



Annual Report | 2019

Office of Superintendent of Insurance



STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE

DEPUTY SUPERINTENDENT

Robert E. Doucette, Jr.



DEPUTY SUPERINTENDENT

Bryan E. Brock

SUPERINTENDENT OF INSURANCE

John G. Franchini

December 1, 2019

The Honorable Michelle Lujan-Grisham, Governor
Members of the New Mexico State Legislature
State Board of Finance
Citizens of New Mexico

Ladies and Gentlemen:

I respectfully submit the Annual Report for the Office of Superintendent of Insurance for the fiscal year ending June 30, 2019. I am proud to say that our teams have made great strides in implementing new technology for the department and to better serve New Mexico's consumers and businesses. We have partnered with national organizations to develop new websites and consumer educational tools to assist in the health insurance plan review and selection processes. We have implemented paperless systems for the businesses and producers in our state to streamline licensure processes and allow for electronic renewals. The new system has allowed many of our departments, including for grievances and consumer assistance, to modernize legacy systems and although there are improvements to still be made, it has greatly improved operations. This report includes highlights of our teams' hard work utilizing this new system.

Through the dedication of our teams, we have also implemented an electronic premium tax collection system and have increased annual revenue collection to just over \$385 million this fiscal year, an increase of \$163 million over collections in the first year of becoming our own agency. Our consumer assistance teams have helped save, resolve, and recover nearly \$10 million in the last five years, and we continue to combat insurance fraud with a greater number of joint operations, prosecutions, and convictions. Our newest division, the Auto Theft Prevention Authority, has already made great strides towards collaborative operations across the state and targeted consumer outreach and education.

We remain committed to improving our regulations, systems and processes through coordinated efforts with our stakeholders, partners, and the consumers of New Mexico. Please do not hesitate to contact me should you have any questions regarding this report, our operations, or strategic plans.

Respectfully,

John G. Franchini
Superintendent of Insurance



John G. Franchini

Superintendent of Insurance

Robert E. Doucette, Jr.

Deputy Superintendent

M. Andy Romero

Deputy Superintendent

Bryan E. Brock

General Counsel

Bersabe Rodriguez

Chief Financial Officer

AGENCY MISSION

The mission of the Office of Superintendent of Insurance is to provide consumers with convenient access to reliable insurance products that are underwritten by dependable and financially sound companies.

The agency strives to ensure that these companies have a proven history of fair and reasonable rates, are represented by trustworthy and qualified agents, and treat consumers fairly and honestly.

The Office of Superintendent of Insurance is committed to insurance consumer protection, fraud prosecution, and education, striving to become one of the nation's leading regulatory agencies.

Table of Contents

- [Biography](#).....5
- [Executive Summary](#).....6 - 7
- [Agency Description](#).....8 - 9
- [Agency Initiatives & Goals](#).....10 - 11
- [Agency Performance Measures](#).....12
- [Agency Organizational Overview](#).....13
 - [Actuarial Unit](#).....13
 - [Administration Unit](#).....13
 - [Company Licensing](#).....13 - 14
 - [Consumer Assistance](#).....14 - 15
 - [Examinations](#).....15
 - [Financial Audit](#).....16
 - [Health Policy & Consumer Education](#).....16 - 17
 - [Criminal Division](#).....17 - 19
 - [Investigations](#).....19
 - [Life and Health Product Filing](#).....19 - 20
 - [Managed Health Care](#).....20 - 21
 - [Patient's Compensation Fund](#).....21 - 22
 - [Producer Licensing](#).....22 - 23
 - [Property and Casualty Product Filing](#).....23
 - [Title Insurance](#).....24
- [Agency Organizational Chart](#).....25
- [Revenues and Distributions](#).....26
- [Revenues Processed](#).....27
- [Federal Grants and Memorandum of Understanding](#).....28
- [New Mexico Insurance Nominating Committee](#).....29
- [Closing Remarks](#).....30

Biography of the Superintendent of Insurance



John G. Franchini

Originally appointed by the New Mexico Public Regulation Commission (PRC), and after legislative action created the Office of Superintendent of Insurance (OSI) as a stand-alone agency, Franchini has served New Mexico since 2010. After a thorough vetting process, the Nominating Committee chose to unanimously appoint Mr. Franchini as the Superintendent of Insurance in 2013, and again

unanimously re-appoint the Superintendent to continue serving New Mexico through December 31, 2019.

Franchini has over 40 years' experience in the insurance industry. He "temporarily" joined Consolidated Agency, his father's independent insurance agency, while attending graduate school at the University of New Mexico. Ten years later, he purchased the business and expanded it to four locations, employing 82 people and servicing nearly 15,000 customers. During that time, he served on the New Mexico Workers' Compensation Assigned Risk Pool Board of Governors, the Patient Compensation Administration Board of Directors, and was elected president of the Independent Insurance Agents of New Mexico. In 1998, Poe & Brown, a national insurance broker, purchased the business and named Franchini vice president. His responsibilities included new business production, development of specialized insurance programs, and acquisitions.

After joining New Mexico Mutual in 2002, Franchini was eventually named vice president of government and industry affairs. During his time at New Mexico Mutual, he worked with state legislators, members of regulatory agencies and insurance agents to strengthen the company's financial and public standing. A member of the Leadership New Mexico Class of 2007, a former board member of the Rocky Mountain Insurance Information Association, and a past president of the New Mexico Insurance Association, Franchini remains committed to the insurance industry. Currently, he serves on the New Mexico Health Insurance Exchange Board of Directors, as well as the Chairman of the Board of Directors for the New Mexico Medical Insurance Pool, and as a member of the Federal Insurance Office, Federal Advisory Committee on Insurance (FACI).

