are required to be filed before use for all types of property/casualty insurance except for reinsurance, disability, insurance on vessels, and insurance on aircraft. The same five staff identified above also perform the rate review process. Insurers must file and have approved before using rates for all types of property/casualty insurance except for reinsurance, disability, insurance on vessels, and aircraft insurance. Generally rates must be based on all relevant factors including past loss experience, margin for expenses, profit, catastrophe margins, dividends, and judgment. Statutory approval standards are that rates must not be excessive, inadequate, or unfairly discriminatory. Currently, we receive under 100 rate filings per year. However, this number will be increased due to the mode of filing to be undertaken by the Insurance Service Office (ISO), a rating organization. Beginning January 1, 1990, ISO will phase in filing only loss data rather than filing fully developed rates for its member and subscriber companies. This means that each member and subscriber insurer will need to file its own fully developed rates (which means that each must add in its own margins for expense, profit, dividend and contingency margins.) It has been estimated that the rate filings will increase to as many as 2,000 filings per year. (Attached are several months of filing activity reports which will provide a synopsis of this function.) Appeal processes are available at the administration hearing level before the director to any party impacted by a rate filing or by the application of a rating plan. The Division's authority is essentially limited to disapproval of a rate filing and assessing monetary penalties. The division does not have the authority to set rates. (See AS 21.39).

Market Conduct staff also performs on-sight examinations of insurers and agents and brokers. The purpose of this function is to ascertain if insurance transactions are being conducted in accordance with Alaska's insurance law and that approved forms and rates are being appropriately utilized. During the past 18 months two Market Conduct examinations have been performed of insurers and 10 of agents and brokers.

Licensing

This section licenses qualified individuals and insurance companies to market insurance in Alaska.

Generally, all persons desiring to transact the business of insurance in Alaska are required to be licensed by the division. These persons include agents, brokers, adjustors, and insurance companies. Persons desiring licensure as agent, brokers, and adjustors must meet certain statutory requirements and must successfully pass examinations that test knowledge of Alaska's insurance laws and specific insurance concepts.

Insurers must meet minimum statutory financial solvency standards and must have competent management in order to be licensed. Each insurer wishing to be licensed in Alaska must submit extensive documentation pertaining to its financial status which is reviewed by the division's two financial examiners.

An agent, broker, adjustor, or insurer is subject to sanctions for violation of Alaska's insurance law. After formal administrative hearing in which violations are found, penalties available are monetary penalties, suspension or revocation of the license, or a combination thereof.

Currently, Alaska has approximately 4,500 licensed agents, brokers, and adjustors, and 1100 licensed insurance companies (See AS 21.09 and AS 21.27).

Financial Surveillance

The primary responsibility of this section is to ensure solvency. Insolvent insurance companies cannot pay claims. One responsibility of the section is to examine insurance companies' financial records in order to verify that the company has sufficient reserves to protect policyholders, that investments meet statutory requirements and that reinsurance agreements comply with Alaska law. This section also is charged with performing financial examinations of producer licensees to verify trust accounts.

All Alaska based insurers are required to be financially examined at least once every three years by the division. Currently, there are 13 domestic insurers. Additionally, all foreign and alien insurers licensed in Alaska are required to be financially examined at least every three years. However, the law allows the division to accept examinations conducted by the foreign or alien insurer's state of domicile or state of entry respectively. (Reliance upon a state of domicile's examination is what is typically done not only by the division but other states rely upon the division's examination of Alaska's domiciled insurers as well.) However, annually all licensed insurers are required to file with the division extensive statements of their financial condition. These are reviewed by the division's two financial examiners to

help detect financially troubled companies and to determine the appropriate action. All Alaska domestic insurers as well as certain licensed foreign and alien insurers are required to file quarterly financial data. Currently, all financial examinations of Alaska Domiciled insurers is being done by contract with public accounting firms with division staff managing the examination. All Alaska domestic insurers have been examined or are in the course of being examined currently. The insurers directly bear the cost of examination.

