

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) \$2,444,080

Wyoming Health Insurance Pool \$12,192,515

State Board of Insurance Agent Examiners \$2,418

Wyoming Small Employer Health Reinsurance Pool \$10,422,256

Report Narrative

Wyoming Department of Insurance

Report Period: FY 10 – July 1, 2010 through June 30, 2011

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 24 employees. This is a decrease of 3 employees from past fiscal years. The 2011-2012 biennium administrative budget of the department is \$5,502,852 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 (\$15,918 for the 2011-2012 biennium) and the Wyoming Health Insurance Pool (\$29,362,277 for the 2011-2012 biennium). The Wyoming Health Insurance Pool budget contains \$6,000,000 in general fund monies for the current biennium. In 2006, the department became responsible for overseeing the budget of the Wyoming Small Employer Health Reinsurance Plan (\$24,283,575 for the 2011-2012 biennium).

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.

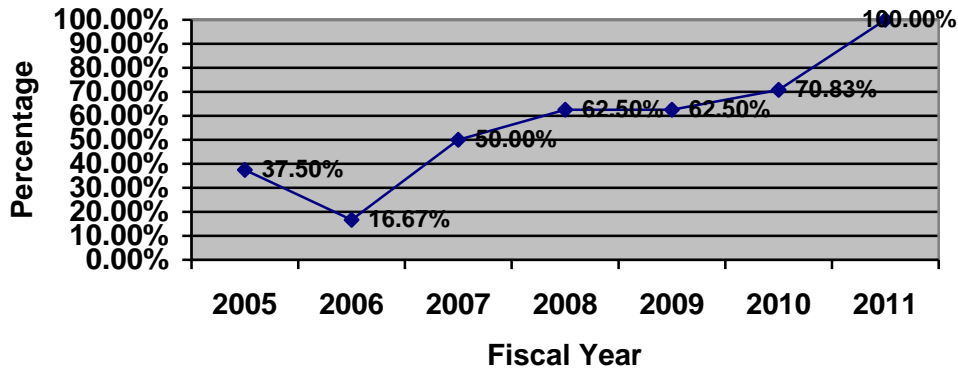
These activities promote a well-regulated insurance market which provides Wyoming citizens and their families with important protections through life, health, homeowner, auto and other types of insurance. These activities benefit all Wyoming citizens in addition to the specific

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 in FY 11 to 100 percent. 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 staff put in extra effort in order to reach 100 percent of targeted outreach contacts and was successful in doing so. Because of the importance of this performance measure, the Department will continue to strive in FY 12 to continue to meet its goal of 24 contacts.

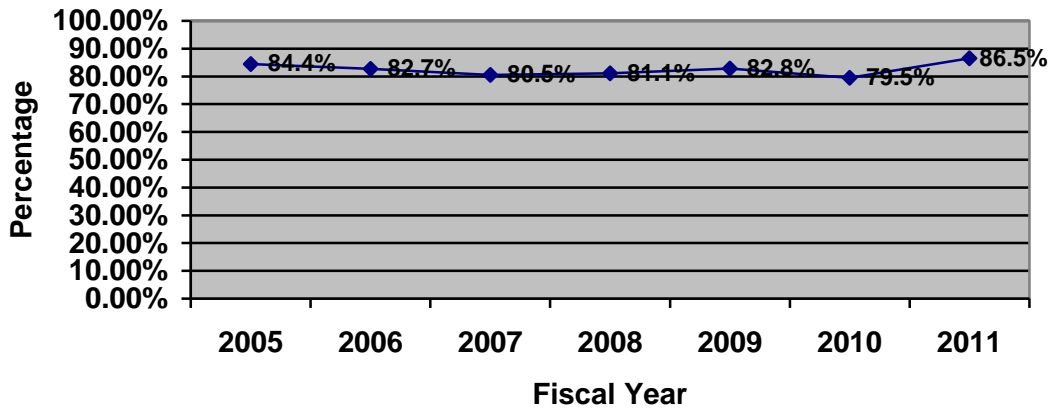
The department staff conducted its outreach through media contacts, live presentations to appropriate groups, website postings, and distributions of educational and informational pamphlets and publications. These outreach efforts were done at low or no cost to the department.

What has been accomplished?

Outreach contact levels with consumers and insurance industry representatives were increased from 70.83 percent to 100 percent during fiscal year 2011. This was the result of a renewed effort by Department staff to meet this important performance measure. The Department will

continue with this performance measure in FY 12 except that the measure will be divided between 12 consumer outreaches and 12 industry outreaches.

