

## Deregulation of commercial lines: An examiner's point of view

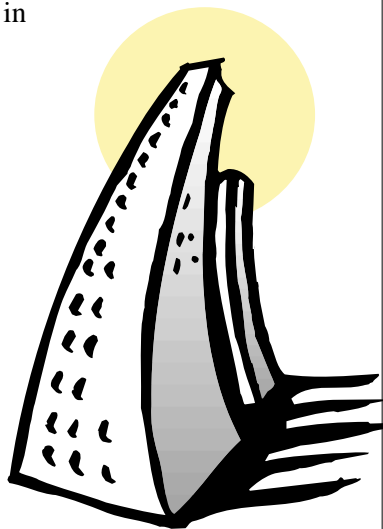
by Mary Lou Clack, CIE, CPCU, AIM  
*Examiner in Charge*  
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*"While some may argue that regulation dampens competition or promotes the interests of one particular interest group over another, insurance regulation represents a series of compromises between competing interest groups."*

The above quote is taken from the "White Paper on Regulatory Re-engineering of Commercial Lines Insurance," prepared by a National Association of Insurance Commissioners (NAIC) special committee and published in June 1998 by the NAIC.

At the NAIC meeting in March 1999 in Washington, DC, the committee presented a draft model law for review and feedback from the industry. The committee designed the draft based on its findings and recommendations presented in the White Paper.

The model encompasses changes in rate and form filings for commercial and personal lines and exempts large commercial insurance buyers from rate and form filings. The NAIC is reportedly also considering eligibility guidelines defining large commercial policyholders. If the NAIC draft does not identify what makes a large commercial buyer, then individual states will, and the eligibility requirements will not be the same for every state. (The recommendation in the White Paper identifies the "Exempt Commercial Policyholder" as an entity that meets two of several criteria relating to net worth, net revenues, number of



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## Education and training are the trademarks of the annual IRES CDS

Some annual meetings are just for sightseeing and goofing off. But not the annual IRES Career Development Seminar.

The CDS slated for Aug. 2 in Las Vegas is like every IRES annual meeting that preceded it — an intense two days of learning, training, networking and information gathering. See details on page 3.

There's a reason we don't call it a "convention." It's an educational seminar and that's how we like it. In two days, our attendees are treated to 35 breakout sessions, four general sessions and countless opportunities to swap ideas with other state regulators.

No, our CDS doesn't come with any Broadway shows, boat rides, or flashy parties. We spend our members' money on education and a few simple meals.

Because that's how our members want it. We hope to see you there.



**JULY 1999**

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# The Regulator™

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THE REGULATOR is published every other month by the

**INSURANCE REGULATORY EXAMINERS SOCIETY**

130 N. Cherry., Suite 202 Olathe, KS 66061

913-768-4700 FAX 913-768-4900

IRES Continuing Education Line: 913-768-NICE

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## President's Forum

Gary W. Meyer, CIE  
IRES president

This has been a very busy time. Many people including myself have discovered that Y2K is next year.

The Missouri Department of Insurance as well as most other states have been involved with training for Y2K examinations of important domestic insurers. With assistance from the NAIC, 28 states have been



involved with the contingency planning of what to do if the various department computers melt down. Six department functions felt to be most important were consumer complaints, licensing, forms and filings, market conduct and financial examinations and receiverships. Contingency plans were made and proposed to the NAIC for approval. Hopefully, we won't have to place these plans into action, but, if we do, consumer services and protection will be the emphasis.

Kansas and Missouri hosted the June 1999 NAIC summer meeting in Kansas City and apparently put the emphasis on summer. Those who attended will be pleased to know that the weather has now moderated and is quite pleasant as I write this. The Kansas City Royals and St. Louis Cardinals cooperated by playing a three-game series filled with offense. I hope all of those meeting attendees who were lucky enough to attend a game during their few off hours enjoyed the action.

Our annual CDS is around the corner, and if you haven't yet sent in your registration and made hotel reservations, time is running out. This CDS promises to be full of useful workshops as well as other hot topics.

If you haven't looked at the IRES web site lately, it continues to improve. We now have links to various insurance related organizations and agencies.

Congratulation to Keith Wenzel who is the new director of the Missouri Department of Insurance and to Tim Wagner who is the new director of the Nebraska Department. ■

# Just a few of the topics we'll discuss at the 1999 CDS in Las Vegas

- ◆ The evolution of non-resident producer licensing applications and the NAIC's declaration of uniform treatment.

- ◆ The 1994 Violent Crime Control and Enforcement Act and its effect on company requirement.

- ◆ An update on the PIN network, including electronic agency appointments.

- ◆ An in-depth look at the ramifications of the financial reform legislation before Congress.

- ◆ The use of Choicepoint by the industry for credit reports.

- ◆ Trends in HMO Claims.

- ◆ Development of an imaging system to handle complaints and investigations.

- ◆ A panel discussion on no-fault auto insurance and the federal "auto choice" proposals.

