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Insurance inquiry expanded into Del. Regulators seek evidence of possible misconduct

By TED GRIFFITH / The News Journal
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State regulators have opened a broad inquiry into Delaware's insurance industry, ordering more than 4,000 insurance agents to answer questions about whether they put their own interests ahead of clients' when selecting insurance coverage.

In the wake of alleged insurance industry abuses uncovered in New York, the Delaware Department of Insurance is seeking information about whether agents here are involved with similar misconduct, said Michael Rich, a deputy attorney general and the chief legal adviser to the Department of Insurance.

The department has given all licensed agents based in Delaware until Dec. 15 to respond to a questionnaire asking whether they have engaged in illegal practices, including steering business to favored insurance companies in exchange for improper payments. Agents selling all types of insurance - auto, disability, health, life and property - are affected by the department's order.

The Delaware review was prompted by revelations that emerged from New York Attorney General Eliot Spitzer's insurance investigation, not by any evidence of wrongdoing in Delaware, Rich said. Insurance regulators in almost every other state are seeking similar information from agents in their states, Rich said.

Spitzer filed suit in October accusing Marsh & McLennan, the world's largest insurance brokerage, of making secret agreements with large insurance companies to cheat customers. The companies engaged in price fixing and sham bidding to deceive buyers, according to the New York attorney general. Spitzer has broadened his probe to examine whether insurance companies may be paying kickbacks to independent insurance agents in exchange for business. Spitzer's high-profile investigation has inspired other states to open their own inquiries.

"It's important that the public have confidence both in regulators' response to this issue, and that it's known as quickly as possible whether any problem similar to what was revealed in New York, exists in Delaware," Rich said.

If the inquiry produces evidence of wrongdoing, the Attorney General's Office would handle prosecution, Rich said. The insurance commissioner could also take action against agents, such as revoking their licenses, the deputy attorney general said.

Frank Wharton, a vice president with Zutz Insurance Group in Wilmington, said insurance agents were upset when they received letters from Delaware Insurance Commissioner Donna Lee Williams instructing them to respond to a lengthy questionnaire posted on the department's Web site. The agents were ordered to turn over extensive information, including: "A complete list of clients for whom you or your employees have placed insurance since Jan. 1, 1998." The commissioner's letter to the agents, mailed about two weeks ago, warns them that they could face unspecified "administrative action or penalty" if they fail to respond.

After agents objected, the department agreed to scale back the amount of information being sought, said Wharton, who is the Delaware director for the Independent Insurance Agents and Brokers of America, a trade group.

A "clarification" issued by the department late last week said, in effect, the agents have to turn over all the information originally requested only if they acknowledge they may have committed violations, or if they are subject to inquiries from other governmental agencies investigating the alleged insurance industry abuses.

Wharton said the revised guidelines ease the burden on agents, but he said they still view the inquiry as an overreaction. Wharton also said he's confident the state will find no evidence of wrongdoing by Delaware insurance agents.

"I think what the state is doing is a knee-jerk reaction to the Spitzer investigation," Wharton said. "It's overkill."

Williams would not comment Monday or Tuesday. Officials at the Department of Insurance said she was attending a conference in New Orleans. Williams, a Republican, didn't seek re-election and will be succeeded by Matt Denn, a Democrat, on Jan. 4.

Rich said documents supplied by agents would be kept confidential by the department.

Paul Baumbach, a Newark-based financial planner who doesn't sell insurance, said state regulators should be asking for information to ensure that consumers aren't being cheated. Baumbach said all firms involved with financial services have seen their regulatory burden rise in recent years because of a string of scandals at corporations, insurers and mutual fund companies.

"Regulators have a right to obtain information to safeguard consumers," Baumbach said. "You have to put the common good up front."

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