



**Written Comments**

**GENERAL COMMENT:** It has become an increasingly difficult challenge for domestic insurance companies, such as New Mexico Mutual, to recruit, train, hire, and retain qualified and licensed claims adjusters to assure business continuity, success, and delivery of service. There is increased competition for talent, retirement, and turnover. Accordingly, New Mexico Mutual respectfully offers the following written comments for the OSI’s consideration.

The proposed OSI Rule, 13.4.8.8 NMAC states:

**13.4.8.8 LICENSE REQUIRED:**

**A.** No individual or business entity shall act as or make any representation as being an adjuster unless licensed as such by the superintendent, nor shall such person accept a commission, service fee or other valuable consideration for investigating or settling claims in New Mexico if that person is required to be licensed and is not so licensed.

**B.** No person, regardless of location, shall act as, or make any representation as being, as adjuster with respect to workers’ compensation claims of claimant’s resident or located in New Mexico unless licensed as such by the superintendent. Pursuant to Section 59A-13-11 NMSA 1978, each workers’ compensation insurer shall have at least one claims representative within New Mexico, licensed as an adjuster, to pay workers’ compensation claims of claimant’s resident or located in New Mexico. Such claims shall be paid promptly through such representatives from accounts in financial institutions located within New Mexico.

**COMMENT:** New Mexico Mutual request the OSI’s consideration of the following language to be added to Subsection B to permit authorized workers’ compensation insurers to effectively recruit, train, and hire licensed Staff Adjusters:

An applicant for licensure as a Staff Adjuster may adjust insured losses for an insurer employer as a Staff Adjuster Trainee under the supervision and management of a duly licensed Staff Adjuster for a period of one year during which the applicant Staff Adjuster must successfully obtain licensure by the superintendent in accordance with 13.4.8.15 (D)(2) NMAC.

Proposed OSI Rule, 13.4.8.12 NMAC states in part:

**13.4.8.12: EXAMINATION OF APPLICANTS:**

**A. Examinations required.** An individual applying for a license as an adjuster shall, prior to issuance of a license, personally take and pass a written

examination. The examination required by this section shall be of sufficient scope to reasonably test the applicant's:

- (1): knowledge, experience or training relating to the assessment of:
  - (a) real and personal property values; and
  - (b) physical loss of or damage to real or personal property that may be the subject of insurance and claims under insurance; .....

**COMMENT:** New Mexico Mutual request the OSI's consideration of the following language Subsection (6) to permit authorized workers' compensation insurers to effectively recruit, train, and hire licensed Staff Adjusters:

(6): Pursuant to Article 9 of the Workers' Compensation Act, "Employers Mutual Company," the superintendent shall make provisions for the creation of a specific workers' compensation only examination for purposes of licensing Staff Adjusters employed by this Company. These Staff Adjusters shall be exempt from 13.4.8.12 (A) (1) – (A) (5) NMAC. This workers' compensation examination shall be sufficient in scope to reasonably test the applicant's:

(a) knowledge, experience or training related to the adjudication of workers' compensation claims in accordance with the Workers' Compensation Act and all applicable legal authority.

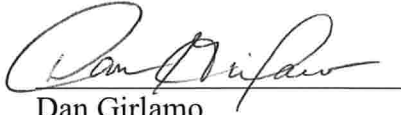
(b) technical competence in the handling of workers' compensation claims.

(c) knowledge and experience adequate to enable an adjuster to fairly, and without injury to the public or any member of the public with whom the applicant may have business as an adjuster.

**Alternatively,** if the OSI does not adopt language similar to Subsection (6) above, then New Mexico Mutual respectfully requests that the OSI consider requiring that property and casualty claims adjuster licensing examinations include a greater percentage of questions specific to workers' compensation and employer's liability insurance that accurately with current New Mexico insurance laws. For instance, the current license examination consists of approximately fifty-five (55) questions, which only contains an estimated three (3) questions specific to workers' compensation and employer's liability insurance. This represents only about 5% of the license examination for property and casualty insurance claims adjusters. It is recommended that the number of questions specific to workers' compensation and employer's liability insurance be increased to eight (10) or (11) questions or 20%. These questions should also accurately reflect current law. For example, farm and ranch employers are now subject to the requirements of the New Mexico Workers' Compensation Act as a result of 2016 New Mexico Supreme Court Decision.

Submitted by:

Date:



Dan Giralamo  
Director of Claims  
New Mexico Mutual

3/13/2019