Under Franchini's leadership, the OSI transitioned successfully into a fiscally sound agency, developed new technologies to serve the businesses and consumers of New Mexico, increased public awareness and education, and implemented numerous systems to allow for streamlined electronic processes and records within the agency. Franchini's initiatives for OSI have included improvements to operational structures, procedures, and increased stakeholder and statewide partnerships for improved regulatory strategy and the sharing of the state's resources.

Franchini is a native New Mexican and a graduate of Creighton University in Omaha, NE.

Executive Summary

The Office of Superintendent of Insurance (OSI) continues its progress to review legacy systems and processes for areas of improvement. The marathon to success has taken many turns, but OSI is comprised of dedicated teams who work tirelessly to ensure the consumers and businesses operating in New Mexico can have confidence in the regulatory oversight of the agency.

During its first year as a stand-alone agency in 2013, OSI processed about \$222 million in annual revenues. Through the diligent work and progress of the agency, OSI's annual processed revenues have grown to now over \$385 million in Fiscal Year 2018, an increase of over \$163 million. After much deliberation and consideration, the New Mexico State Legislature enacted HB 223 to allow OSI to remain a regulatory body and less-so of a collector of taxes. HB 223 provides for the transfer of the premium tax collection activities of the agency's Financial Audit Bureau to migrate to the Taxation and Revenue Department (TRD) effective January 1, 2020. OSI continues to work with TRD and other associated state agency partners to ensure a smooth and effective transition.

Increasing its productivity and efficiency, OSI successfully implemented its paperless, web-based State-Based System (SBS) from the National Association of Insurance Commissioners (NAIC) and used by thirty-two other states to process insurance transactions. The Bureaus have reported increased ease-of-use in many areas of daily responsibilities and identified areas for improvement to meet future agency needs and the necessities of external users such as consumers and producers.

Using SBS, OSI Bureaus successfully processed licensing transactions for nearly 2,000 insurance and insurance-related companies, and over 152,000 producer and business entity licenses. This new system includes a superior database allowing our divisions to have a case management system for consumer assistance and civil investigative cases further enhancing the Bureaus' assistance teams to help consumers save and recover nearly \$4 million in FY 2018.

Through the dedicated work of our health policy teams, New Mexico has been fortunate to see greater market stability than most of the nation with monthly health plan premiums consistently remaining in the lowest five states. Increasing transparency and consumer education have remained key initiatives of OSI, and through new technology, enhanced websites and applications, and increased regulatory efficiency, OSI has been able to implement new web-based consumer support tools and conduct educational webinar series. Collaborating with industry representatives, consumer advocates, stakeholders,

Executive Summary

and other state agencies, OSI continues to foster education on consumer rights, fraud awareness and reporting, and assistance available within OSI.

Furthering OSI's initiative to monitor regulatory efficiency and enforcement through research projects focused on surprise billing, air ambulance issues, healthcare consumer rationales, mental health parity access, and revisions needed to applicable statutes and regulations, OSI's Bureaus support the consumers of New Mexico through a steady, dedicated approach to efficiency. The methodology and implementation of the Strategic Plan will continue to be supported through the convening of stakeholder committees, regular progress tracking, and reporting to ensure continued forward momentum.

Agency Description

The Office of Superintendent of Insurance (OSI) was created on July 1, 2013, pursuant to the passage of Constitutional Amendment 4 during the 2012 General Election and the subsequent enactment of House Bill 45 (Laws of 2013, Chapter 74) from the 1st Session of the 51st Legislature. These actions removed the insurance regulatory function from the Public Regulation Commission (where it was housed as the “Insurance Division”) and placed it in a newly created adjunct state agency entitled the “Office of Superintendent of Insurance.” The enabling legislation also created an Insurance Nominating Committee to appoint the Superintendent of Insurance.

The agency is comprised of 18 Bureaus and sections and has ninety-three full-time equivalent (FTE) positions authorized by the General Appropriations Act that includes four positions funded through federal grants and a Memorandum of Understanding with the New Mexico Health Insurance Exchange. Six of the ninety-two FTE positions are currently GOVEX positions.

A majority of agency staff members are currently located across several floors within the old PERA building in Santa Fe. During recent years, OSI expanded its office spaces and established an office in Albuquerque that houses federally funded and MOU positions. OSI also expanded further in Albuquerque to accommodate its Insurance Fraud Bureau prosecutors, paralegals, and law enforcement agents.

The Office of Superintendent of Insurance works diligently to consider many different perspectives in its regulatory activities, creating and working with advisory groups comprised of varied members from the consumer advocacy community, insurance agents or brokers, service providers, or business owners. Some of the agency’s advisory groups include: the Health Insurance Advisory Group, the Network Adequacy Group, the Surprise Billing Advisory Group, the NM Property & Casualty Insurance Guaranty Association, the NM Title Insurance Guaranty Fund, and the Insurance Fraud Policy Advisory Group, the Multi-Jurisdictional Auto Theft Law Enforcement Task Force and the Auto Theft Prevention Authority that was enacted within OSI in FY18.

Additionally, in FY 2019, OSI collected over \$385 million in annual revenues, with nearly \$259 million derived from premium taxes and surtaxes levied on insurance companies that write policies in New Mexico. Most of the remaining revenues result from annual licensing fees levied on insurance agents, insurance carriers, and other insurance licensees. Approximately 95% of collected revenues are transferred to the state general

Agency Description

fund, the fire protection fund, the law enforcement protection fund and the Carrie Tingley fund, with the remaining 5% of collected revenues being used to support OSI operations.

The following OSI operations have dedicated funding:

1. The Patient's Compensation Fund (PCF) is funded by over \$43 million of annual surcharges levied on health care providers who obtain medical malpractice coverage from the PCF. These funds pay judgments and settlements rendered on behalf of medically injured patients as well as the PCF's operating expenses. Funding provides for two PCF FTE positions and covers a small portion of the salary for an Actuary and IT staff, as well as contracted professional services and OSI resources used in relation to the PCF. Also, the PCF includes support to Insurance Operations for administration costs.
2. The Insurance Fraud Fund is funded through an assessment associated with the premium taxes levied on insurers. This fund pays for the operations of the OSI's Insurance Fraud Bureau, along with providing support to Insurance Operations for administration costs.
3. Title Maintenance Fund, which is funded by assessments levied on title insurers. This fund pays for the OSI's Title Insurance Bureau, along with providing support to Insurance Operations for administration costs.

