

Wyoming Department of Insurance

General Information

Agency name

Wyoming Department of Insurance

Director's name and official title

Ken Vines, Insurance Commissioner

Agency contact person

Cheryl Fiechtner

Agency contact phone

(307) 777-7401 or 1-800-438-5768 (Wyoming only)

Mailing address

106 East 6th Avenue

Cheyenne, WY 82002

Web address (URL)

<http://insurance.state.wy.us>

Other Locations

Does not apply

Statutory References

W.S. § 26-1-101 et seq.

Clients Served

The department regulates the business of insurance in the state of Wyoming and serves Wyoming citizens, their families and their children with regard to insurance issues.

Budget Information – Expenditures

Department Operations (Administrative Budget) \$2,107,529

Wyoming Health Insurance Pool \$9,313,973

State Board of Insurance Agent Examiners \$1,247

Wyoming Small Employer Health Reinsurance Pool \$5,181,760

Report Narrative

Wyoming Department of Insurance

Report Period: FY 08 – July 1, 2007 through June 30, 2008

Wyoming Quality of Life Result:

Wyoming residents have affordable and accessible health care and insurance.

Wyoming state government is a responsible steward of state assets and effectively responds to the needs of residents and guests.

Contribution to Wyoming Quality of Life:

The department contributes to the Wyoming quality of life through a combination of regulation, examination, licensing, enforcement and oversight activities which protect and assist Wyoming citizens with regard to insurance issues and problems.

Basic Facts:

This agency has 27 employees. The 2007-2008 biennium administrative budget of the department is \$4,473,663 which includes no state general funds. The 1,100+ insurance companies licensed in Wyoming are each assessed annually an equal amount which funds the department's budget. The department also oversees the budgets of the Board of Insurance Agent Examiners (\$15,773 for the 2007-2008 biennium) and the Wyoming Health Insurance Pool (\$23,362,277 for the 2007-2008 biennium). The Wyoming Health Insurance Pool budget was increased by \$3,000,000 in general fund monies for fiscal year 2008. In 2006, the department became responsible for overseeing the budget of the Wyoming Small Employer Health Reinsurance Plan.

Five primary functions of the department include:

Regulation – providing fair and consistent regulation of the insurance industry in order to assure that consumers receive assistance, protection and information regarding insurance issues.

Examination – conducting examinations of domestic insurers, producers (agents) and other licensees, and pre-need funeral and cemetery trust funds to assure financial solvency and compliance with the Insurance Code and other Wyoming law.

Licensing – assuring that insurers, producers and others licensed by the department meet the minimum standards contained in the Insurance Code.

Enforcement – taking enforcement action when necessary to ensure compliance with the Insurance Code.

Oversight – providing administrative oversight of insurance related programs created under Wyoming law.

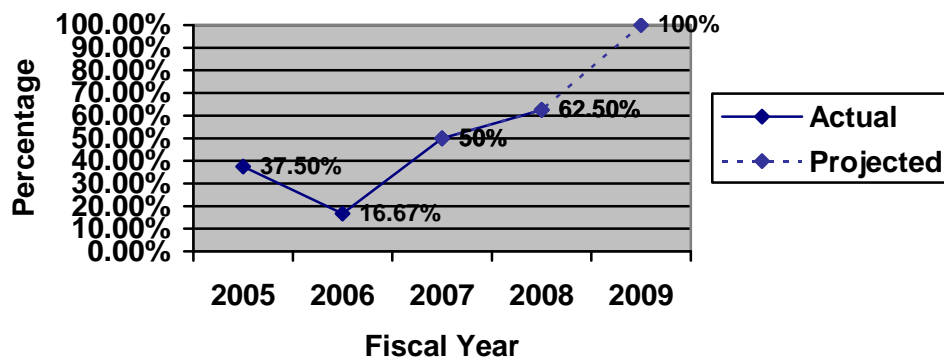
These activities promote a well-regulated insurance market which provides Wyoming citizens and their families with important protections through life, health, homeowner, auto and other types of insurance. These activities benefit all Wyoming citizens in addition to the specific

businesses and individuals served by the consumer, licensing, examination and regulatory functions of the department.

Performance:

The following performance measures have been important to the department’s work over the past fiscal year.