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



Story behind the last year of performance:

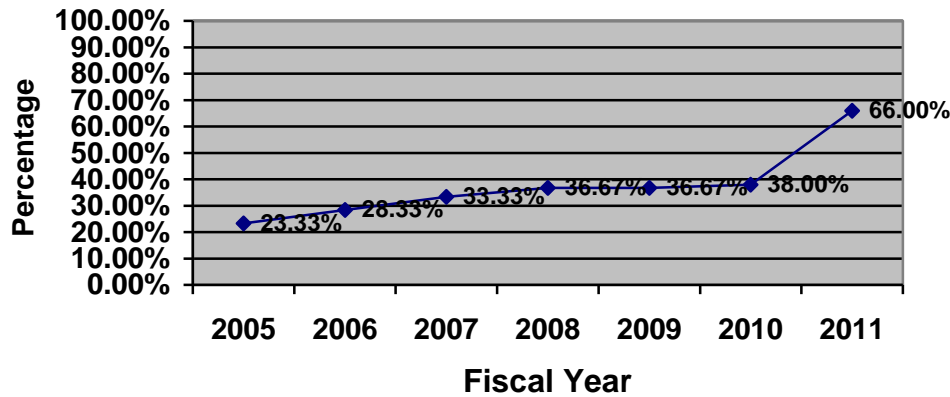
The department increased the percentage of consumer complaints resolved within 75 days from 79.5 percent to 86.5 percent in FY 11. It is important that the department staff provide timely assistance to Wyoming citizens seeking help with insurance problems and issues so that those needing assistance are not discouraged from contacting the department.

The department helped Wyoming people recover \$356,336 from insurance companies during FY 11. 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 percentage of consumer complaints resolved within 75 days of receipt by the Department in FY 11 increased to 86.5 percent from 79.5 percent the previous fiscal year. The Department continued to provide timely service to Wyoming citizens regarding their insurance issues and will continue to strive to maintain this service in FY 12.

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



Story behind the last year of performance:

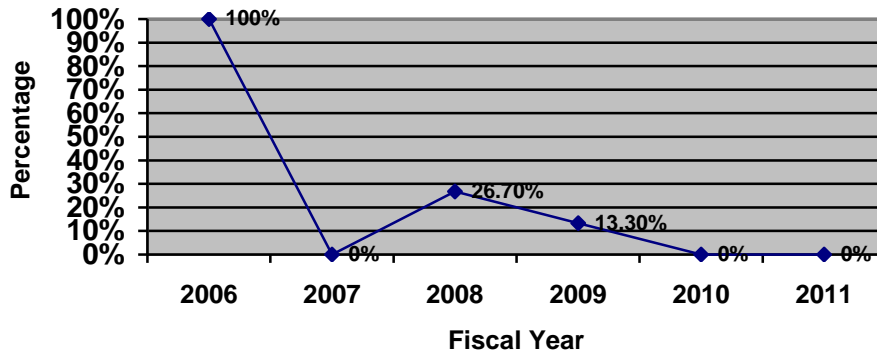
The department has used more and more electronic processes in completing its licensing duties over the past several years. The percentage of transactions completed electronically rose from 38 percent in FY 10 to 66 percent in FY 11. It is necessary to process transactions electronically in order to keep pace with the volume of licensing transactions. The licensing section of the department deals with over 58,000 individual licensees and 5,300 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 several 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 66 percent, up from 13.33 percent in FY 02. Department staff developed forms, procedures and electronic formats so that more of the licensing processes could be completed electronically. The staff continued to work on these processes in FY 11 and were successful in greatly increasing the percentage of transactions processed electronically.

Percentage of level 1 market conduct analysis reviews completed in accordance with the National Association of Insurance Commissioners' (NAIC) benchmark of 15 reviews per year



Story behind the last year of performance:

It is important that the Department conduct yearly reviews of market conduct issues that affect Wyoming citizens. The NAIC has set a standard of completing 15 market conduct analysis reviews annually in order to identify significant trends in market conduct practices of insurers that may adversely affect consumers. Initially, the Department was able to complete 15 reviews annually. However, in recent years, the Department has not been able to meet this goal. In FY09, only 2 level 1 reviews were completed. In FY10 and FY11, no level 1 reviews were completed. The market conduct position which conducts level 1 reviews became vacant during FY09 and was not filled until September 13, 2010 because of a hiring freeze. The Department must continue to identify Wyoming and national trends regarding consumer issues such as claims payments, advertising, underwriting and sales practices that directly affect Wyoming policyholders.

What has been accomplished?