In addition to the funding sources above, OSI budgeted about \$1.2 million in federal grants in FY 2019 that were primarily dedicated to the implementation and aspects of the Affordable Care Act in New Mexico. Additionally, about \$205 thousand were budgeted from a Memorandum of Understanding with the New Mexico Health Insurance Exchange.

Agency Initiatives & Goals

The Office of Superintendent of Insurance (OSI) continues to improve functionality and to attract and retain qualified insurance regulatory professionals. OSI ensures that New Mexico statutes, rules, and regulations are updated and enacted, and works to protect New Mexicans and support the application of the Affordable Care Act. OSI continues to complete in-depth evaluations of departments and legacy processes to highlight areas of potential improvement or deficiencies.

The OSI has converted many of its systems to a paperless, web-based environment allowing the agency to migrate its legacy insurance IDEAL system into a new State-Based System (SBS). This new system has provided tools and products that are promulgated by the National Association of Insurance Commissioners (NAIC) and used by more than thirty-two other states to process insurance transactions. This project has resulted in data migration and highlighted areas for further enhancement to meet the needs of OSI's required regulatory activities and reporting capabilities.

OSI has established and continues to make progress on the following initiatives:

- I. Advance the agency's functionality and administration to increase proficiency.
 - o Ensure that staff has been properly placed, that staffing levels are sufficient to serve the industry, and that staff is provided with educational training opportunities for increased proficiency.

- II. Improve functionality of the State-Based System (SBS) used by many sections within OSI allowing for more efficient processing of transactions and online tools for licensing renewals.
 - o In partnership with the NAIC work to:
 - Establish centralized processing for licensing revenue transactions, and
 - Address areas of deficiency within reporting and database capabilities.

- III. Monitor regulatory efficiency and enforcement to determine the impact on the industry concerning higher costs for consumers to maintain reasonable rates with minimized rate increases, and ensure access to quality, affordable health insurance.

Agency Initiatives & Goals

- Through stakeholder advisory committees, and actuarial and legal reviews, analyze proposed legislative and regulatory changes to improve consumer protections and cross-applicable statutes and regulations.
- IV. Increase consumer transparency, timely insurance transactions and consumer grievances processing, consumer education on insurance products, protections and rights, and combat insurance fraud.
- Update agency websites and consumer applications to increase user-ease through migration to new scripting languages and development of improved applications.

Agency Performance Measures

Program Code and Measure Type	Performance Measure and Description	FY 19 Target and FY 19 Actual
P795 Output	Percent of internal and external insurance-related grievances closed within 180 days of filing.	Target: 98.00% Actual: 96.52%
P795 Output	Percent of producer applications, appointments and renewals processed within ten business days.	Target: 99.90% Actual: N/A – system incapable of recording in this manner
P795 Output	Number of managed healthcare outreach activities conducted annually.	Target: 100 Actual: 0
P795 Efficiency	Percent of insurance fraud Bureau complaints processed and recommended for further adjudication by a competent court, referral to civil division, or closures within ninety days.	Target: 80.00% Actual: 101.20%
P795 Output	Percent of domestic company examination reports adopted within eighteen months of the examination period.	Target: 100.0% Actual: 100.0%
P795 Output	Percent of form and rate filings processed within ninety days within the Life & Health Bureau.	Target: 97.00% Actual: 98.94%
P795 Output	Percent of form and rate filings processed within ninety days within the Property & Casualty Bureau.	Target: 99.00% Actual: 99.77%
P795 Output	Percent of Office of Superintendent interventions conducted with domestic insurance companies when risk-based capital is less than two hundred percent.	Target: 100.0% Actual: 100.0%

Agency Organizational Overview

Actuarial Unit

The purpose of the Actuarial Unit is to review and approve rate filings, to monitor rate trends and practices, as well as the competitiveness of insurance markets in New Mexico, and to perform additional tasks as determined by the Superintendent of Insurance.

An external actuarial consulting firm continued to assist the Unit in reviewing ACA health insurance plans under the federal ACA funding grant. The Unit may also provide the Examinations Bureau with in-depth analyses of the financial strength of property and casualty insurers domiciled in New Mexico.

The Unit actively participated in National Association of Insurance Commissioners (NAIC) committees on health and long-term care pricing, valuation and compliance, and on risk-based capital requirements for insurers, particularly in the area of operational risk.

The Chief Actuary also serves as the Office of Superintendent of Insurance's primary administrator of the Patient's Compensation Fund.

Reporting Details	FY19
Life and Health Rate Filings Reviewed	566
Property and Casualty Rate Filings Reviewed	243

Administration Unit

The Administration Unit includes the Superintendent of Insurance, the Deputy Superintendent of Insurance, General Counsel, Office of Superintendent of Insurance legal staff, the Chief Administrative Officer, the Chief Financial Officer, Budget and Finance units, Human Resources unit, Public Information, Information Technology, and Records, all of which provide administrative support to the Office of Superintendent of Insurance.

Company Licensing Bureau

The Company Licensing Bureau licenses insurance companies and other risk-bearing insurance-related entities such as businesses in the area of Property, Casualty, Life, Health, Title, Surety, Marine, and Transportation.

Agency Organizational Overview

Under this, the Company Licensing Bureau receives, reviews, processes, and renders determinations on applications from insurance entities that want to enter the New Mexico insurance market.

The Bureau oversees over \$558 million in insurance company deposits held with Century Bank and the State Treasurer’s Office for the protection of New Mexico policyholders and creditors.