Insurers found to be financially impaired are subject to summary suspension of their license. Additionally, for Alaska domestic insurers, the director is the statutory receiver under the direction of the state superior court for impaired or insolvent insurers. (This function is analogous to federal bankruptcy.) The director's role is similar to a bankruptcy trustee. The director actually takes full control of an impaired domestic insurer in order to rehabilitate it or serves as the liquidator for an insolvent insurer that is not rehabilitatable. In effect, the division gets into the business of running a financially troubled insurer. (See AS 21.78.)

The two division financial examiners also directly conduct examinations or manage contract auditors who conduct examinations of agent and brokers trust accounts. Agents and brokers are required to hold all premium funds in a fiduciary capacity and to account for those funds according to statutory requirements. In the last 18 months, the division financial examination staff have conducted personally three such examinations and have managed 12 contract examinations. Significant problems have been found, and in some instances, trust deficiencies alleged to be in excess of \$1,000,000 have been found. The expense of these examinations, by statute, is borne directly by the Division of Insurance. Again, administrative sanctions after a hearing can consist of monetary penalties, license suspension or revocation, or a combination thereof. Formal administrative proceedings have been initiated by the division in all instances where trust fund deficiencies have been alleged to exist. (See AS 21.27.350-360).

(Generally see AS 21.06.120-160, AS 21.09, AS 21.18, AS 21.21, AS 21.22, and AS 21.69).

Consumer Complaint and Investigation:

The function of this section is to investigate and resolve individual consumer complaints that are filed with the division. Statistical data that is collected by this section is utilized by the market conduct section as a means to identify licensees or trade practices that warrant further examination.

The division's consumer complaint staff consists of two consumer complaint specialists and an administrative assistant. This staff handles between 400 and 500 written complaints annually, most of which relate to health insurance and automobile insurance claims. The number of written complaints have been steadily increasing over the past several years. Additionally, this staff fields literally thousands of telephone calls from the general public seeking information about all types of insurance for every reason imaginable. The consumer complaint staff act as the "grass roots" source of detecting problems in the insurance market place. The division does not have the statutory authority to directly force the resolution of a consumer complaint by forcing an insurer, for example, to pay a claim at a certain dollar amount. However,

many times consumer remedies do come about through our involvement in a complaint. Primarily our complaint staff addresses alleged violations of AS 21.36 - Unfair Trade Practices and Frauds Act which includes the provisions pertaining to unfair claim settlement practices. Administrative sanctions available after hearing are again monetary penalties, license suspension or revocation, or a combination thereof.

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STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RISK MANAGEMENT

STEVE COWPER, GOVERNOR

P.O. BOX C
JUNEAU, ALASKA 99811-0218
PHONE: (907) 485-2180

January 17, 1989

Honorable John M. Andrews
Commissioner of Administration
State of Alaska
State Office Building
Juneau, AK 99811

Dear Commissioner Andrews:

I am pleased to present the FY 88 Annual Report for the Division of Risk Management.

Generally speaking the insurance markets were much improved over FY 87. They were willing to negotiate costs as well as improve coverages and policy conditions. Property, Marine and Aviation premiums have been substantially reduced while General Liability and Workers' Compensation renewed at approximately the same levels as last year. Specialty coverages such as directors and officers liability, medical malpractice, architects and engineers, errors and omissions and other high risk exposures continue to offer only limited markets. Pollution liability, asbestosis and discrimination insurance are almost impossible to find at practical premium costs for State exposures.

Risk Management is pleased to report transfer of 3.4 million dollars into the State Catastrophe Insurance Reserve account at the end of FY 88. This was the first deposit to the statutory catastrophe insurance fund which supports the State self-insured program and played an important roll in negotiating premium cost reductions for FY 89.

We take pride in delivery of timely claims services to injured employees and their dependents as well as fair and equitable adjudication of general and auto liability claims. Expediting repair or replacement of damaged State properties remains a priority item.

This annual report is meant to help readers understand the Risk Management process and its usefulness in controlling and reducing ultimate operating costs. We would be most happy to provide additional information or assistance on request.