Percentage of targeted 24 outreach contacts with Wyoming consumers and insurance industry representatives completed



Story behind the last year of performance:

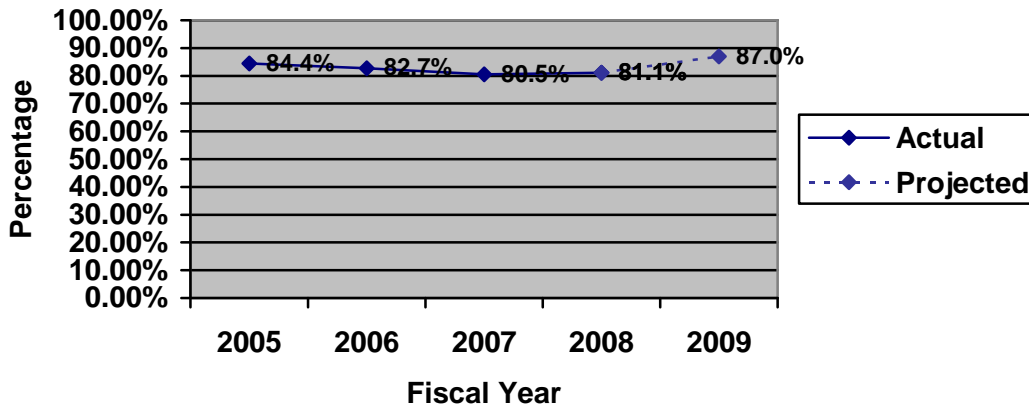
The department increased its percentage of targeted outreach contacts completed from 50 percent in FY 07 to 62.5 percent in FY 08. The department previously set a goal of having a minimum of 24 outreach contacts per fiscal year with Wyoming consumers and insurance industry representatives. The department staff has been focusing on outreach efforts in order to assure that consumers know of, and take advantage of, the department’s services. The department increased the percentage of targeted outreach contacts completed last fiscal year while working toward its outreach goal of 24 contacts.

The department staff improved outreach through media contacts, live presentations to appropriate groups, website postings, and distributions of educational and informational pamphlets and publications. These outreach efforts were done at low or no cost to the department.

What has been accomplished?

Outreach contacts with consumers and insurance industry representatives were increased during fiscal year 2008. The filling of two new staff positions in FY07 which focus on consumer issues, helped the department during FY08 to increase its expertise with regard to consumer issues and to conduct more outreach to Wyoming citizens.

Percentage of consumer complaints resolved within 75 days of receipt by the department



Story behind the last year of performance:

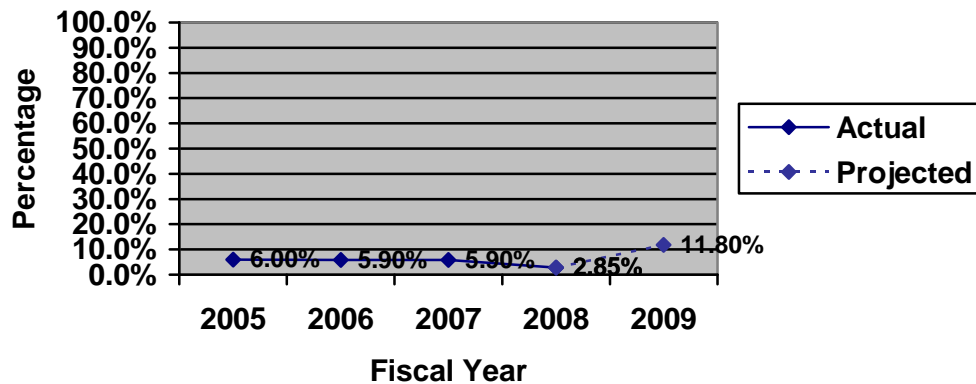
The department continued to resolve over 80 percent of consumer complaints within 75 days of receipt in FY08. It is important that the department staff provide timely assistance to Wyoming citizens seeking help with insurance problems and issues so that those needing assistance are not discouraged from contacting the department.

The department helped Wyoming people recover \$771,279 from insurance companies during FY 08, a significant increase from the \$484,190 recovered in FY07. Without assistance these consumers might not otherwise have received these monies. The department continued to resolve consumer problems in a timely manner so that Wyoming people received their appropriate insurance benefits in a timely manner.

What has been accomplished?

The addition of a consumer advocate during FY 07 continued to help during FY08 in providing prompt assistance to Wyoming citizens with insurance problems.