The Bureau also reviews and processes documentation submitted by insurance companies for acquisitions, re-domestications, mergers and name changes.

Reporting Details	FY19
Active Insurance Companies and Insurance Related Entities	1,944
Deposits	
Securities Held with Custodial Bank	\$558,081,528
Surety Bonds Held with State Treasurer	\$37,717,547
Collections	
Surplus Lines Premium Taxes	\$4,328,301
Surplus Lines Premium Tax Penalties	\$18,776

Consumer Assistance Bureau

The Consumer Assistance Bureau processes and resolves complaints and inquiries from consumers about insurance rates and claim handling for all insurance products other than those involving managed health care. The Consumer Assistance Bureau alerts the Investigations Bureau of situations where a complaint reveals a potential violation of insurance statutes and regulations by an insurance company or another insurance licensee.

Consumer Assistance Example:

A consumer filed for disability benefits because he was unable to work due to a 2010 zip lining accident and the heart attack that followed 3 days later while he was on the operating table. At the time, he owned his own company and received residual income until 2016 when he sold his business and filed for disability benefits. The consumer had multiple co-morbidities prior to the accident, including heart disease, diabetes, neuropathy and sleep apnea.

Agency Organizational Overview

The company denied the claim based on a provision in the policy that provides for denial of coverage if preexisting conditions were diagnosed 3 months prior to or 12 months after the effective date of coverage; the company reported an effective date of coverage in 2010. However, the consumer produced evidence that he had initiated coverage in 1989.

Working with the Bureau, the company conducted an extensive review of 600 pages of medical records and responded with over 1,000 pages of records. The company agreed to extend coverage, paid retroactive benefits of \$460,000, and further agreed to pay the maximum duration of benefits until 2027 with the stipulation that all medical documentation be provided timely by the consumer.

The total amount recovered in past and future benefits, after 10 months of work by the Consumer Assistance Bureau, was more than \$1,400,000.00.

Reporting Details	FY19
Complaints Received	697
Dollars Saved/Recovered	\$2,364,650

Examinations Bureau

The Examinations Bureau reviews insurance company financial statements filed with the Office of Superintendent of Insurance each quarter for the 30 insurance companies domiciled in New Mexico. The Bureau conducts periodic financial examinations, as well as ad hoc specialized market conduct examinations of all insurance companies and agents. The Chief Examiner and Financial Examiner Supervisor coordinate all examinations with a team consisting of certified financial examiners, financial analysts, IT specialists, and actuaries.

Reporting Details	FY19
Financial Examinations	10
Market Conduct Examinations	2
Entrance Examinations	1
Cybersecurity Examinations	3

Agency Organizational Overview

Financial Audit Bureau

The Financial Audit Bureau is responsible for collecting, processing, and auditing premium tax filings for nearly 2,000 insurance companies that write policies in New Mexico. All insurers authorized to transact business in New Mexico and all property bondsmen, self-insurers, title companies and risk retention groups are subject to pay premium tax on a quarterly basis. The Financial Audit Bureau is also responsible for the collection of fees and assessments.

With the passage of HB 223, the Financial Audit Bureau and all of its revenue collection responsibilities will be transferred to the Taxation and Revenue Department (TRD) as of January 1, 2020. OSI, TRD, the Legislative Finance Committee, and the Department of Finance and Administration continue working together to ensure a smooth transition of these duties and staff.

Reporting Details	FY19
Premium Taxes and Surtaxes Collected	\$308,994,620
Assessments	\$2,713,628
Penalties and Fines	\$92,941.57

Health Policy & Consumer Education Bureau

The Office of Superintendent of Insurance (OSI) received two grants under the Affordable Care Act (ACA) to assist OSI in enhancing its health insurance rate review processes and assist consumers with understanding their health insurance options. These grants are being exhausted within FY19 and have allowed the Health Policy & Consumer Education Bureau (HPCEB) to hire health policy, economic and outreach-specialized staff, and to develop online tools for consumer education, transparency, and support. Some of these online tools include: www.nmhealthratereview.com, a website providing consumers with information and feedback opportunities on health insurance rate filings, PD.OSI.state.nm.us, a site that offers an all-carrier provider directory, and an innovative health plan comparison tool wherein consumers can view side-by-side comparison of health insurance plan options available through the beWellnm or Healthcare.gov marketplace (www.OSICompareHealthPlans.org).

Agency Organizational Overview

Additionally, OSI has continued its Memorandum of Understanding (MOU) with the New Mexico Health Insurance Exchange, known as beWellnm, to implement New Mexico law requiring OSI to provide necessary regulations and guidance on plan management and health insurance access issues. In carrying out these duties, the HPCEB works closely with OSI leadership and all other Bureaus involved in health insurance providing evidence-based health policy recommendations and decisions, legal opinion, research, consumer education, and legislative outreach. The HPCEB is tasked with also developing numerous new initiatives, health policy research projects, and regulatory reviews within OSI related to health insurance reform and responding to ongoing, ever-changing federal proposed or implemented changes.

Outreach including webinar and in-person events often partnering with beWellnm and insurance carriers, conducting research studies, regulatory reviews, and providing enforcement recommendations continue to be at the forefront of this Bureau's duties. The Bureau's vital activities continue to increase as health insurance becomes more complex and as new federal changes are implemented. Protecting New Mexicans and addressing consumer issues including sustaining affordable access to care remains a priority, and through the hard work of the Bureau, NM has maintained statewide health plan coverage with premiums remaining in the lowest five in the nation.

The Bureau continues to further health plan regulatory operations within OSI by convening stakeholder committees to draft legislation and discuss policy surrounding surprise billing by out-of-network providers and to discuss creative approaches to stabilizing the individual health market. Discussions have resulted in policy development including legislation and regulations that will protect and expand access for consumers seeking individual and group-sponsored health coverage. Additionally, the Bureau published and held a public hearing on network adequacy regulations that aim to update standards for provider access, with current regulations dating back to 1998. The proposed regulations will require more transparency and accuracy in provider network reporting.