- ◆ Is there a right way and a wrong way to set workers compensation insurance rates?

- ◆ Issues and trends that market conduct examiners see during their field exams.

- ◆ The latest issues and products affect-

ing senior citizens, including the new Medicare, long-term care, limited-benefit policies.

- ◆ Regulating insurance on the internet.

- ◆ A panel on Building Code Effectiveness Grading, developed to evaluate how homes and businesses will stand up to natural disasters.

- ◆ Market conduct procedures and what states are doing to encourage company compliance.

- ◆ Innovative state approaches to controlling the time and expense of on-site market conduct exams.

- ◆ A review of the latest life and health insurance products on the market.

- ◆ How well is the Health Insurance Protection and Portability Act working?

- ◆ How will consumers be protected if their managed-care plan went under?

- ◆ Alternatives to cover catastrophe losses — including reinsurance, pre-event reserves, accessing capital markets via securitization of insurance risks.

- ◆ How the prosecution of insurance fraud led to the demise of an insurance company.

- ◆ What banks are doing in the insurance marketplace.

**See the latest CDS information at [www.go-ires.org](http://www.go-ires.org)**

## New 3-year work requirement for CIE pushed to 2002

The new three-year regulatory work requirement for CIE applicants will now have an effective date of August 2002. All CIE accreditation applicants after that date will have to show that they have worked in insurance regulation for at least three years.

The new work requirement originally was slated to take effect next year. However, the IRES Accreditation & Ethics Committee met in Kansas City in June and voted to delay implementation of this new requirement until 2002. For questions on the accreditation program and its rules, call Jann Goodpaster, CIE, chair, Accreditation & Ethics Committee, 503-246-3715.

# *Commercial dereg from an examiner's view*

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employees, size of premium and procurement of its insurance through use of a risk manager.)

Even before the special committee presented its draft, several states had taken steps to deregulate rate and form filings for commercial lines. Just this year, Arkansas passed major legislation exempting large commercial buyers. Others have done likewise.

## **The Insurance Market**

The insurance market is dynamic. It is also cyclical. The market is considered soft when coverage is easily obtainable and coverage is relatively affordable. The market will remain soft until it reaches a saturation point and the insurers' capacity can no longer sustain the business. At that time, insurance carriers begin to withdraw from the market, limiting new business and terminating the less profitable policyholders. The market is then said to harden and availability and affordability become more difficult for the insurance buyer. After the insurers have stabilized their financial position, they begin to take on new business, take on more questionable risks, and the market again begins to soften.

Competition drives the desire for change. Often states move to adopt new legislation because the market has changed and the current law is too restrictive or not restrictive enough. When the change occurs through the enactment of new legislation, it may take several years to change it again.

Competition in the insurance industry rules the market, but it is up to the regulator to determine if the competition is pro-consumer, pro-company, or a good balance between the two. For example, burdensome regulation in commercial lines, it is argued, has helped prompt some commercial policyholders to explore self-insurance or captive market alternatives. Some of the commercial engineering changes being enacted by state legislatures and proposed in others may be considered

pro-company. But competition will still exist. Will it be just as fierce in the unregulated market as in the regulated? Will the new laws give the industry the relief it is seeking?

Competition is a buyer's delight. But competition has an ugly side. One might argue that large exempt insurance buyers will benefit from being able to negotiate a contract with an insurer without the restrictions imposed by rate and form filing. Although the "sophisticated" buyer might be able to negotiate a better price for his coverage, he also makes himself more vulnerable to any downturn in the market.

The insurance contract will still be one of adhesion, i.e. the insurance company will draw up the contract and the buyer will agree to its conditions and exclusions. The buyer will agree to purchase the coverage at a certain premium. This year the price might be right—but what about next year? Will it be like the 1980s when premiums rose by over 100%? The consumer will have to pay the price for coverage, provided the carrier chooses to renew. One might argue that if the buyer is unable to get coverage with his present carrier, or is unsatisfied with that carrier, he could take his business to a different insurer. But what if there is no other carrier or no lower price?

Right now, the economy is good. State and federal budgets are running surpluses and the stock market is booming. But what if there is a downturn in the economy, a slowdown on Wall Street—how will the insurance market react? Will it begin to harden and make coverage less available and/or affordable?

The largest of insurance purchasers probably will not be too adversely affected. If their premiums go up, they will be more able to absorb the increases. The larger buyers will be less vulnerable to nonrenewal. Insurers will probably want to keep the risks with the largest premium. Especially vulnerable, in this writer's opinion, will be those with premiums of \$25,000 to

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# A market conduct examiner's view on dereg

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\$50,000. An insured paying a \$25,000 annual premium is unlikely to be able to absorb a 100% increase. The fact that he signed an affidavit saying he understands his rates are unregulated will do him little good in trying to pay the added \$25,000.

## Multi-State Accounts

Large, multi-state accounts fall into a different category from the large commercial buyer. With large, multi-state accounts, the insurer must deal with various states rates, rules, forms, cancellation laws, etc. It can be burdensome to the insurer and of little relief to the insurance buyer. These accounts should be viewed from a different perspective.