Percentage of funeral homes and cemeteries offering pre-need services which received an examination of their pre-need trusts



Story behind the last year of performance:

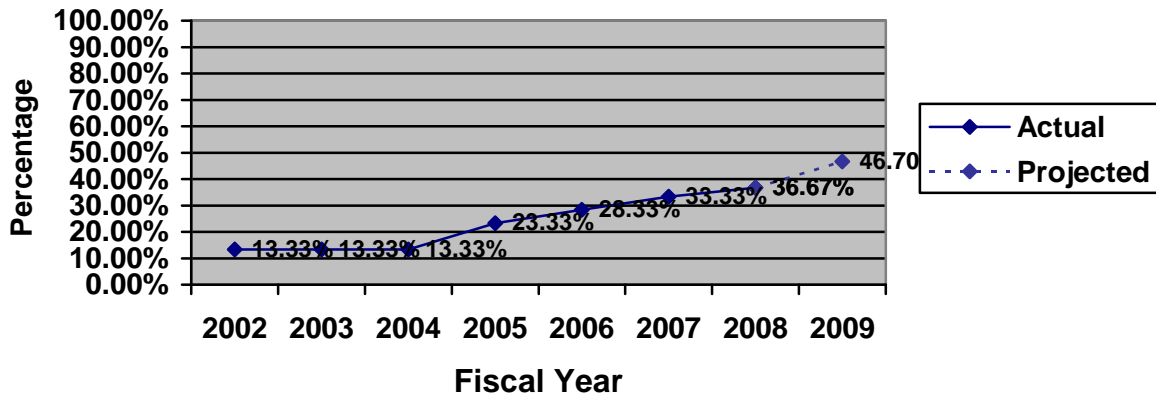
The department examined one of the 35 entities offering pre-need funeral and cemetery services in Wyoming in FY 08. It is important that the department staff provide timely examinations of funeral homes and cemeteries that hold trust monies from Wyoming people who have prepaid for their funerals and burials. The examination conducted by department staff in FY08 assured that funds held in trust until use at time of need are appropriately protected.

Additional staff hired during FY07 put the department in a position to examine any given pre-need trust fund on a more frequent basis which, in turn, helps assure that the money in the trust fund is adequately protected. The market conduct and financial examination staff are continuing to work to coordinate more examinations in FY09 and to streamline and improve examination methods.

What has been accomplished?

One pre-need trust fund examination was completed in FY 08. Engagement letters to conduct exams were issued to two additional funeral homes during FY08. As a result, it was determined that one funeral home was not doing trust funded pre-need funeral contracts and did not require an examination. The other funeral home examination will be completed in FY09. Because of timing issues concerning other department duties, completion of the examination was not possible in FY08. The market conduct position with the department will continue to work with the financial examination staff to conduct pre-need trust fund examinations. By using the market conduct staff person to help with these exams, the department can increase the number of pre-need trust fund examinations completed in the future.

Percent of transactions for all types of licenses that can be processed electronically



Story behind the last year of performance:

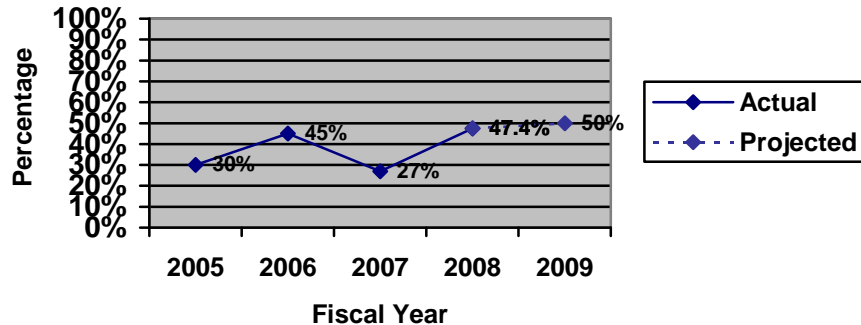
The department has used more and more electronic processes in completing its licensing duties over the past several years. In FY08 the percentage of transactions completed electronically increased to 36.67 percent. This was necessary in order to keep pace with the volume of licensing transactions. The licensing section of the department deals with over 49,000 individual licensees and 5,200 business entities licensees on an annual basis.

Proper licensing of insurance providers is essential to protecting Wyoming people by assuring that only qualified individuals are engaged in the business of insurance. The department's increase in the percentage of licensing processes that can be done electronically over the past years allows licensing transactions to be processed more efficiently and quickly.

What has been accomplished?

Over the past several years the department has increased the percentage of transactions for all types of licenses that can be processed electronically to 36.67 percent, up from 13.33 percent in FY02. Department staff developed forms, procedures and electronic formats so that more of the licensing processes could be completed electronically. The staff continued this process in FY08.