Criminal Division

The OSI Criminal Division (Division) takes a multi-dimensional approach to combat insurance fraud, arson, auto theft and other related crimes. The Division oversees the state's newest addition to the program, the Auto Theft Prevention Authority (Authority). The Authority is part of the prosecutorial division of the Insurance Fraud Bureau and the

Agency Organizational Overview

Criminal Investigations section. Pursuant to §§59A-16C-1 and -2 NMSA 1978, the Division's statutory obligations are vast and plenteous.

The Division and Authority will not only continue to pursue prosecutions, but will now have responsibility for soliciting, reviewing, and approve anti-auto theft law enforcement plans, and handle both the solicitation and distribution of grant monies for the implementation of those plans. The Authority has participated in numerous community activities and support operations including a university internship program and traveling around the State assisting agencies with community events including VIN etching events in Magdalena, Red River, Isleta National Night Out, Edgewood, Santa Fe, Valencia County, at Albuquerque Public Schools providing free VIN etching services for thousands of New Mexican vehicles. The Authority also traveled statewide to gain understanding from 70 of our fellow law enforcement agencies about what their departmental needs are with respect to equipment, resources and funding in order to address the auto theft issues that plague those communities. As a result, statewide auto theft numbers remain steady. In May of 2019, the NMATPA and TCSO officers were formally recognized by Governor Michelle Lujan Grisham who awarded them each the Medal of Valor. Then in September of 2019, the NMATPA officers were again recognized for their efforts when they were awarded out of 71 countries the President's Award by the International Association of Auto Theft Investigators.

The Division remains committed to confronting the problem of insurance fraud, arson and auto theft in New Mexico by prevention, investigation, and prosecution of fraudulent insurance acts in an effort to reduce the number of premium dollars used to pay fraudulent claims and represents OSI in criminal and other legal proceedings. The Division prosecuted the Hispanic Cultural Center Arson case and recently indicted two insurance agents for fraudulently stealing money from consumers, and a dentist who was also committing insurance fraud. The Division assists with screening cases for possible criminal charges, conducts grand juries and preliminary hearings across the state, investigates and resolves criminal cases by trial, plea or other disposition including pre-trial prosecution programs.

The Division serves as a senior policy advisor to Superintendent of Insurance to testify as an expert witness during the legislative session, to develop a yearly budget and to manage anti-fraud plans and the annual collection of fraud assessments. The Division works to promulgate and implement rules in accordance with the Insurance Fraud Act

Agency Organizational Overview

and provides legislative updates and other related updates to the statutorily appointed Anti-Fraud Committee, appropriate legislative interim committees and stakeholders, the Superintendent and the Auto Theft Prevention Authority oversight Board.

Reporting Details	FY19
Number of Cases	1,200
Auto Theft Referrals to Legal/Prosecutions	100
Insurance Fraud/White-collar Referrals to Legal/Prosecutions	81

Investigations Bureau

As the civil enforcement arm of the Office of Superintendent of Insurance, the Investigations Bureau receives complaints received from consumers, state and other non-government agencies, agents, and other organizations.

With probable cause that a statute or administrative code has been violated, this Bureau opens and conducts an investigation. The Bureau reviews allegations of New Mexico Insurance Code violations, gathers documentation, interviews witnesses and testifies at hearings, as needed. Inquiries that warrant discipline or prosecution are then sent to the staff attorneys or referred to the Fraud Bureau.

Reporting Details	FY19
Investigation Cases/Referrals	278
Referrals to Fraud Bureau/Legal	50
Enforcement Actions Taken	35

Life and Health Product Filing Bureau

The Life & Health Product Filing Bureau reviews for compliance and renders determinations on the rates and coverage provisions filed by insurance entities for products pertaining to health, life, annuities, long-term care, Medicare supplement, credit life and disability filings, and different correlated products.

The Bureau disposes of such filings where required, based on their compliance with the New Mexico Insurance Code and Administrative Codes, Insurance bulletins, Federal Regulations including the Affordable Care Act, as well as NAIC (National Association of

Agency Organizational Overview

Insurance Commissioners) guidelines. The review includes forms and rates for Qualified Health Plans to be offered On- and Off- the Health Insurance Exchange and covering over 175,000 Individuals in the individual, small and large group markets.

As a member of the Interstate Insurance Compact, New Mexico also participates in multi-state reviews of additional long term care, life and annuity product filings.

The Life and Health Bureau also makes recommendations for the issuance of Regulations, Bulletins and suggest enforcement actions against non-compliant carriers, when merited.

Reporting Details	FY19
Total Products Filed and Reviewed	3,458
Health	1,705
Life	507
Medicare Supplement	580
Long-Term Care	226
Annuity	220
Multi-Line	208
Credit Life and Disability	12

Managed Health Care Bureau

The Managed Health Care Bureau administers and enforces New Mexico's Patient Protection Act and related healthcare regulations related to commercial managed health care insurance to include Qualified Health Plans. The Managed Health Care Bureau, "MHCB", assists consumers in understanding their rights and appealing matters such as, but not limited to, quality and access to care, premium payments, termination of coverage, as well as claims and benefits denials, offered under commercial managed health care plans in the State of New Mexico. The Managed Health Care Bureau also assists health care providers with issues such as terminations, clean claims and timely credentialing.

In addition to handling complaints and inquiries from managed health care consumers and contracted providers, the Bureau promotes the education of these rights by conducting outreach presentations throughout New Mexico.

Agency Organizational Overview

Consumer Assistance Example:

The Managed Healthcare Bureau receives complaints daily submitted on behalf of New Mexico constituents. The number of complaints for FY19 significantly increased, however MHCBS staff continued to work diligently to resolve each case with a satisfactory outcome.