New laws for the most part do not provide guidelines for coordination among states. Georgia is an exception. It addresses the issue of national accounts by identifying an exempt insured as one with at least \$100,000 in Georgia premium or \$500,000 in total premium.

Missouri market conduct examiners review national accounts to determine if the policyholder is out of state and if premium for property in Missouri is insignificant to the total premium. Common sense allows the regulator to react without new legislation or regulation.

The regulatory jurisdiction of the multi-state account can be a problem for the insured, the insurer and the regulator, however. For instance, Pennsylvania has set the exempt level at \$25,000. Georgia has a \$500,000 limit on multi-state accounts. What if the buyer resides

in Pennsylvania and purchases its insurance through a Pennsylvania agent. The premium is \$35,000, but \$30,000 of that premium is in Georgia. Will Georgia accept an affidavit the buyer might sign in Pennsylvania exempting the policy from regulation? Will each state maintain regulation over its part of the premium?

What is the solution?

Can there be a clearinghouse for national accounts?

## Missouri Regulatory Structure

In 1986 I had the opportunity to hear testimony given before the Missouri Task Force on Liability Insurance. The hearings were held to address the crisis that existed in the commercial casualty market at that time. Together with problems in the legal

system, the task force's primary concern was available, affordable coverage for commercial insurance buyers. A crisis had occurred because of fierce competition for the premium dollar that existed during the soft market of the late 1970s and early 1980s.

Exacerbated by double-digit interest rates, competition among insurance carriers was nearly out of control. When the interest rates dropped, the capacity to write new business diminished for many companies and availability became a serious issue in the state of Missouri and elsewhere. Where coverage was available, premiums were often doubled or tripled.

As a result of the report of the task force, the



**Right now, the economy is good. State and federal budgets are running surpluses and the stock market is booming. But what if there is a downturn in the economy, a slowdown on Wall Street—how will the insurance market react? Will it begin to harden and make coverage less available and/or affordable?**



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# *A market conduct examiner's view of deregulation*

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Missouri legislature approved a number of changes in 1987. It enacted the "Commercial Casualty Rating Law," which continued "use and file" for commercial rates, but in addition called for "flex rating." If rates are increased or decreased by 25% or more, they are subject to prior approval by the state.

The new law also placed restrictions on cancellations and nonrenewals, requiring 60 days' notification on commercial casualty terminations. In addition, insurance companies are required to give the department 90 days' notice if they pull out of a line altogether. The Missouri Department of Insurance later promulgated regulations to limit individual premium risk modification and schedule rating factors to plus or minus 25%.

I give you this background to indicate some of the insurance issues in the mid-1980s and because sometimes it is easy to forget why certain laws are enacted. It also provides a sense of where this writer is coming from and why it is disturbing to me to see some of the changes that are being recommended and enacted by legislatures around the country. As in the 1980s, changes are being driven by competition, but this time, companies want deregulation not regulation.

## **Enter Market Conduct**

The changes to the insurance laws gave our Market Conduct Section something to "hang its hat on" for review of commercial lines writers. Before the new law, examination of commercial lines was limited almost entirely to workers' compensation and credit insurance. After the law, we initiated examinations of all commercial lines. The examinations have helped examiners understand the processes in underwriting and rating commercial coverages and have educated the commercial carriers as to Missouri law.

They also have allowed market conduct examiners to witness the changes that are taking place in the commercial lines market.

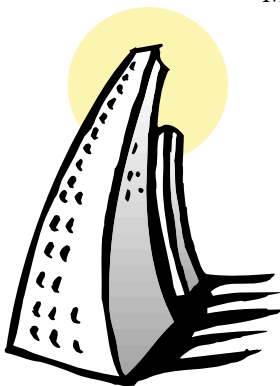
## **Insurers' Self-Deregulation**

Even before the NAIC began investigating the need for "commercial lines re-engineering" and before state legislatures began exempting large commercial buyers, Missouri market conduct examiners began to see evidence of the insurance industry's move away from rate regulation.

When Missouri market conduct examiners first began examining commercial lines, we found errors primarily in the inappropriate use of schedule rating and failure to properly document files. Seldom, however, was a commercial property coverage rated incorrectly, unless it was improperly classified or incorrect rates had been input into the company's computer system. Commercial property rates (or loss costs) were either filed, classified rates or Insurance Services Office rates.

During the last three or four years, Missouri has found companies using incorrect property rates. A company might indicate in the rating calculations that it used ISO's rates or loss costs, but is unable to verify the rate used. Companies are using Manufacturing Output Policies (MOPs), which allow the company to give merits and demerits for different characteristics, arriving at a rate after applying the deviations. We find evidence that when a MOP is used, the company may decide on the desired rate and back into that rate by applying whatever merits and demerits are needed. Companies are designing and filing new property rating plans where variables are used to develop rates. We find computer-generated rates where the underwriter is not always sure just what data has been input into the system.