Respectfully Submitted,



Donald J. Hitchcock
Director

DJH/ch

FUNCTIONS
OF THE
DIVISION OF RISK MANAGEMENT

Primary goal of the Division of Risk Management is to protect the State's assets from major loss through a combination of self-insured funding and excess insurance policies that are cost effective and provide adequate protection.

This objective is accomplished through four basic approaches to responsible Risk Management.

1. Administration and control of self-insurance and insured risk designed to be responsive to the individual needs of each State agency and in the best interests of the State as a whole.
2. Positive and aggressive control of claims brought against the State as well as claims for repair or replacement of damaged State properties. Fair and responsible settlement of claims in a timely and practical manner wherever possible. This function works in coordination with the Department of Law.
3. Provide State agencies with timely and accurate claims exhibits and analysis so that safety activities and accident prevention programs can be designed and implemented to create and maintain a safe place to work for our employees as well as protect the general public. These exhibits and services are for general use within the State system.
4. Responsible stewardship of the State Catastrophe Insurance Reserve Fund through planning to see that adequate funding is available as well as determination of proper claims payments (if any) to be made from the catastrophe fund.

INTRODUCTION TO RISK MANAGEMENT

Risk exists whenever the future is unknown. Since no one knows the future exactly, everyone is a risk manager, not by choice, but by sheer necessity.

The State of Alaska has physical, financial, and human resources that are coordinated to achieve present goals and establish new objectives. A substantial loss to any of these resources could cause financial loss, cancellation of programs and/or disruption of services or operations provided to the people of the State.

Risk management is the process of minimizing the adverse effects of loss through pre-planning and pre-funding of loss exposures. The Division of Risk Management acts much like an insurance company in paying injured Workers' Compensation claims, handling liability claims or lawsuits and providing funds for damage to State property ranging from the State Capitol Building to the Anchorage International Airport Complex and including such variations as the Marine Ferry System and Museum artifacts.

Risk Management is more than just purchasing insurance to pay losses. It involves the long-term commitment of the State to minimize the total cost of risk. Properly implemented, risk management avoids the unpleasant task of obtaining unbudgeted funds to finance restoration after a major loss.

During the past 20 years, risk management has become an essential part in the process of responsible corporate, municipal and state management. The State of Alaska has received the benefits of a risk management program since 1973 and State agencies have realized considerable savings and significantly increased protection over the years.

The State at one time was sheltered from liability suits by the doctrine of "Sovereign Immunity", however, legislative and court actions have substantially eroded that concept. Many court decisions apply the "deep pocket" theory in awarding damages to an injured party. This places the State in line for payment in many cases where the State has very questionable or no known liability. Workers' compensation statutory benefits in Alaska are the highest of all the states. Comparatively speaking, Alaska has more vested interest in high valued properties located in an environment considered hostile to normal fire fighting protection as well as other hazards such as temperature extremes, earthquakes and abnormally high winds. These major exposures have to be considered and controlled which should include provision for funding loss when necessary.

In basic terms, Risk Management strives to give less money to insurance companies and at the same time provide necessary protection and services (claims adjusting, etc.) through Alaska-based professional service contractors. Cost effective protection, safety awareness and claims management are the "keys" to a cost-effective and successful risk management program.

RISK MANAGEMENT SERVICES

RISK MANAGEMENT ADMINISTRATION

Responsibility for development of the State's total property and casualty insurance program; assessing additional insurance exposures or needs for new or special projects; providing evidence of insurance for all types of State activities; preparing annual insurance costs for State agencies; monitoring loss funds; overseeing annual actuarial and audit services and general administration of Risk Management's response to State needs are some of the services provided by the administrative section.

Marketing of the State's insurance program is done through contract brokers. Presently, our brokers are Corroon & Black and Bayly, Martin & Fay. The State's annual insurance actuarial reports are prepared by Coopers & Lybrand. Peat, Marwick, Main & Company provide audit services while computer services are provided by PCS of Anchorage. All Risk Management contract services are bid every three to five years.

