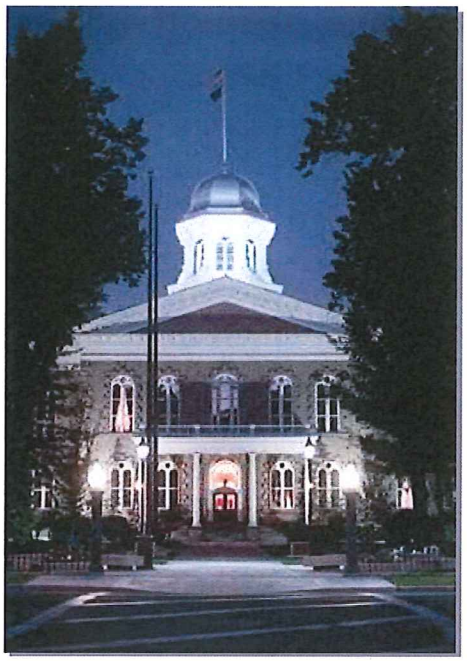


State of Nevada
Department of Administration
Division of Internal Audits

Audit Report

Department of Business and Industry
Division of Insurance
Enforcement Investigations

Report No. 15-05
June 22, 2015

EXECUTIVE SUMMARY
Division of Insurance

Objective: Can the Division Enhance the Efficiency and Effectiveness of the Investigation Process?

Establishing formal procedures for supervisory oversight would ensure investigations are completed timely and improve the regulation of the industry. We noted cases are not being completed timely. Additionally, supervisory personnel do not have formal procedures for ensuring investigations are progressing appropriately.

Developing standardized procedures for prioritizing investigations and documenting activities would ensure higher priority investigations are completed timely; investigations are sufficiently documented; and improve the regulation of the industry. The division does not document their priority assessments of investigations and has no established criteria for determining priority levels. Additionally, the division does not adequately document investigation activities.

Developing and implementing policies and procedures for supervising and standardizing the investigation process would benefit the state by approximately $68,000 annually. These procedures should be used by both the northern and southern enforcement offices to provide for consistent productivity. For the period January 1, 2009 to December 31, 2012, the northern office closed almost three times as many investigations per investigator as the southern office.

INTRODUCTION

At the request of the Department of Business and Industry, we conducted an audit of the Department of Business and Industry, Division of Insurance (division) – Consumer Services and Enforcement section. Our audit addressed the following four questions:

- ✓ What is the division's role?
- ✓ What services must the division provide?
- ✓ Is the state the proper level of government to provide these services?
- ✓ If state government is the appropriate level of government, is the division carrying out its duties efficiently and effectively?

Our audit focused on the investigation process performed by the enforcement unit of the Consumer Services and Enforcement section.

Division's Role and Public Purpose

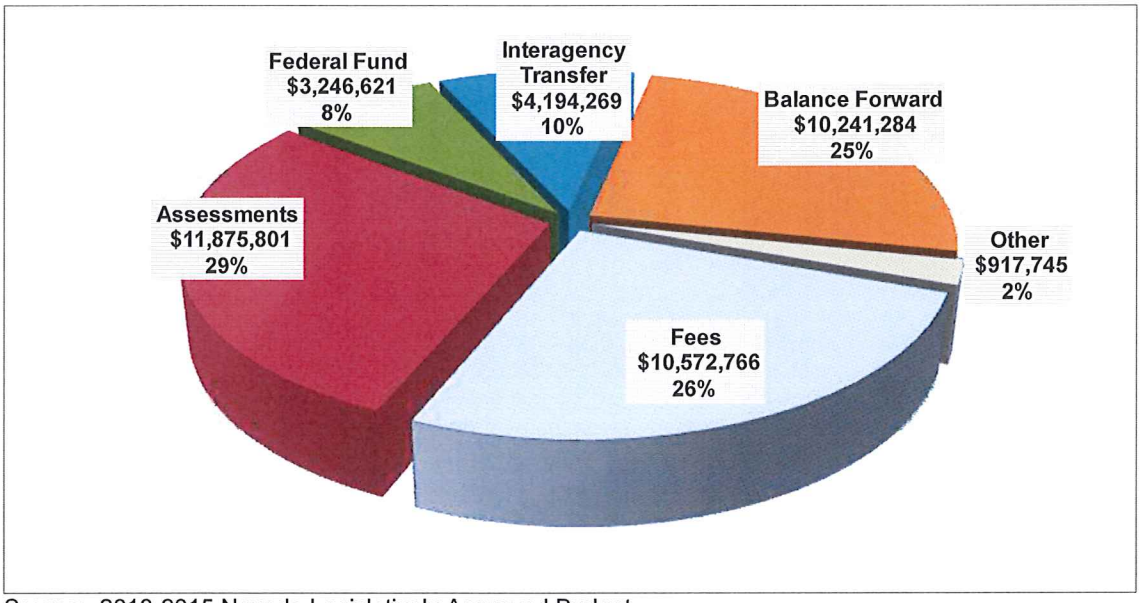
The Division of Insurance is one of the divisions under the Department of Business and Industry. The division is responsible for regulating and ensuring the financial solvency of the insurance industry as well as protecting Nevada consumers in dealing with the industry.