We also find companies composite rating commercial automobile coverages and removing territorial





# *A market conduct examiner's view of deregulation*

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modifiers. Again, companies generate rates and premiums by computer systems and sometimes, as with property rates, the company has few raters that can manually recreate the composite rate.

All the above rating operations are usually to the benefit of the consumer, although not always. In each case, it appears to be a way for the company to arrive at individual rates for individual risks.

## **The Regulator's Role after Deregulation**

If, or when, deregulation or re-engineering occurs, regulators will be given new duties with more restrictions on regulation. If a buyer signs an affidavit that he understands the coverage is unregulated, the company will submit it to the insurance regulator. This creates a new duty for the regulator, namely maintaining the affidavits.

I envision a whole new group of "professional risk managers" who help the commercial buyer purchase coverage. For a fee, they will help purchase the coverage through an agent and assure the buyer that it is the best available deal. The buyer signs an affidavit and certifies to the regulatory agency that he understands the rates and forms are not regulated. But, if the buyer is not a "sophisticated buyer" then how can he be sure the professional risk manager is truly a professional? Who will regulate or certify these professionals?

Will the regulator need to publish brochures to

enlighten the buyer and explain just what unregulated rates and forms mean? Does the buyer understand that next year its premium might go up substantially or that he may be nonrenewed and, if the market is tight, he might have a difficult time obtaining coverage?



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Market conduct examiners will still review commercial lines. Policies exempt from rate and form regulation will still need to meet the cancellation/ non-renewal provisions. The examiners will need to determine if affidavits are on file. They will need to review rating and underwriting of the non-exempt policies and they will still make their review of claims. One question—will they need to ascertain that the rates used on

the exempt policies are adequate, not excessive and non-discriminatory?

In the March 15, 1999, issue of the *National Underwriter*, Birny Birnbaum, a representative for the Center for Economic Justice in Austin, Texas, said, "The role for the enlightened [regulator] is to regulate with a light hand and cause the markets to operate for the consumer."

With adequate planning and forethought, the commercial lines re-engineering effort can be in the consumer's best interest. Regulators, however, must be vigilant to prevent abuses and ensure that consumers are adequately informed about their rights and obligations in a restructured marketplace. ■



“

**You'll never have  
to ask me to be  
more specific. If  
I'm angry, I will  
let you know.**

”

— Oklahoma Insurance  
Commissioner Carroll Fisher

## Castastrophe tests hands-on style of Oklahoma's new commissioner

by Scott Hooper

*Special to THE REGULATOR*

Two days after killer tornadoes cut a swath through central Oklahoma on May 3, killing 44 people and causing close to \$1 billion in damage, Carroll Fisher received a complaint from a woman about her claims adjuster.

“She was really upset because he had made her feel like she was a stupid Oklahoman,” said Fisher, the state’s brand new commissioner of insurance, “just because she didn’t know more about her insurance policy than he did.

“And before I could find him we had two more calls. I can guarantee you that guy was out of here. He was on a plane by 2 o’clock that afternoon.”

“The companies don’t need that,” Fisher added. “We as Oklahomans don’t need that. We need people treating us with respect, especially at a time of devastation like this, when we’re really needing some assistance.”

That pretty well sums up the Carroll Fisher that storm victims came to know in the days and weeks following the May 3 catastrophe. They came to know an insurance commissioner who takes his job very personally. When Fisher says “I” not “we,” he means it. He’s zealous about protecting consumers’ rights. And as supportive as he is of insurers, he expects them to do their job properly.

“He played a remarkably hands-on role,” said William E. Bailey, director of the Tornado Insurance Information Center in Oklahoma City. “He was out in the field where the victims were, making sure insurance companies could get where they needed to be to meet with their customers.”

### **3.2 million policyholders**

A former insurance agent from Tulsa, Fisher won a hard-fought race against an incumbent commissioner. When he took office in January, he set out to revamp the way the department did business. Suddenly, in the

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# Oklahoma commissioner

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midst of that reorganization, he and his staff were tested in ways he could never have imagined when he ran for office.

From the time the claims start pouring in, Fisher assured consumers that he expected the insurance industry to rise to the challenge. One of his opening lines at countless community meetings following the May 3 storm was, "I'm proud of the industry I regulate." It sent a message to consumers and insurers alike that the insurance commissioner would treat everyone compassionately and fair.

The previous commissioner, Fisher said, reacted to catastrophes by acting as strictly the policyholder's friend, defending them from the evil insurance industry. Fisher considered that approach unfair and unproductive.

"We tried to raise up the industry in the eyes of the consumer," he said, "to not be afraid to trust them — and that we would be there with the companies, making sure that everything was properly handled."

For weeks and weeks after the disaster, Fisher personally attended every town hall and community meeting to meet with victims, answer coverage questions and hand out his business card. When other agency heads sent staff members or aides, Fisher came in person.