In 2018, a consumer, seeking assistance with a denial of payment of claims for dialysis services, filed a complaint with the Managed Health Care Bureau seeking appeal of Blue Cross Blue Shield of New Mexico's adverse determination. In 2015, the consumer was diagnosed with End Stage Renal Disease (ESRD) and was trained in self-peritoneal dialysis. This type of dialysis uses the lining of the abdomen to naturally filter the blood and remove waste products when the kidneys can't adequately do the job any longer. This treatment option allows patients more flexibility with treatment schedules, as well as the opportunity to have fewer food restrictions and take less medications. In 2017, the consumer switched plans and obtained coverage under a Blue Cross Blue Shield HMO plan. This type of plan requires the use of in-network providers for services to be covered. When the insured switched coverages, the provider requested prior-authorization for the dialysis service from BCBS and was notified that a prior authorization is not required. Despite the fact, the insurance company began to sporadically deny payment of claims for failure to obtain prior-authorization for services obtained from a non-network provider, shifting the financial responsibility to the consumer. The Managed Health Care Bureau staff worked alongside the consumer and the dialysis provider and was able to demonstrate that claims should be paid based on the circumstances of the case and documentation submitted. BCBS's initial decision was overturned, saving the consumer over \$231,000.

In addition, the MHCBS was able to satisfactorily close three cases that saved New Mexico constituents a total of \$436,300.97.

Reporting Details	FY19
Total Grievances/Inquiries	602
Dollars Saved/Recovered	\$1,114,900.71

Patient's Compensation Fund

While its primary function is the regulation of insurance, the Office of Superintendent of Insurance also administers the Patient's Compensation Fund (PCF). The Patient's

Agency Organizational Overview

Compensation Fund is a medical malpractice insurance risk-assuming function mandated by the Medical Malpractice Act that pays judgments and settlements rendered on behalf of medically injured patients.

Producer Licensing Bureau

The Producer Licensing Bureau licenses over 160,000 insurance professionals, as well as, non-risk-bearing insurance entities. The Bureau processes licensing for insurance agents, agencies, brokers, adjusters, third party administrators, consultants, bail bondsmen, solicitors and motor clubs, as well as limited license insurance vendors such as cell phone sales agents and travel agents. The Bureau determines the qualifications and eligibility of applicants, approves pre-licensing and continuing education courses, tracks continuing education credits, and processes license applications, renewals and the appointment of agents by insurance companies. Additionally, the Bureau certifies the New Mexico Health Insurance Exchange enrollment counselors, receiving verification of background checks and required training.

With the transition to the new State Based System, licensees may now print their licenses online and the Bureau no longer needs to mail certificates providing time and financial savings to both the agency and licensees. Additionally, with the smooth transition from one examination vendor to another, the Bureau successfully provided no down time for license seekers, and the new vendor now offers more out-of-state testing centers making testing more convenient for candidates.

Service Example:

The Bureau was contacted by a business entity whose representative had utilized the new online system for licensure renewal but has mistakenly answered a qualifying question incorrectly. The representative provided the correction to the Bureau and their licensure was processed successfully. Additionally, during the renewal process, it was discovered that two of their representatives needed their renewals managed and confirmed. The Bureau's representative was able to assist with confirmation and direction on printing the needed licenses promptly. The business was very grateful of the assistance and responded with an appreciative email stating, "I must say, in my 30 years in the industry, you (and NM) have provided the best service and have been the most helpful of the 51 departments I work with!"

Agency Organizational Overview

Detailed Reporting	FY19
<i>Total Active Licenses in NM</i>	126,444
Company Appointments	137,771
Company Appointment Cancellations	73,758
Producer Licenses Issued	118,073
Affiliation Transactions	7,610
Continuing Education Transactions	4,918
Continued Education Courses Approved	4,297
Business Entity Licenses Issued	8,371

Property and Casualty Product Filing Bureau

The Property and Casualty Product Filing Bureau reviews and renders determinations on the rates and coverage provisions filed by insurance companies for products pertaining to automobile, homeowners, workers' compensation, medical malpractice and other assorted products. The Bureau approves or disapproves such filings where required, based on their compliance with insurance statutes, regulations, and bulletins and with OSI policies and procedures.

Additionally, the Workers' Compensation Unit, a division of the Property and Casualty Product Filing Bureau, monitors the New Mexico Workers' Compensation Assigned Risk Pool, handles complaints by employers regarding their workers' compensation class code assignment and premiums, oversees the Safety Bonus Program and represents the OSI in other matters relating to Workers' Compensation.

Detailed Reporting	FY19
Policies in Assigned Risk Pool	1,729
Inquiries Received	47
Formal Complaints	3

Agency Organizational Overview

Title Insurance Bureau

The Title Insurance Bureau regulates the title insurance industry through ratemaking and rule-making hearings held every odd-numbered year. The Bureau collects and analyzes annual title agent and underwriter statistical reports, as well as agent audit procedures.

The Bureau annually assesses the insurers based on annual budget and maintenance needs. Periodically the Bureau performs on-site title plant inspections, affiliations, appointments, bank reconciliations, no-pay no-service documentation, and premium calculations.

The Bureau performs the investigation of marketing compliance within title insurance regulations. The Bureau regulates more than 70 licensed title insurance agents and underwriters in New Mexico and investigates complaints, allegations of defalcations, marketing non-compliance, and other infractions by title agents and insurers.