The division operates as an enterprise fund[1] with no general fund allocations. In fiscal years 2014 and 2015, the division's operating costs were allocated across eight budget accounts funded by a variety of assessments and fees. For fiscal years 2014 and 2015, the biennial budget including reserves is $41,048,486 with 85 authorized full time equivalent positions. The division's actual operating expenditures were $13,722,594 for 2014 and 2015 expenditures are expected to be comparable. See Exhibit I for funding sources.

[1] Enterprise Fund – The division charges user fees for its services with no general fund allocation.

Exhibit I

Division of Insurance Funding Sources



Source: 2013-2015 Nevada Legislatively Approved Budget

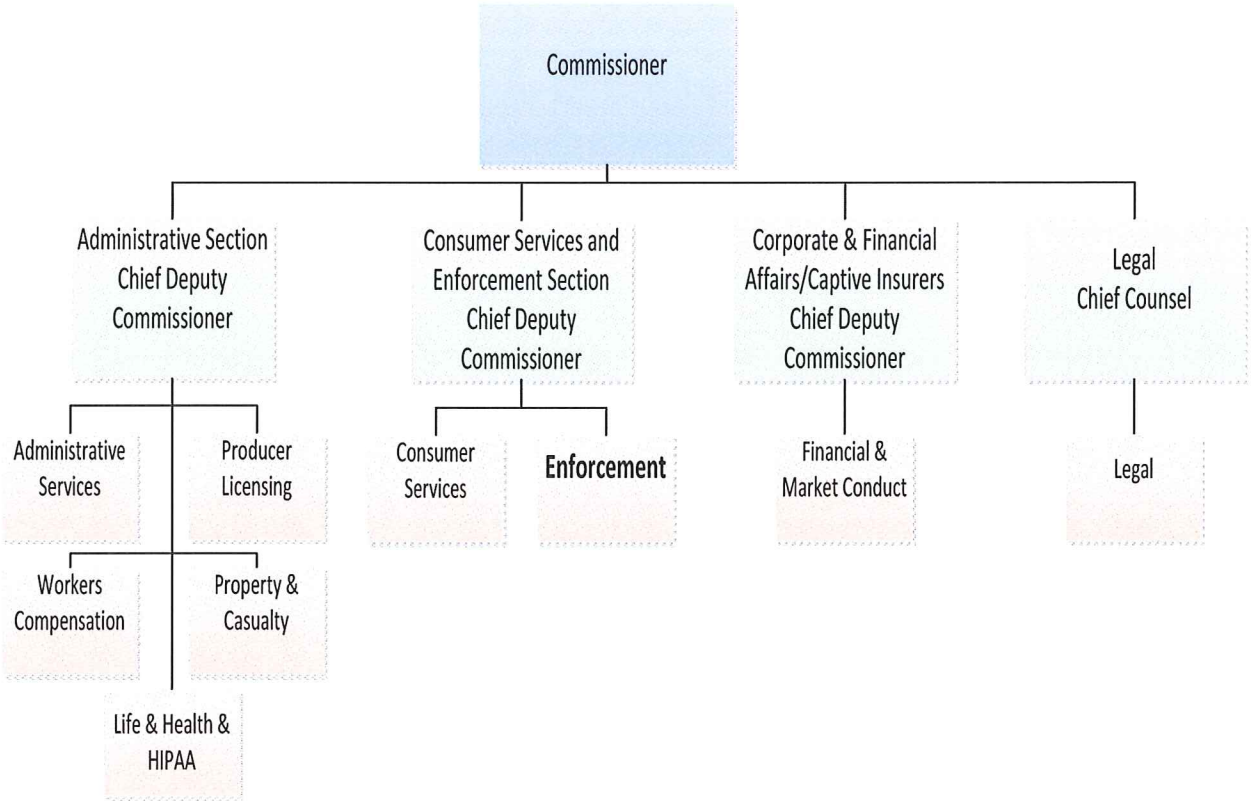
The division regulates Nevada's approximately $12 billion insurance industry to protect the rights of Nevada consumers and the public interest. The division is tasked with the following:

- Ensures companies follow through on promises made to consumers through insurance policies;
- Licenses producers, brokers, insurance companies, and agents;
- Reviews insurance rates;
- Sets ethical and financial standards;
- Ensures financial solvency of insurers to pay claims;
- Ensures compliance with Nevada regulations and insurance laws by reviewing insurance policies; and
- Reviews programs operated by self-insured employers for worker's compensation.

The division consists of four sections under the authority of the Insurance Commissioner. See Exhibit II.

Exhibit II

Nevada Division of Insurance Structure



Our audit focused on the investigation activities performed by the enforcement investigators in the Consumer Services and Enforcement Section. This section is responsible for protecting Nevada consumers in their interactions with the insurance industry by handling consumer complaints.

Consumer Services receives complaints from Nevada consumers and the general public. Some complaints received by the section are quickly resolved by consumer services staff. Other complaints that cannot be resolved quickly or involve serious violations of the Nevada Statutes are referred to the enforcement unit. Complaints involving statute violations can also be received from other sources such as: other sections of the division; insurers; law enforcement agencies; and similar entities from other states or the federal government. Enforcement investigators gather, analyze, and develop evidence for possible administrative hearing or prosecution of the statute violation.

Investigation Case Handling Process

Enforcement investigators receive complaints involving potential violations of Title 57 of the Nevada Revised Statutes, Chapters 679A-697 from the consumer services unit and other sources. All complaints referred to the enforcement unit

are initially reviewed by the chief investigator. The chief investigator assigns complaints to individual investigators. The investigations assigned to investigators can result in five outcomes:

- Closure recommended;
- Informal administrative action recommended;
- Referred to the district attorney/attorney general for prosecution;
- Referred to law enforcement for criminal investigation; or
- Referred to the legal section of the Division of Insurance for formal administrative action.

See Exhibit III for the enforcement unit's investigation case handling process.