"I brought my message, and I attended more of those [meetings] than you can imagine," Fisher noted. "I stayed until late hours of the night, working individually with these people. But you've got to understand — I come from an industry where I was hands-on, as an agent, so I bring that mentality, of the agent working for the people of Oklahoma.

"My feeling is I've got 3.2 million policyholders."

## Consumer calls

The tornado tested the insurance department consumer-assistance division. Consumers were urged to call in with questions, and call they did — 798 and counting, most of them misunderstandings or requests for information that were handled with dispatch.

"It just goes to show the way my people have picked up the pace," Fisher said. "They've really responded very positively to the consumers of Oklahoma."

When a caller needed specific information about his

company's policies and procedures, department personnel of course passed the question along to a representative of that company.

Fisher even permitted one major insurer to station a claims specialist at the insurance department to field calls and complaints from its customers. It was an unorthodox arrangement but Fisher was less concerned about precedent and more concerned with helping storm victims with their insurance questions as quickly as possible.

"They know we want to try to help them," he said. "And what better person to be right here on site? We say, 'Hey, we've got somebody right here to help you. We've got a decision-maker so we don't have to go through these long delays.'"

Similarly, when a newspaper article suggested that insureds retain public adjusters to handle their claim settlements, Fisher publicly encouraged consumers to rely on company adjusters.

"Give your company the first opportunity to respond," he said, "and then give the Insurance Department the opportunity, because we're the backup to the company adjuster."

## Picking up the phone

With Fisher, what you see is what you get. An affable man, he smiles a lot, but he also lets you know when you've crossed him. As he put it: "You'll never have to ask me to be more specific. If I'm angry, I will let you know."

Fisher received an anonymous letter alleging that an agent was selling insurance without a license. The normal response would have been to route the letter to the department's agent-licensing staff. Instead, he picked up the phone and called the agent.

The man wasn't in, so Fisher left a message. A day or two later, the home office agency director returned



**Fisher:** "My feeling is I've got 3.2 million policyholders."

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# Oklahoma's new commissioner takes charge in wake of deadly twisters

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the call.

"If we have a claim from an agent who's not actively licensed," Fisher told the supervisor, "it's going to hurt you as a company and it's going to hurt every agent in Oklahoma, and I don't want that."

Then there was the time the commissioner invited the head of a major insurance company to sit down for a friendly visit just to get to know each other. The executive replied that he didn't want to come in to see the commissioner unless someone told him first what was wrong.

Fisher shook his head. "It's sad that people feel that way about this office. But until they've had an opportunity to meet me and understand that I'm not that way, what they thought was that I was setting up a trap for them to be called on the carpet.

Fisher's hands-on style and his willingness to work cooperatively with insurers — to a point — was tested on numerous occasions in the weeks following the May 3 twisters.

"I went to the companies and I told them, 'All I expect from you is just to pay expediently, promptly and fairly,'" Fisher said.

At the same time, he repeatedly asked consumers to understand that he would never ask a company to pay something they don't owe.

"I've had many consumers call me and want to discuss specific coverages," he recalls, "and I've said, 'Well, they [the insurers] really don't owe that. That's not a covered benefit.' And they say, 'Fine, commissioner, if that's what you say. I understand.'"

## **Poorest-read bestseller . . .**

As a result of his experience following the May 3 tornado, Fisher says he'll be talking with the industry about explaining their benefits in plain language. Besides replacement cost vs. actual cash value, a number of misunderstandings arose from victims who were planning to move only to find their homeowners benefits were reduced if they chose not to rebuild.

"The insurance policy is the poorest-read bestseller on the market," the commissioner says. "People just don't read them until time of claim, and what a horrible

time to find out what you don't have."

Fisher says he has always been a fan of consumer education.

"I used to try to do seminars in Tulsa, as an agent," he said. "They were free, they were at the library, and they were very poorly attended.

"So many people, when you ask them have you got 10/20/10 (auto liability limits), they don't know what that means. They can add it up and know it comes up to 40, but they don't understand what it is."

Although Fisher has moved from Tulsa, where he had his own agency, to Oklahoma City, where he runs a department that regulates insurance companies and agents (as well as funeral directors, bail bondsmen and real estate appraisers) statewide, it doesn't sound as if he's going to give up his hands-on approach any time soon.

"This is a one-man job," he said.

"I've got 120 employees who help me do it, but I make the decisions. It's not a committee, it's not the governor, it's not the state legislature, I basically make the decisions.

## **Dispute resolution**

One of the first programs that Fisher inaugurated upon becoming commissioner was nicknamed EAGLE — short for ending arguments gently, legally and economically. The brand-new alternative dispute-resolution program is likely to be especially popular in the next few months, as disputes arise over storm-related claims.

"We've kicked off a program that I think is going to be a model for the nation," the commissioner said. "This is what we'd said all along we'd do when we got here: Let's arbitrate and mediate, not litigate. Let's stay out of the courthouse.

"I've already been sitting in my conference room with a number of people, sat down and done mediation and arbitration with them. Just on a voluntary basis — nobody was obligated to anything,

"I would start off by saying to the policyholder, 'Tell me what it's going to take to make you happy. Where are we trying to get to, so we don't just wander

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# Catastrophe lets new commissioner test out his hands-on working style

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through the dark here?"