Risk Management also provides services to the Alaska Power Authority and coordinates with or assists the University of Alaska and the Alaska Railroad when requested.

CLAIMS SERVICES

Claims Management provides services for investigation and/or adjustment of claims once an accident or occurrence is reported. The majority of workers' compensation and liability claims are handled through adjusting firms under contract. Most property claims are handled directly by Risk Management claims staff.

Northern Adjusters, Inc., with offices in Anchorage, Fairbanks, Juneau and other Alaska cities, handles automobile and general liability claims; EPIC Claims Services, Ketchikan, deals with claims on the Marine Highway System; Surety of Alaska, Anchorage, adjusts workers' compensation claims and also provides services for aviation and professional liability cases. Each firm is subject to periodic review by Risk Management claims officers, plus scheduled audits by independent claims professionals if necessary.

CONTRACT REVIEW

An important part of Risk Management's loss control services involves establishment or review of State contract insurance requirements. These are necessary to protect the State from claims caused by the acts of independent contractors.

Considering the present insurance market, State requirements have at times become difficult to obtain for many of the State's contractors. Risk Management is addressing this problem when necessary by revising contract requirements on an individual basis (or where applicable), on a specific program basis. During the past year, standard (boilerplate) insurance requirements for State contracts were again reviewed and modified where necessary and in the best interests of the State.

Due to the wide variety of State contracts, it is very difficult to adopt one program or even a series of programs to fit the needs of all contractual agreements. Boilerplate insurance requirements are considered guides and Risk Management will work with State agencies to consider revisions when requested.

Risk Management recommends that agencies remain involved and assist in contract insurance negotiations since they can better attest to the type of work involved, inherent exposures, possible statutory requirements and the importance of the specific contract to other possible areas of involvement.

LOSS CONTROL AND CLAIMS INFORMATION SERVICES

The starting point of any effective loss control program is to identify an agency's loss exposures. Loss exposures include the items or persons subject to a loss, the forces that may cause a loss, and the financial impact of the loss.

To assist agencies in determining where losses occur, how they occur and the costs incurred, Risk Management provides loss control reports (see page 5) to Administrative Directors, management level personnel and designated safety officers throughout the State.

Special reports may also be generated from Risk Management's claims database to provide specific listings of claims to cover a variety of needs. As an example, each vessel in the Marine Highway System and each State Pioneers' Home may receive a separate listing of claims incurred. Risk Management has also provided claims reports by specific type when requested, i.e., all open Workers' Compensation claims for specific fiscal years or all claims over \$25,000. which involved motor vehicles. Risk Management's claims analysis capabilities are extensive and available on request.

The effectiveness of any loss control or safety program is dependent on management support. "Safety" starts at the "top" because management support is absolutely necessary to its ultimate success.

Especially considering the high levels of self-insurance carried by the State of Alaska, "accident prevention" reduces costs, but just as importantly, a safe workplace improves productivity and boosts morale.

Division of Occupational Licensing
FY 89
Performance Report

The division is charged with the responsibility of providing administrative and budgetary support to 30 licensing programs, consisting of 19 professional boards, 2 commissions, 8 trades, business licenses.

One of the major challenges the division faced came at the start of FY 89 when the Business Licensing program was transferred from the Department of Revenue to the Department of Commerce and Economic Development, Division of Occupational Licensing. The transfer moved the regulatory and licensing responsibilities of more than 60,000 businesses which renewed annually; and a staff of less than half the number which supported the program on a continuing basis.

After placing the program within the division, the next major hurdle was to prepare for the license renewal period. Because all licenses carried an annual expiration date of December 31, license renewal forms were designed and mailed in November; and the renewal process began, less than six months from obtaining the program from the Department of Revenue. With relatively new employees that transferred with the program, division responsibilities to other licensing occupations were set aside for a few weeks to dedicate all division staff resources to complete the business license renewal process.

To alleviate the tremendous workload involved in annual business license renewals, the division placed all business licenses on a biennial renewal cycle and alphabetically separated the businesses, thereby reducing the renewal process to one half the number of licensees which must renew each year.