Percentage of corrective action taken on significant issues identified by the department based upon consumer complaint trends



Story behind the last year of performance:

In FY 08, the department took additional action with regard to 47.4 percent of the consumer complaint trends identified as significant by the staff. The additional action included further market conduct reviews or investigations regarding the issues raised by the complaint trends. The department must continue to increase this percentage by analyzing Wyoming and national trends regarding consumer insurance issues and determining what follow-up action is necessary. These issues relate to such things as claims payments, policyholder service, underwriting and marketing and sales practices that directly affect Wyoming citizens. It is important that insurers treat Wyoming insurance consumers fairly in these areas pursuant to the Wyoming Insurance Code.

What has been accomplished?

During FY 08, the department increased its percentage of corrective action taken on significant issues identified through consumer complaint trends. The addition of a market conduct position has helped the department focus on these important consumer issues. This position allows the department to increase its percentage of significant consumer complaint trends receiving further action. The market conduct staff person will continue to focus on analyzing complaint data and will determine which complaint categories are receiving unusually high numbers of complaints. These categories will then be prioritized and appropriate action taken as needed.

**SUMMARY OF 2007 REPORTS ON CLAIMS
AGAINST WYOMING HEALTH CARE PROVIDERS
AS REQUIRED BY WYO. STAT. § 26-3-124**

Introduction

This report is submitted in response to Wyo. Stat. § 26-3-124 which requires any insurer writing coverage for health care malpractice in Wyoming to file with the Insurance

Commissioner a report of all claims against a health care provider and a report of all awards or settlements given in cases against health care providers by March 1 of each year.

The statute requires that any information provided to the Commissioner under the law shall be confidential including the names of health care providers and any records pertaining thereto. The Commissioner is to prepare a summary of the information, in the aggregate if necessary to protect the identity of the health care provider or claimant.

The information contained in the reports is to be included in the Department's annual report to the Governor.

Forty-three companies reported direct written premium in their annual financial statements for coverage of health care providers for professional liability in 2007. Aggregate reports were received from 36 of those companies. The remaining seven companies reporting premium are risk retention groups which are generally subject to federal and not state law. Although none of the 7 risk retention groups filed aggregate reports with the Department, 1 of those groups did file several individual reports which will be commented on later in this report.

Because of the interest in professional liability insurance for physicians and surgeons over the past several years, this summary contains specific information on the results for the three insurers covering the bulk of the doctors in the state for malpractice.

AGGREGATE REPORTS

Information from the reports of the 36 companies who filed aggregate reports is summarized as follows: The companies reported insuring 3923 health care providers, broken down into numerous different categories, such as nurses, doctors, surgeons, dentists, chiropractors, hospitals and clinics. The companies reported 139 claims for which a reserve had been established and total awards and settlements, including costs of defense, of \$13,883,745.56

INDIVIDUAL REPORTS

One hundred fifty-eight individual claims were reported for 2007, 88 of which were status reports on claims which remained open at the end of 2006. Thirteen of the 158 reports were received from a risk retention insurer who chose not to file an aggregate report; therefore, the statistics from that insurer will not be included with the remainder of the individual reports as the ratio of coverage to claims would not be accurate.

Specialty Coverage

The various companies were inconsistent in their descriptions of specialty coverage for their insureds; therefore, the Department summarized the reported coverages into the following categories, followed by the number for each: acupuncture, 1; allergy, 3; anesthesiology, 57; cardiology, 21; chiropractors, 103; clinics/other health care facilities, 55; dentistry, 812; dermatology, 7; emergency medicine, 35; endocrinology, 2; family/general practice, 133;

gastroenterology, 10; general surgery, 31; hematology/oncology, 2; home healthcare, 1; hospice, 8; hospitals, 25; internal medicine, 56; laboratories, 2; long term care, 16; MRI/CAT scan facilities, 2; nephrology, 4; neurology, 13; neurosurgery, 2; nursing, 1989; OB/GYN, 41; ophthalmology, 4; orthodontics, 2; orthopedic surgery, 55; orthopedics, 3; osteopathic, 3; otolaryngology, 13; pathology, 18; pediatrics, 40; pharmacies, 57; physical therapy, 2; physician assistants, 13; physicians, 38; plastic surgery, 6; podiatry, 15; psychiatry, 19; pulmonary disease, 2; radiology, 42; rheumatology, 4; surgical centers, 10; thoracic surgery, 4; urology, 15; vascular surgery, 1; and other health care providers, 126.

Nature and Substance of Claims

The following malpractice codes were reported in the numbers stated: better alternative available, 1; delayed diagnosis, 12; delayed performance, 4; failure to diagnose, 24; failure to inform/lack of informed consent, 2; mistake in performance/improperly performed, 46; not performed, 6; other causes not listed, 16; other procedural errors, including misprescription of medication, 12; failure to prevent harm, 7; lack of supervision, 4; wrong diagnosis, 1; wrong procedure/procedure not indicated, 6; and, 4 reports failed to list a malpractice code.