Exhibit III

Investigation Case Handling Process

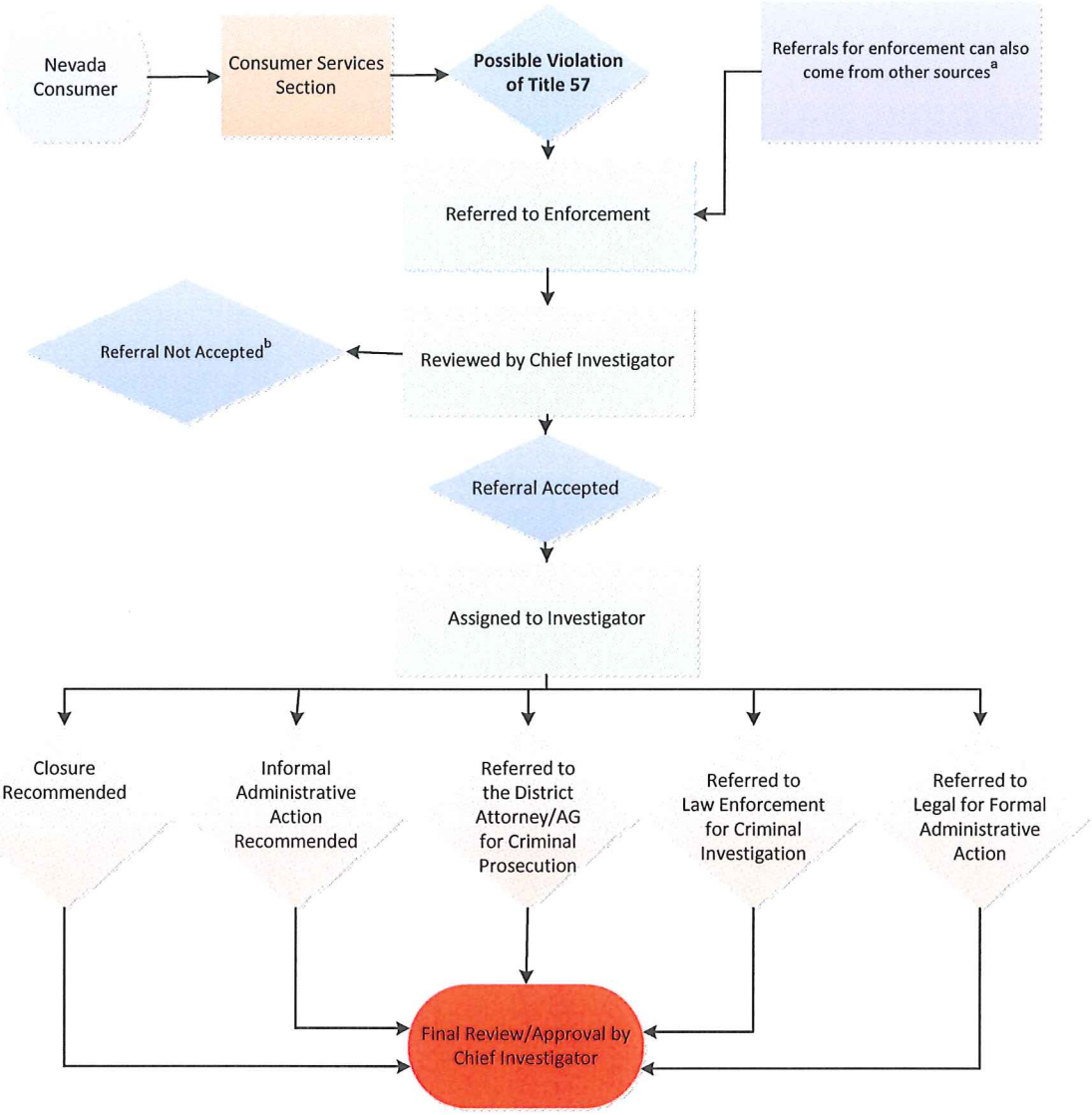


Table Note:
[a] Referrals from other sections of the division, law enforcement, industry/licensee, other state/federal agency, Commissioner.
[b] No violation of Title 57, issue not regulated by division.

Proper Level of Government

The state is the proper level of government to provide these services because they involve protecting Nevada consumers as well as regulating and enforcing statutes for a $12 billion insurance industry. The division ensures compliance with Nevada Statutes and protects Nevada consumers in dealing with the industry.

Objective and Scope

Our audit focused on the following objective:

- ✓ Can the division enhance the efficiency and effectiveness of the investigation process?

We began audit work in November 2014. In the course of our audit, we interviewed management and staff of the division. We reviewed Nevada Revised Statutes (NRS), the Nevada Administrative Codes (NAC), and division enforcement investigation files. We surveyed other states to gain an understanding of investigation activities relative to the insurance industry. We concluded field work and testing in April 2015.

We performed our audit in accordance with the *Standards for the Professional Practice of Internal Auditing.*

The Division of Internal Audits expresses appreciation to the division's management and staff for their cooperation and assistance throughout the audit.

Contributors to this report included:

Vita Ozoude, CMA, CGMA, CPA, MBA
Executive Branch Audit Manager

Lisa Sherych, MBA
Executive Branch Auditor III

Nevada Division of Insurance
Response and Implementation Plan

We provided draft copies of this report to the division for review and comments. The division's comments have been considered in the preparation of this report and are included in Appendix A. In its response, the division accepted each of the recommendations we made. Appendix B includes a timetable to implement our recommendations.

NRS 353A.090 specifies within six months after the final report is issued to the Executive Branch Audit Committee, the Administrator of the Division of Internal Audits shall evaluate the steps the division has taken to implement the recommendations and shall determine whether the steps are achieving the desired results. The administrator shall report the six month follow-up results to the committee and division officials.

The following report contains our findings, conclusions, and recommendations.

Can the Division Enhance the Efficiency and Effectiveness of the Investigation Process?

The Division of Insurance (division) can enhance the efficiency and effectiveness of the investigation process by improving supervisory oversight, standardizing the investigation process, and developing and using consistent policies and procedures. This could benefit the state by approximately $68,000 per year.