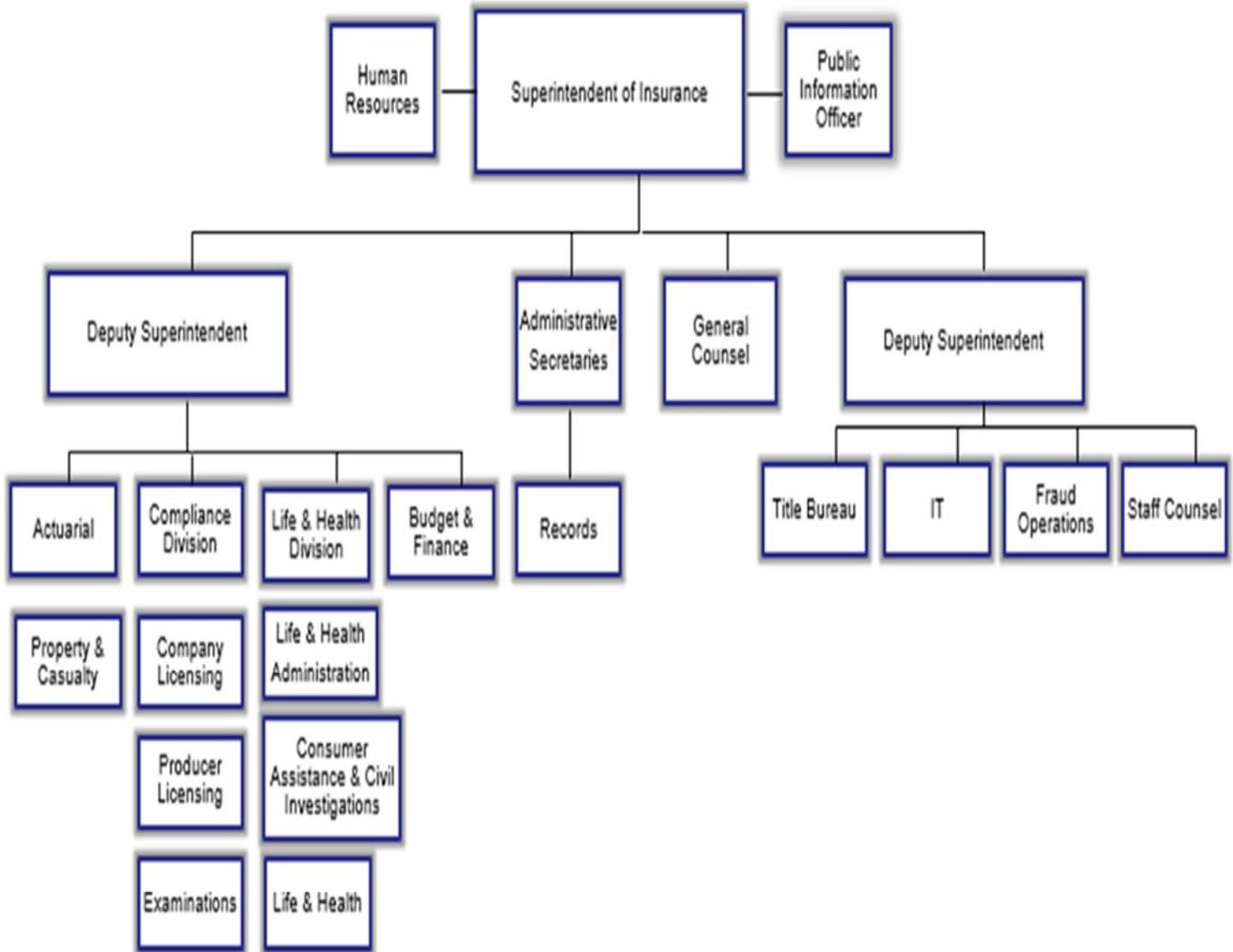
The Bureau also coordinates with the Investigation and Fraud Bureaus for appropriate enforcement actions.

Because of the November 2017 title insurance rate and rule hearing, the rates were decreased by 4.0% (through a combination of a larger reduction in basic rates and an increase in certain rate rules) and all title insurance basic premium rates were reduced 9.5% effective July 1, 2018. This reduction will result in a savings to the consumers of New Mexico of \$3,719,529 compared to the total premiums paid in 2017.

Detailed Reporting	FY19
Penalties Assessed/Received	\$3,250
Inquiries Received	467
Inspections Performed	26
Complaints Received	14

Agency Organizational Chart

Office of Superintendent of Insurance (OSI) Organizational Chart – FY 2019



Revenues and Distributions

The Office of Superintendent of Insurance (OSI) collected approximately \$385 million in annual revenues in FY19, with revenues increasing \$163 million since FY14. The majority of total collections are from premium taxes, and surtaxes levied on insurance companies that write policies in New Mexico.

Typically, over 95% of collected revenues are transferred to various funds including the state general fund, the fire protection fund, the law enforcement protection fund, Carrie Tingley fund, and the Public Election Fund. The balances are refunded or are transferred to various funds within OSI; in its approved operating budget, OSI utilizes only a small portion of collected revenues.

The following OSI operations have dedicated funding:

1. Patient's Compensation Fund (PCF), which is funded by \$43 million of annual surcharges levied on health care providers who obtain medical malpractice coverage from the PCF. These funds pay judgments and settlements rendered on behalf of medically injured patients as well as the PCF's operating expenses. This includes two PCF FTEs, as well as contracted professional services and OSI resources used in relation to the PCF. Also, the PCF provides support to Insurance Operations for administration costs.
2. Insurance Fraud Fund, which is funded by assessments collected from authorized insurers. This fund pays for the operations of the OSI's Insurance Fraud Bureau, along with providing support to Insurance Operations for administration costs.
3. Title Maintenance Fund, which is funded by assessments levied on title insurers. This fund pays for the OSI's Title Insurance Bureau, along with providing support to Insurance Operations for administration costs.

In addition to the funding sources above, OSI was awarded just over \$6 million in federal grants, and about \$2.4 million from a Memorandum of Understanding with the New Mexico Health Insurance Exchange for the regulation and implementation of the Affordable Care Act. This funding is nearly exhausted and the health policy team will need to be funded through OSI's operations in the coming year.