The Department has subsequently been able to fill the market conduct position and this should enable the Department to complete the level 1 reviews in the future. It is important that the Department continue monitoring consumer complaint trends. As these reviews are completed, staff will be able to determine what further action, if any, is needed to correct any improper insurance practices.

**SUMMARY OF 2010 REPORTS ON CLAIMS
AGAINST WYOMING HEALTH CARE PROVIDERS
AS REQUIRED BY WYO. STAT. § 26-3-124**

INTRODUCTION

Wyoming Statute § 26-3-124 requires any insurer writing coverage for health care malpractice in Wyoming to file with the Insurance Commissioner two types of reports. The reports are due annually on March 1.

The first report type is entitled, “Wyoming Health Care Malpractice Report Form for General, Aggregate Information,” and includes information on all claims against health care providers covered by the reporting insurer. Specifically, insurers are required to report the number and categories of all health care providers covered by the insurer for professional liability, the total number of claims for which a reserve has been established, and the total dollar amount of awards and settlements on health care professional liability claims, including the cost of defense.

The second report type is entitled, “Wyoming Health Care Malpractice Report for Individual Claims.” Insurers must submit a separate report for each open health care professional liability claim during the reporting period. The report asks for information including the specialty coverage of the insured, the nature and substance of the claim, the age of the claimant or plaintiff, and, once disposed, the date and manner of disposition. To the extent the following information can be reported separately or can be reasonably segregated or identified, insurers are required to report the medical and prescription costs, economic damages, noneconomic damages and defense attorney fees, costs and expenses.

Pursuant to the statute, information provided to the Commissioner in these reports is confidential. To protect the identity of the health care provider or the claimant, the Commissioner is required to prepare a summary of the information, in the aggregate if necessary. The summary of information contained in the reports is to be included in the Department’s annual report to the Governor.

**2010 SUMMARY OF HEALTH CARE
PROVIDER PROFESSIONAL LIABILITY REPORTS**

Based on the 2010 annual financial reports filed with the National Association of Insurance Commissioners (NAIC), 55 companies reported direct written or earned premium for coverage of Wyoming health care providers for professional liability in 2010. The 55 companies include admitted insurers and risk retention groups. Surplus lines companies are not included in that number due to specific reporting requirements that apply to nonadmitted insurers.

Eleven of the 55 companies with reported premium are risk retention groups which are generally subject to federal and not state law. Risk retention groups are not required to submit reports regarding medical malpractice claims to the Department. Regardless, one risk retention group filed an aggregate report with the Department and one group filed several individual reports

which will be commented on later in this report. Due to the lack of filings from risk retention groups, information from the aggregate report and the individual claim reports from risk retention groups are not included in the following tables but are summarized in a note at the end of this report.

AGGREGATE REPORTS

The Department received aggregate medical malpractice claims reports from 45 admitted companies and 1 surplus lines company. Those 46 companies reported insuring 3,948 health care providers in 2010, identified as follows:

No.	Provider Type	No.	Provider Type
622	Physicians, Surgeons & Osteopaths	22	Hospitals
44	Physician's Assistants, Nurse Practitioners	2114	Nurses
9	Optometrists	218	Dentists
21	Pharmacies	87	Pharmacists
109	Chiropractors	172	Clinics/Corporations
14	Ambulance Services	6	Emergency Medical Technicians
2	Laboratories	5	Psychologists/Psychiatrists
100	Physical/Rehabilitation Therapists	14	Podiatrists
22	Dieticians/Nutritionists	367	Specified as "Other"

The 46 companies reported 100 claims for which a reserve had been established in 2010 and total awards and settlements, including costs of defense, of \$7,398,770.68.

INDIVIDUAL REPORTS

Reports were filed on 164 individual claims which were actively open during 2010, 65 of which were status reports on claims which remained open at the end of 2009.

Specialty Coverage

The specialty coverage of the claims reported for 2010 were reported as follows:

No.	Specialty	No.	Specialty
3	Internal Medicine	18	Family Physician/General Practitioner
13	Emergency Medicine	9	Obstetrics/Gynecology
5	Neurosurgery	22	Orthopedic Surgery
2	Cosmetic Surgery	16	General Surgery
11	Radiology/Oncology	15	Anesthesiology
6	Cardiovascular Disease	1	Gastroenterology
2	Urology	1	Dermatology
39	Other specialties not specifically identified	1	Pediatrics

Nature and Substance of Claims

The following malpractice codes were reported in the numbers stated:

No.	Malpractice Code	No.	Malpractice Code
82	Mistakes in Performance; Improper Performance	4	Delayed Performance
11	Delayed Diagnosis	14	Failure to Diagnose
8	Failure to Prevent Harm	1	Failure to Perform
4	Not Performed	2	Wrong Procedure; Procedure not Indicated
3	Better Alternative Available	10	Other Procedural Errors, Including Erroneous Prescription of Medication
6	Lack of Supervision	18	Other Causes Not Listed
1	Wrong Diagnosis		

The following injury codes were reported in the numbers stated:

No.	Injury Code	No.	Injury Code
32	Death (e.g. fetal death, death of patient)	8	Non-physical (e.g., abandonment, breach of contract, deposition, emotional distress, defamation, negligent referral, subrogation, loss of consortium, sexual misconduct)
2	Bone Damage (e.g. fracture)	2	Birth Injury (e.g., complications, brain damage to new born, abortion problems)
8	Circulatory Injury (e.g., heart failure, hemorrhage)	2	Disease (e.g., AIDS, cancer)
4	Diminished Life Expectancy (e.g., usually from a failure to diagnose)	2	Disfigurement (e.g., scars)
3	Dental Injury (e.g., broken tooth)	9	Diminished Use/Loss of Use (e.g., disablement of a limb, but not loss of the limb)
3	Foreign Body (e.g., left after surgery)	5	Infection (e.g., usually resulting from surgery)
5	Loss of Limb/Organ (e.g., amputation, removal)	2	Muscular/Limb Injury (e.g., atrophy)
26	Nervous System (e.g., paralysis, nerve damage)	7	Organ Injury (e.g., perforation, rupture)
1	Optical/Sensory Injury (e.g., vision, hearing)	8	Pain
19	Prolonged (e.g., additional care, delayed recovery)	2	Reproductive System (e.g., infertility)
13	Side Effects (e.g., reactions)	1	Wrong Organ Removed

Ages of Claimants

No.	Ages of Claimants	No.	Ages of Claimants
6	Newborn	6	01-10
4	11-20	15	21-30
32	31-40	40	41-50
26	51-60	13	61-70
4	71-80	3	81-90
15	Listed as unknown		

Manner of Disposition

Insurers reported closing claims during 2010 in the following manner:

No.	Disposition	No.	Disposition
0	Arbitration	13	Settlement
6	Mediation	5	Judgment in Favor of Defendant/Insurer
1	Verdict/Judgment in Favor of Plaintiff/Claimant	36	Other reasons (e.g., not pursued, voluntarily dismissed)
103	Claims remaining open at year-end 2010		

The insurers reported the \$6,600,436.58 paid on claims closed in 2010 as follows:

Amount	Paid For	Amount	Paid For
\$926,707.00	Medical & Prescription Costs	\$431,044.00	Economic Damages
\$2,581,749.00	Noneconomic Damages	\$2,595,698.89	Defense Attorney Fees, Costs & Expenses
\$65,237.69	Other Expenses not specifically identified		

MAJOR INSURERS

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

Utah Medical Insurance Association (UMIA) reported insuring 379 health care providers, 344 of whom were identified as physicians or surgeons. UMIA filed reports on 56 claims, 21 of which were status reports on claims remaining open at the end of 2009. Five of those claims resulted in payments to claimants. Four claims were reported mediated in the total amount of \$412,500.00 and there was 1 jury verdict in the amount of \$1,182,000.00. Two resulted in jury verdicts in favor of the insurer; 12 were closed for other reasons such as

voluntary dismissal; and 37 claims remained pending at the end of 2010. In addition, UMIA reported paying \$1,020,409.47 for defense attorney fees, costs and expenses during 2010.

The Doctors Company (TDC) reported insuring 307 healthcare providers, 237 of whom were identified as physicians or surgeons. TDC filed reports on 42 individual claims, 5 of which were status reports on claims remaining open at the end of 2009. Ten of those claims resulted in payment to claimants, all by settlement prior to trial, in the total amount of \$1,615,000.00. Sixteen claims were disposed of by means of dismissal or other manner resulting in no payment to claimants. Sixteen claims remained pending at the end of 2010. In addition, TDC reported paying \$1,370,725.14 for defense attorney fees, costs and expenses during 2010.

RISK RETENTION GROUPS

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, the company which wrote the third largest amount of premium for medical malpractice coverage in Wyoming in 2010 is a risk retention group and while it failed to file an aggregate report identifying the numbers or categories of its insureds, it did file reports on 19 individual claims, 10 of which were status reports on claims remaining open at the end of 2009. Five of those claims resulted in payments to claimants, all by settlement, in the total amount of \$1,262,500.00. In addition, the company reported paying \$54,556.32 in defense attorney fees, costs and other expenses on claims closed during 2010. The statistics related to this risk retention group are not included in the totals above.