Improve Supervisory Oversight

The division should improve supervisory oversight by establishing formal procedures for supervising investigations. This would ensure investigations are completed on a timely basis and would improve the regulation of the industry.

Investigations Are Not Completed Timely

Our analysis shows investigations are not being completed timely. Not completing investigations timely could affect consumer confidence in the division. For the period January 1, 2009 through December 31, 2012 we noted 667 investigations. As of April 1, 2015, 191 (29 percent) of these investigations were still open. See Exhibit IV.

Exhibit IV

Open Investigations

	2009	2010	2011	2012	Total Investigations Open by Region	Percentage of Open Investigations Assigned by Region
Age of Investigation (1)	5 yrs. 3 mos.	4 yrs. 3 mos.	3 yrs. 3 mos.	2 yrs. 3 mos.		
North	5	15	31	23	74	39%
South	37	47	14	19	117	61%
Total Number of Investigations by Year	42	62	45	42	191	

(1) Age of Investigation is calculated from the last day of the year through April 1, 2015.

Source: Nevada Division of Insurance.

We surveyed nine states[2] who reported investigations are completed on average within two years. The average age of the division's open investigations is approximately four years. We also noted Nevada's direct premiums[3] written per investigator are comparable to the states surveyed.[4]

NRS 679B.185 requires the Commissioner to commence a proceeding to impose administrative fines no later than five years after the date on which the act or violation occurred. Exhibit IV shows 42 investigations that have been open for more than five years. Therefore, the division may have lost its ability to impose administrative fines on any of these investigations assuming investigative findings warrant such action.

Division Lacks Policies and Procedures for Supervising Investigations

Supervisory personnel do not have a formal procedure for ensuring investigations are progressing appropriately. Staff reported most of the monitoring occurs verbally and through the employee evaluation process. There is no documentation of periodic supervisory review.

We surveyed 14 states[5] and noted that all have a formal system for supervisors to track the progress of each investigation, such as:

- Reviewing investigator activity logs/reports;
- Preparing and reviewing monthly status reports;
- Performing weekly supervisory investigation updates with investigators; and
- Using an automated case management system.

Standardize the Investigation Process

The division should standardize the investigation process by prioritizing investigations and developing a standard system for documenting investigation activities. This would ensure higher priority investigations are completed timely; ensure investigations are sufficiently documented, and would improve the regulation of the industry.

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[2] Arizona, Colorado, Michigan, Nebraska, North Dakota, Oregon, South Dakota, Vermont, and Virginia.
[3] Total premiums received by an insurance company without any adjustments for the ceding of any portion of these premiums to the Reinsurer.
[4] See Appendix C.
[5] Arizona, Arkansas, Colorado, Georgia, Kansas, Michigan, Montana, Nebraska, North Carolina, North Dakota, Oregon, South Dakota, Vermont, and Virginia.

No Standard Method for Prioritizing Investigations

The division should use a standard method of prioritizing investigations before being assigned to investigators. This would increase the timeliness of completing higher priority investigations.

The division represents they prioritize investigations based on the degree of consumer harm, urgency of the request, where the complaint originated, and other factors. However, they do not document or track their priority assessments and have no established criteria for determining priority levels.

One of the states[6] we surveyed uses a scale of one to five to assign investigation priority level. Priority levels are assigned based on factors, such as: involvement of an organized crime ring; number of potential felonies committed; and number of insurance claims involved. Another state[7] indicates the supervisor investigates clear cut investigations that can be resolved quickly. Resolving the clear cut investigations frees up time for higher priority investigations.

Investigations Are Not Adequately Documented

The division should develop policies and procedures for documenting investigations to:

- Ensure sufficient evidence is available to either resolve an investigation or pursue prosecution;
- Assist supervisors by allowing them to determine proper progression of investigator activities; and
- Assist in reassigning the investigation by allowing a new investigator to pick up from where the other left off.

We reviewed 49 investigation files and noted 31 (63 percent) had no or inadequate evidence of investigative activity. Some files contain yellow sticky notes with phone number(s) and others have indecipherable notations. We were not able to determine what activities were performed as part of the investigations.

We also noted 58 open investigations assigned to an investigator who left the division in November 2014 have not been reassigned. Enforcement staff stated this was due to not having available staff or they were considered low priority.

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[6] North Dakota.
[7] Oregon.