"The interesting thing is, they're not throwing out these \$20-million punitive-damages things like they do in the courtroom," he said. "They're saying, 'I need \$7,521 to pay my bills and I'll be happy.' You take them to the courthouse, and they'll say, 'Well, I want my bills paid, but also I've had my feelings hurt, so I need another million.'"

To Fisher, EAGLE is a sterling example of what has become a kind of motto for the department: "Do the right thing for the right reason."

## **Walking the halls**

Fisher is proud of the close ties he has forged with the state legislature. The extra time he has spent keeping legislators informed about department activities and testifying before committees has paid off, both in terms of legislation passed and the increasing number of legislators who feel comfortable picking up the phone and asking Fisher for help.

One recent payoff for Fisher was passage of legislation creating an expanded fraud unit — an effort that had languished for the previous four years.

"It was quite a learning experience for me to get into the legislative process," Fisher added. "A bill can go in one end of the committee and come out the other

and you wouldn't even recognize it.

"But the respect that we've won in the state legislature has been tremendous," Fisher added. "Now what you're finding is that when lobbyists travel around the halls over there [in the state capitol] they're asking, 'What does the insurance commissioner think about this?'"

"They're wanting our opinion," he said. "That speaks well for the reputation that we've gained within the state legislature."

Numerous issues still loom, waiting for Fisher to tackle them. Workers comp, once a nagging problem in Oklahoma, is functioning better than before, but Fisher is working to beef up fraud enforcement there as well. And uninsured motorists remain a perennial problem, with one in four claims uninsured. A recent court decision would make uninsured-motorist coverage primary and could lead to 18% premium hikes — which could cause even more motorists to go uninsured.

"We're going to propose some aggressive legislation, similar to No Pay-No Play in California, where if you don't have any insurance you don't have any right to file claims," Fisher said.

"If you put yourself in harm's way and you're not insured, you shouldn't ask me to pay for you."

## **Amusement tax**

Despite the job's rigors, Fisher is enjoying every moment of it.

"I love this job," he said. "I told someone early on, I'm afraid they're going to charge me an amusement tax, it's so much fun."

Only months into his first four-year term, he's also already made it clear that he's already planning to run for re-election. "I am an elected official, and I had to sell my insurance agency and I had to surrender my insurance license," he said. "If I don't get re-elected, I'll be the youngest Wal-Mart greeter in Oklahoma. So I'm motivated."

And Fisher is a confirmed believer in motivation.

If you can motivate companies to do the right thing, he says, motivate consumers to buy the right coverages,



David Chartrand of the IRES office is interviewed by a video production company for a documentary about the the May 3 Oklahoma City tornadoes and their impact on the insurance industry.

*continued on page 12*

## *'Leave or get into the freezer'*

The May 3 tornado touched down late in the afternoon, and Oklahoma Insurance Commissioner Carroll Fisher heard about it before he'd left the office.

"One of my employees called and said, 'Commissioner, you might want to turn on the radio,' he recalled

"I went over and turned on my radio and picked up on some of the news, and I'll tell you this, the news media did a most outstanding job. I've never seen anything like it. Those guys got out and chased that silly thing all over the country — one of them got so close it popped the back window out of his van. Incredible.

"But they gave us enough advance warning, I think that's what really saved a lot of people's lives."

The storm was still a fair distance away, so Fisher went off to dinner.

"Then the waiter came over and said, 'You all are through, aren't you?' and we said, 'Yeah, we're just sitting here visiting.' And he said, 'Well, we need to ask you to go to a safe place because the tornado is about 10 minutes away. You need to get into the freezer in here or take off.'

"I opted to get out of there because I'm on the emergency management team, and I knew where I needed to go to. Listening to the radio on the way and kind of tracking where [the tornado] was — they were talking about it going south of Oklahoma City into the Moore area — I knew I was safe in the direction I was heading."

He met through the evening and the early morning hours with the governor and other emergency response agencies who were trying to secure the devastated areas and assess the damage. The next morning Fisher toured the disaster area in a highway patrol car.

"We went over to Westmoore High School where all the farm animals were in the parking lot. Just to see the devastation . . . It was the most amazing thing I'd ever seen."



## **Oklahoma Insurance Department**

- *Market conduct exams handled by:* Financial Division.
- *Size of staff:* Department employs 125, 12 in Financial Division. Market conduct exams done by seven contract examiners.
- *Contractors:* Works with two firms to provide field examiners to supplement 16 staff examiners.
- *Domestic/total companies:* 123/1,797
- *Confidentiality:* Exam reports and orders are public upon completion and approval by the company; working papers are confidential.
- *Contact:* Carroll Fisher, 405-521-2828 • FAX: 405-521-6635 • [www.oid.state.ok.us](http://www.oid.state.ok.us)

## **Oklahoma twist**

*continued from page 11*

motivate agents and adjusters and employees to treat everyone with respect, things will go a lot more smoothly.