Businesses beginning with the letters A-J were renewed for a period of two years; while businesses beginning with the letters K-Z were renewed for one year. As of the December 31, 1989 license expiration date, all licensees will be placed on a biennial renewal cycle.

Another major project undertaken was to produce new maps of each game management unit to properly identify the big game hunting boundaries for each licensed guide. These areas were known as "exclusive guide areas". No sooner did the project get under way when a Supreme Court decision determined the "exclusive guide areas" to be unconstitutional. The ruling had a tremendous impact on the way big game guides were licensed. As a result, the newly created Guiding and Game Task Force was able to address this issue. New legislation was drafted which subsequently became law. The new bill reorganized the Guide Board and its licensing procedures. Operating under new legislation, the board is now known as the Big Game Commercial Services Board, and its license authority was expanded to include the licensing of outfitters, transporters, and all commercial users of the big game resource.

Sunset Reviews were conducted on four boards: Board of Barbers and Hairdressers, Board of Pharmacy, Board of Physical Therapy and Occupational Therapy Examiners, and the Board of Veterinary Examiners. All four boards were extended by the Legislature to 1993.

New licensing boards were created to regulate the professions of Clinical Social Workers, and Mechanical Administrators.

The licensing of Clinical Social Workers was created to ensure that social workers practicing psychotherapy who practice without supervision are competent and qualified.

The Board of Mechanical Examiners was created to regulate the mechanical aspects of the construction trade. The board's responsibilities include establishing new categories within the mechanical trade. A new category of licensure was also created under the Construction Contractor statutes for a Mechanical Contractor.

The division also participated in hosting two conferences in Alaska. The Pain Management Conference, held in Anchorage, was successful with a large number of participants from several health care professions in attendance. The conference included reputable guest speakers from out-of-state as well as board members, associations and interested public in general.

The second conference held was the Western Zone Meeting of the National Council of Engineering Examiners which was held in Fairbanks. Much of the coordination for the conference was accomplished by division staff and board members. This too, was a success!

The division also participated in the Prescription Abuse Data Synthesis (PADS) program and became the lead state agency involved with the program. PADS was originally developed by the American Medical Association in 1983, and for almost a year, more than a dozen Alaskan health care organizations have been working to reduce the abuse and diversion of prescription drugs. Diversion was defined as, the process by which drugs intended for legitimate medical use, become abused for illicit purposes. The PADS project involved four working groups: Technical, Regulatory/Enforcement, Professional Associations, and Policy; with each group focusing on various aspects of drug diversion.

For the first time the division issued warning and deactivation notices to construction contractors who failed to meet the bonding and/or insurance requirements. After finally obtaining additional staff help needed in the past to properly monitor compliance with bonding and insurance requirements of the many licensed contractors, the added scrutiny has gone a long way in encouraging compliance with the contractor licensing statutes.

The passage of federal legislation, known as the Nursing Home Reform Act, placed a federal mandate on each State to certify to the competency of all nurse aides working in long term health care (LTC) facilities. Nurse aides working at LTC facilities must be on the state's Nurse Aide Registry in order for the facility to remain eligible for medicare/medicaid funding. In cooperation with the Division of Medical Assistance (Department of Health & Social Services), the division assumed responsibility for administration of the state's Nurse Aide competency and certification program. A new position was created to coordinate development of the program; and progress is being made to meet the requirements imposed by the federal law.

Mandatory continuing education requirements were imposed for the first time during the license renewal period for medical doctors, and registered and practical nurses. Although the continuing education requirements already existed in statutes and regulations, they were applicable for the first time during the FY 89 renewals.

In FY 89, approximately 2,836 new licenses were issued, an increase from 2,569 issued in FY 88. Current licensees totalled approximately 25,140 as of June 30, 1989. In addition, 42,940 business licenses were issued as of January 1, 1989.

CONTACT PERSON

Randall P. Burns, Director
Division of Occupational Licensing
P.O. Box D-LIC
Juneau, AK 99811
(907) 465-2534