Other states[8] surveyed all have standardized methods for documenting investigative activities. Twelve of these states use an automated case management system. These case management systems can track investigative activities from start to finish by capturing relevant data. They also provide general and specific investigation information including: who the investigation was assigned to; how long the investigation has been open; and other applicable data.

In addition, the division does not have a formal procedure for documenting supervisory approval to close an investigation. The division represents that the supervisor approves all investigations recommended for closure. However, only four of 10 (40 percent) of the closed investigations tested had documentation of supervisory approval to close.

Four of the surveyed states[9] indicate supervisors document approval to close investigations. The division has an automated case management system that can document both investigation activities and supervisory approvals to close.

Investigators Not Using Sircon

The division should use Sircon to track all investigation activities and document supervisory approvals. Sircon is the division's automated case management system. Using Sircon would help ensure investigations are sufficiently documented.

The Sircon system is not being used to fully document investigative activities. Other sections within the division use different modules of Sircon specific to their functions (e.g., consumer services module, market examination module, and licensing module). Investigators stated their concerns that confidential investigative files can be accessed by unauthorized division staff. However, division's IT staff indicated the Sircon system has the ability to restrict access to the enforcement module to only authorized division staff.

[8] Arizona, Arkansas, Colorado, Georgia, Kansas, Michigan, Montana, Nebraska, North Carolina, North Dakota, Oregon, South Dakota, Vermont, and Virginia.
[9] Arizona, Nebraska, Oregon and Virginia.

Develop and Implement Policies and Procedures and Use these Procedures for Both Offices

The division should develop and use consistent policies and procedures for overseeing and performing investigations after improving supervisory oversight and standardizing the investigation process. This would help provide for consistent productivity between the northern and southern enforcement offices. Consistent productivity would benefit the state by approximately $68,000 annually.

Investigations Closed per Investigator Varies Between Offices

For the period January 1, 2009 to December 31, 2012 the northern office closed almost three times[10] as many investigations per investigator as the southern office. See Exhibit V.

Exhibit V

Closed Investigations

	2009	2010	2011	2012	Total Cases Closed	Number of Investigators	Cases Closed Per Investigator
North	124	169	72	18	383	3	128
South	40	9	41	3	93	2	47
Total	164	178	113	21	476	5	95

Source: Nevada Division of Insurance

The investigators in the south are 63 percent[11] less productive than investigators in the north. This results in approximately $68,000[12] in lost productivity annually. The division should develop and use consistent policies and procedures for both offices after improving supervisory oversight and standardizing the investigation process.

The division should improve supervisory oversight, standardize the investigation process and develop and use consistent policies and procedures to increase the efficiency and effectiveness of the investigation process. This would help in timely completion of investigations; ensure investigations are prioritized; ensure maintenance of sufficient documentation; increase productivity in both offices; and improve the state's efforts in regulating the insurance industry.

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[10] 128 investigations per investigator in the north divided by 47 investigations per investigator in the south equals 2.7:1.

[11] 47 investigations per investigator in the south divided by 128 investigations per investigator in the north equals 37 percent for the south. Therefore, the south is 63 percent less productive than the north.

[12] See Appendix D.

Recommendations

1. Improve supervisory oversight.

2. Standardize the investigation process.

3. Develop and implement policies and procedures and use these procedures for both offices.

Exhibit VI

Estimated Dollar Benefits

Recommendation	Annual Benefit
3. Develop and implement policies and procedures and use these procedures for both offices.	**$68,000**

Appendix A

Division of Insurance
Response and Implementation Plan

BRIAN SANDOVAL
Governor

STATE OF NEVADA

BRUCE H. BRESLOW
Director

SCOTT J. KIPPER
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
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May 29, 2015

Mr. Steve Weinberger, CPA
Administrator, Division of Internal Audits
State of Nevada
Department of Administration
209 East Musser Street, Room 302
Carson City, NV 89701

Dear Mr. Weinberger:

The Department of Business and Industry, Division of Insurance (NVDOI) is in receipt of the draft audit recommendations prepared by the Department of Administration, Division of Internal Audits. Thank you to you and your team for the analysis relating to investigative procedures and case management within the Division of Insurance's Consumer and Enforcement Section. The NVDOI accepts the recommendations and provide its response to these audit recommendations as well as a draft timeline for an implementation.