The following injury codes were reported in the numbers stated: bone damage, 4; birth injury, 6; disease, 8; diminished life expectancy, 7; diminished use/loss of use, 9; dental injury, 4; dermal injury, 4; disfigurement, 2; death, 23; foreign body (e.g. left after surgery), 3; infection, 19; loss of limb/organ, 2; muscular/limb injury, 1; non-physical (e.g. abandonment, emotional distress, negligent referral, sexual misconduct), 7; nervous system, 6; optical/sensory injury, 2; organ injury, 3; pain, 11; prolonged (e.g. additional care, delayed recovery), 12; reproductive system (e.g. infertility), 2; side effects (e.g. reactions), 6; and 4 reports failed to list an injury code.

Ages of Claimants

Claimants fell into the following age ranges: infant or newborn, 6; between 1 and 10, 4; between 11 and 20, 7; between 21 and 30, 14; between 31 and 40, 22; between 41 and 50, 25; between 51 and 60, 22; between 61 and 70, 20; between 71 and 80, 4; between 81 and 90, 1; and age was not listed as unknown or not listed on 20 reports.

Manner of Disposition

Insurers reported closing claims during 2007 in the following manner: 1 was decided by trial in favor of the claimant in the amount of \$915,800; 7 were decided by trial in favor of the provider; 32 were settled without suit or prior to trial in the total amount of \$11,693,478; 4 were denied; 7 were closed due to inactivity; 6 claims were withdrawn; 23 were closed in other manners not reported resulting in no payment to claimants; and 65 claims remained pending at the end of 2007.

The insurers identified \$1,266,051 of the \$12,909,278 as paid for economic damages and \$1,741,500 for non-economic damages. The reports did not break down the remaining

\$9,901,727 paid for closed claims in 2007. Only one company identified medical and prescription costs separately.

Attorney fees in the amount of \$2,835,338.35 and other expenses of \$1,220,859.21 were reported on closed claims.

Additionally, for claims remaining open at the end of 2007, \$536,088.09 in attorney fees and \$657,653.99 in expenses were reported.

Major Insurers:

The following three companies insure the largest number of physicians in Wyoming for professional liability:

The Doctors Company (TDC) reported insuring 297 health care providers, mostly physicians and surgeons. TDC filed reports on 47 claims, 7 of which resulted in payments to claimants: one by verdict in favor of claimant in the amount of \$915,800 (\$366,000 economic and \$549,000 non-economic); and 6 by settlement prior to trial in the total amount of \$2,032,500 (\$855,000 economic and \$992,500 non-economic). TDC reported paying \$726,956.68 in attorney fees and \$426,157.60 in expenses. TDC reported 20 claims remained pending at the end of 2007.

OHIC Insurance Company (OHIC) reported insuring 8 hospitals and 21 doctors. OHIC filed reports on 28 claims, 11 of which resulted in payments to claimants, all by settlement without trial, in the total amount of \$6,695,051 (not broken down between economic and non-economic payments). OHIC reported paying \$1,700,207.47 in attorney fees and \$866,182.71 in expenses. OHIC reported 8 claims remained pending at the end of 2007.

Utah Medical Insurance Association (UMIA) reported insuring 379 health care providers, most of whom were physicians or surgeons. UMIA filed reports on 29 claims, 3 of which resulted in payments to claimants, all by settlement without trial, in the total amount of \$565,000. UMIA did not specify whether the payments were for economic or non-economic damages. UMIA reported paying \$39,043.62 in attorney fees and \$521,551.57 in expenses. UMIA reported 24 claims remained pending at the end of 2007.

Notes

There is some duplication or overlapping of claims reporting due to the fact that a claimant may have filed claims against more than one health care provider, each of which should have reported the claim.

As mentioned above, risk retention groups, which are generally subject to federal and not state law, did not provide all, or in most cases any, of the information requested by the Department. With limited exceptions, Wyoming law with respect to risk retention groups is preempted by the federal Liability Risk Retention Act of 1986. Therefore, the Department does not have regulatory authority to compel these entities to file the reports required under Wyo.

Stat. § 26-3-124. However, although Mountain States Healthcare Reciprocal Risk Retention Group failed to file an aggregate report identifying the numbers or categories of its insureds, it did file reports on 13 individual claims, 6 of which settled in a total amount of \$1,774,500. They reported attorney fees of \$485,109.00 and \$18,907.00 in expenses on those claims.