Sometimes he's found the news media asking leading questions that are aimed at getting him to criticize about the insurance industry. He doesn't take the bait because he feels that insurers have performed well — particularly given the volume of claims produced by the May 3 catastrophe.

"Let me tell you, if I'd been out there handing out money, there'd have been somebody complaining that I didn't give 'em enough," he noted. "It wouldn't make any difference what you did. With 150,000 claims being filed within 30 days — somebody's going to be unhappy. It's just part of life."

"So much of life," he added, "is your attitude." ■

# C.E. News

Updates and other tidbits from the National IRES Continuing Education program. The C.E. program is for persons holding AIE and CIE designations.

√ Please remember to include documentation, such as a certificate of attendance or some other reasonable evidence of completion when submitting continuing ed credits.

√ The deadline to submit your CE credits for the current compliance period is **October 1, 1999**. There is still time to write that article or to participate in a panel discussion. A missed deadline, or failure to comply with the NICE program will result in the suspension of your designation. In other words, your designation will no longer be recognized by IRES and in good standing. To reinstate your designation, current policy would require you to bring your IRES annual membership dues current; pay a \$60.00 reinstatement fee; pay up to 3 years of unpaid CE fees; as well as earn and report up to 3 years of past due CE credit hours. It is well worth your time and dollars to keep your CE credits current.

√ NICE transcripts were distributed in May. If you did not receive one, please contact the IRES CE Office.

More questions? Call us  
at 913-768-NICE

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## Lots of ways to get C.E.

Need CE credits? Why not publish an article in *The Regulator* or some other insurance publication. Qualifying articles are those that have been published in recognized magazines, journals and widely distributed industry newsletters. *The Regulator*, NAIC's *Journal of Insurance Regulation* and the *National Underwriter* and *Best's Review* are just a few examples. One credit is granted for each 500 words written (with a maximum of 5 credit hours for 2,500 words).

Many regulators have limited budgets for travel. This means that many IRES members cannot get their continuing education credits by attending the Career Development Seminar or other organized conferences and seminars. In order to assist traveling regulators in meeting continuing education requirements and to provide ongoing education training, many states will sponsor monthly, bi-monthly or quarterly IRES meetings. Many times these meetings are in conjunction with SOFE meetings and regulators receive continuing education credit for both SOFE and IRES. Check with your state IRES or SOFE chairperson.

Another way to obtain IRES continuing education credit is to take a course sponsored by the various national insurance institutes. Courses offered in any state or country will qualify for credit as long as they meet the IRES accreditation standards. Any course submitted for CE credit must be more than 50% directly and substantively insurance related and be capable of written verification. Course quality, not location, is the controlling factor. Totally independent self-study courses do not qualify for credit. However, video programs will qualify for credit as long as they are conducted at a scheduled time by a recognized sponsor and attendance can be confirmed.

Any questions regarding continuing education opportunities may be directed to the IRES CE Office or by sending an e-mail to IRESHQ@aol.com.



# REGULATORY ROUNDUP

## **CALIFORNIA — Regulators Sue Title Insurance Industry**

The California Insurance Commissioner, along with the State Controller and Attorney General, recently filed a class-action lawsuit against approximately 200 title insurance companies in California. The California regulators are claiming that the insurers have illegally taken up to \$500 million from consumers over the past thirty years. Specifically, the title companies are alleged to have held dormant and unclaimed escrow accounts, retained fees charged to consumers for services not rendered and retained interest on deposited escrow funds that should have been returned to customers.

## **COLORADO — Title Insurance Discounts to Builders Prohibited**

The Colorado Insurance Commissioner issued a new bulletin addressing builder discounts in the title insurance industry. The Commissioner received several complaints that title companies were giving commercial homebuilders discounted title insurance fees based on the volume of business being brought to the title company. The new bulletin makes it clear that existing law prohibits title insurance companies from giving commercial builders title insurance fee discounts based on the volume of anticipated title insurance business from the builder. This bulletin can be viewed at Colorado Division of Insurance's website ([www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance)). See CO Bulletin 2-99 (April 30, 1999).

## **KANSAS — Commissioner Addresses Storm Victims**

In an effort to help Haysville residents in the aftermath of devastating storms, the Kansas Insurance Commissioner publically announced that the Kansas Insurance Department would help storm victims handle their

by **Dee Dee Gowan**



insurance matters so they can begin rebuilding their lives, homes and businesses. The Commissioner suggested that storm victims: (1) report damage immediately to insurance companies; (2) survey the damage; (3) only make repairs necessary to protect against further damage; (4) keep hotel and meal receipts; (5) be present when an adjuster inspects property; (6) be wary of scam "repair" companies and do not accept an unfair settlement. If storm victims are unsatisfied with their insurance company, they are encouraged to call the Consumer Assistance Division at 1-800-432-2484. See KS Department of Insurance Press Release (May 4, 1999).