Revenue Sources

- Licenses, Renewals, and Appointments
- Premium Taxes and Surtaxes
- Fines, Penalties, and Assessments
- Surplus Line Taxes
- Patients' Compensation Fund
- Continuing Education Filing Fees

Distributions and Transfers

- State General Fund
- Fire Protection Fund
- Law Enforcement Protection Fund
- Carrie Tingley Fund
- Insurance Operating Fund

Revenues Processed FY14 – FY19

Type of Revenue	FY14	FY15	FY16	FY17	FY18	FY19
Licenses, Renewals, Appointments	\$20,798,640.54	\$22,877,205.16	\$24,810,834.25	\$23,636,306.81	\$28,159,265.37	\$25,606,828.77
Premium Taxes	\$153,118,490.18	\$208,142,416.69	\$233,405,805.47	\$257,578,174.70	\$284,290,837.69	\$253,575,052.62
Fines & Penalties	\$819,303.56	\$624,573.76	\$1,265,596.71	\$926,577.23	\$765,713.64	\$92,941.57
Surplus Lines Taxes	\$2,983,228.42	\$3,187,291.87	\$3,255,927.19	\$3,422,600.35	\$3,837,320.55	\$4,328,300.75
Insurance Premium Surtaxes	\$30,456,607.77	\$47,747,166.26	\$55,648,771.02	\$53,570,872.12	\$49,700,283.83	\$55,419,567.01
Assessments	\$1,338,205.13	\$2,053,596.82	\$2,404,554.83	\$1,673,995.67	\$3,021,717.18	\$2,713,628.36
Patient's Compensation Fund	\$12,433,743.99	\$12,220,654.96	\$11,683,332.42	\$21,524,689.87	\$38,065,295.60	\$42,989,673.88
Continuing Education	\$95,243.00	\$97,454.63	\$94,104.00	\$94,240.00	\$242,160.00	\$112,938.25
Deductions*	\$0.00	\$0.00	\$0.00	(\$178,610.10)	(\$38,571.45)	\$0.00
Miscellaneous	\$44,042.33	\$56,933.66	\$134,010.60	\$19,113.75	\$1,150.75	\$16,309.50
Total:	\$222,087,504.92	\$297,007,293.81	\$332,702,936.49	\$362,267,960.40	\$408,045,173.16	\$384,855,240.71

* Each revenue category is net of dishonored checks, credits, and adjustments for FY14-16 and FY19.

Financial Reporting

Federal Grants and Memorandum of Understanding

The Office of Superintendent of Insurance also received financial support for operational teams through Federal Grants and a Memorandum of Understanding with the New Mexico Health Insurance Exchange. Through the funding, the agency receives, personnel who work in areas pertinent to the implementation of the Affordable Care Act (ACA) have been retained but as funding is being exhausted, it is vital for OSI health policy operations to continue to fund these positions.

Federal Grants Awarded	
Limited Competition for Affordable Care Act (ACA) Consumer Assistance	Grant Periods Vary From: 4/1/2011 to 8/19/2020
Affordable Care Act (ACA) Consumer Assistance	Total Grant Funds Awarded To-Date: \$7,527,833
Grants to Support States in Health Insurance Review – Cycle II	Total Positions Authorized: 4
Grants to Support States in Health Insurance Review – Cycle III	Total Positions Filled: 4
Grant for Planning & Implementing Market Reforms	
The State Flexibility to Stabilize the Market Grant	

NM Health Insurance Exchange Memorandum of Understanding	
MOU Period: 4/1/2011 to 12/31/2019	MOU Total Amount: \$2,445,000

Nominating Committee

New Mexico Insurance Nominating Committee

The New Mexico Insurance Nominating Committee (Committee) was created by Laws 2013, Chapter 74, to appoint, and if necessary, remove the Superintendent of Insurance.

The Committee consists of four members appointed by the governor, four members appointed by the New Mexico Legislative Council, and a ninth member appointed by the other eight committee members.

During FY9, the Committee met one time. Meeting was held to discuss 2019 Legislative Initiatives, including the Agency Budget, Own Risk Solvency Act, Updates to Insurance Code, Surprise Billing, and Short Term & Limited Benefit Plans.

The mileage and per diem for the Committee is funded through the Office of Superintendent budget, and administrative support is provided by Office of Superintendent of Insurance staff.

The Superintendent's current term expires on December 31, 2019.

Closing Remarks

STATE OF NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE

DEPUTY SUPERINTENDENT

Robert E. Doucette, Jr.



DEPUTY SUPERINTENDENT

Bryan E. Brock

SUPERINTENDENT OF INSURANCE

John G. Franchini

The Office of Superintendent of Insurance has made significant strides towards improving the structure, procedures, and technology within our agency. Our personnel continue to operate with the utmost professionalism, working to serve the consumers of New Mexico with pride and dedication.

During this last fiscal year, the agency found transgressions both large and small, and staff actions resulted in over **\$93 thousand** in fines and penalties, and in nearly **\$3.8 million** in funds saved, recovered and resolved for New Mexicans. This is just one of the important ways that the agency continues to work to protect the consumers and service providers of New Mexico.

Agency personnel diligently monitor the insurance industry in New Mexico, analyzing trends and implementing changes, as appropriate, to improve insurance experiences in the state, and continue to expand our advisory committees to keep communication lines open with our stakeholders. Our bureaus remain dedicated to improving the effectiveness and efficiency of our internal procedures and work diligently to analyze areas for improvement.

The Office of Superintendent of Insurance looks forward to the new opportunities in insurance regulation in the coming years, ready to face any challenges with a team that is eager to continue their commitment to the residents and businesses of New Mexico.

With regards,

A handwritten signature in cursive script that reads "John G. Franchini".

John G. Franchini
Superintendent of Insurance



NEW MEXICO | OFFICE OF
SUPERINTENDENT
OF INSURANCE

Office of Superintendent of Insurance

John G. Franchini, Superintendent

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