The findings in this report indicate that the development and implementation of some internal process improvements will enable the NVDOI to better conduct its investigations in a timely and consistent manner, provide for better case management and result in improved case disposition and resolution.

On behalf of the staff of the Division of Insurance, I want to thank you and your staff for the professional, cooperative and courteous manner in which the audit was conducted. If you have any additional questions or concerns, please let me know.

Sincerely,

Scott Kipper
Commissioner

Nevada Department of Business & Industry, Division of Insurance
Acceptance of Recommendations
May 29, 2015

RECOMMENDATION	TIME FRAME
Improve Supervisory Oversight	Immediate: May 2015

Under the leadership of a new Deputy Commissioner of Consumer Services and Enforcement, a process for case review is being developed. This review will include more direct contact with section/line supervisors on case load, assignment, status checks and work product review.

RECOMMENDATION	TIME FRAME
Standardize the investigative process.	July/September 2015

The Consumer & Enforcement section lacks a complete set of policies and procedures. In order to standardize the investigative process, the section must develop policies and procedures. The section will complete draft policies and procedures by August 2015. Implementation will occur in September 2015.

RECOMMENDATION	TIME FRAME
Use consistent procedures for both offices.	September-December 2015

The Consumer & Enforcement Section needs to develop a desk/operations manual that can be utilized by all staff to ensure consistency in handling cases from intake/assignment to closure. The Section must also ensure that staff is utilizing standard and consistent methods of investigative procedure in reviewing and preparing cases. Timeframe: Development of policies and procedures will occur in September/October timeframe.

The NVDOI also believes that better use of existing technology will enhance the day to day functions of the sections. A working group will be established to review the functionality available in SIRCON to determine how best to integrate SIRCON modules into the workflow. For this process, the NVDOI anticipates a 6 month process for review, analysis and implementation. Implementation may be contingent upon IT resources and any system modification requirements. Timeframe: TBD

Training of staff is critical to improving the overall effectiveness of the section. The NVDOI will establish training protocols for existing and new employees to review the policies and procedures, desk/operations manual and SIRCON. More formal training protocols will also assist in developing more consistent practices within the Consumer & Enforcement Section. Timeframe: Ongoing.

Appendix B

Timetable for Implementing Audit Recommendations

In consultation with the division, the Division of Internal Audits categorized the three recommendations contained within this report as having a period of less than six months to implement. The division should begin taking steps to implement all recommendations as soon as possible. The division's target completion dates are incorporated from Appendix A.

Recommendations with an anticipated implementation period of less than six months.

Recommendations	Time Frame
1. Improve supervisory oversight. (page 13)	May 2015
2. Standardize the investigative process. (page 13)	Jul-Sep 2015
3. Develop and implement policies and procedures and use these procedures for both offices. (page 13)	Sep-Dec 2015

The Division of Internal Audits shall evaluate the action taken by the division concerning report recommendations within six months from the issuance of this report. The Division of Internal Audits must report the results of its evaluation to the Executive Branch Audit Committee and the division.

Appendix C

Comparison of Nevada's and Other States Direct Premiums Written per Investigator

States	Number of Investigators	Direct Premiums Written*	Direct Premiums Written Per Investigator
Vermont	3	$ 3,446,208,972	$ 1,148,736,324
South Dakota	4	$ 5,296,222,854	$ 1,324,055,714
Virginia	22	$ 40,436,064,354	$ 1,838,002,925
Nevada	**5**	**$ 11,945,207,887**	**$ 2,389,041,577**
Nebraska	4	$ 11,409,486,746	$ 2,852,371,687
North Dakota	2	$ 5,903,229,085	$ 2,951,614,543
Arizona	7	$ 26,062,617,598	$ 3,723,231,085
Colorado	6	$ 28,381,457,247	$ 4,730,242,875
Oregon	3	$ 20,166,306,960	$ 6,722,102,320
Michigan	5	$ 57,683,798,706	$ 11,536,759,741

*Source: NAIC - National Association of Insurance Commissioners & the Center for Insurance Policy and Research

Appendix D

Lost Productivity Calculation

Year	Southern Investigator's Salaries and Benefits
2009	$114,857
2010	$111,380
2011	$97,806
2012	$105,440
Total	$429,483
Productivity variance based on closed investigations	63%
Lost productivity 2009 thru 2012 ($429,483 x 63 %)	$270,574
Total lost productivity annualized (divide by 4 years)	$68,000