## **MASSACHUSETTS — Settlement Approved in "Vanishing Premiums" Class-Action**

On May 25, the Massachusetts District Court granted final approval of a class-action settlement among Allmerica Financial Corporation, three of its subsidiaries, and their policyholders. The policyholders had brought a class-action lawsuit alleging that the companies' agents had wrongfully promised that their insurance premiums would vanish over time. The lawsuit also claimed that the companies were churning policies and misrepresenting policy benefits. Allmerica has denied any wrongdoing. Under the settlement, policyholders may buy an annuity, and Allmerica will contribute \$50 for each \$10,000 invested on each anniversary. Policyholders will also be given the option to purchase life insurance products with a 70% discount on the first-year premium.

## **NEW HAMPSHIRE — Credit Unemployment Insurance Not Valid Coverage**

The New Hampshire Insurance Commissioner has issued a new bulletin explaining that credit unemployment insurance is not permitted in New Hampshire.

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*Dee Dee Gowan is an attorney with the law firm Baker & Daniels in Indianapolis, Ind., and focuses her practice on insurance regulatory matters.*



*continued from preceding page*

The New Hampshire Insurance Department experienced an increasing number of policy filings that provided insurance benefits in the event the policyholder becomes involuntarily unemployed. The new bulletin explained that credit unemployment insurance was not authorized under the state's credit insurance laws and, therefore, it was not a valid coverage in New Hampshire. The bulletin also warns that regulatory action will be taken against insurers that continue to write credit unemployment insurance. If you have any questions about this bulletin, please contact David Sky at [dsky@ins.state.nh.su](mailto:dsky@ins.state.nh.su). See NH Bulletin 99-006-AB (April 9, 1999).

### **NEW JERSEY — Auto Insurers' Medical Pre-certification Plans Suspended**

The New Jersey Insurance Commissioner has suspended the approval of medical pre-certification plans filed by automobile insurers until the Department can develop new standards and guidelines for those plans. Under New Jersey law, insurers may require reasonable pre-approval of medical care to injured motorists in an effort to reduce fraud and the costs of automobile insurance. Unfortunately, the Commissioner recently learned that some insurers were requiring pre-certification for all, or virtually all, medical care provided to injured motorists. These overbroad pre-certification plans are not reasonable, and insurers using such plans will be expected to refile in compliance with the new standards being developed by the Department. See NJ Bulletin 99-07 (May 3, 1999).

### **NEW YORK — 250 Insurers Warned about Non-Disclosure of Y2K Data**


On May 4, the New York Insurance Commissioner warned 250 insurers that they may face regulatory action for failure to provide full and fair Y2K disclosure. Insurers were required, as part of their annual financial statements due April 1, 1999, to file Y2K disclosure statements describing their state of readiness, costs, risks and contingency plans. This is the first time that all insurers, including mutual and non-profit insurers, would be making public disclosure of their Y2K readiness and exposure. The Department warned that failure to refile in a timely manner would result in

regulatory action against the 250 insurers that either failed to file their Y2K disclosure or filed incomplete disclosures. See New York State Insurance Department Press Release (May 4, 1999).

### **TEXAS — Stricter Solvency Requirements for HMOs**

The Texas Legislature recently approved stricter solvency requirements for health maintenance organizations. The new law phases in increases in the minimum amount of required cash surplus levels. By 2002, HMOs that provide basic health care will be required to maintain a net worth of \$1.5 million; HMOs that provide limited health care, \$1 million; and single service HMOs, \$500,000. Also, obligations to physicians under contract by an HMO must now be counted as a liability. See Texas House Bill 3023.

*If you have any suggestions for topics from your state for the next newsletter, or if you have questions or want additional information about any of the above news items, please call Dee Dee Gowan at (317) 237-1217 or send an e-mail to [dgowan@bakerd.com](mailto:dgowan@bakerd.com).*



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the country:



One regulator's  
perspective.  
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## BULLETIN BOARD

### √ Welcome new IRES members:

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√ The recently mailed IRES Board of Directors ballot incorrectly identifies candidate Gary Domer as affiliated with the state of Colorado. Mr. Domer is seeking board membership as an "unaffiliated" candidate.

√ Huff Thomas, a regulatory consulting firm providing comprehensive examination services, is seeking experienced market conduct and financial examiners. Candidates' background should include a Bachelor's degree, an AIE, CIE, AFE or CFE and 2-5 years experience participating in the examination of insurance companies. FLMI, candidate or CPA is a plus. Salary is commensurate with experience. Contract and employee positions available. Competitive salary, incentive and benefit package provided. Travel is required. Relocation is not required. HuffThomas is an Equal Opportunity Employer. Please submit your resume with salary history and requirements to: HuffThomas, Attention: Human Resources Director, 4700 Bellevue, Suite 205, Kansas City, MO 64112

√ You MUST stay to the end of the Career Development Seminar (next month in Las Vegas) to receive automatic full continuing education credit. If you leave early you will receive only partial credit. So make your travel plans accordingly.