

Hot Topics

1. Compliance Generally
 - a. All BOI staff e-mail and phone are on our web site: www.maine.gov/pfr/insurance
 - b. We prefer to hear from you before issues become problems
 - c. Property & Casualty Division rate/form comments
 - i. review staff: Mike, Brian, Frank
 - ii. Turn-around time:
 1. 2016 – 6 days (one less than 2015) and on track in 2017 for 6 days
 - a. 3,444 filings received; 52 disapproved (1.5 %)
 - b. 21,559 forms received
 - iii. We have updated the Maine page at the NAIC's product requirement web site, which now has links to our 18 p/c product checklists
2. Bulletin 415 (11/22/16)
 - a. Requires insurers to file underwriting guidelines because they have a determinative effect on rates, even when used simply to rule out taking on a type of risk
 - i. Applies to personal and commercial lines
 - b. Vast majority of the market already files guidelines in their rules
 - c. Concerns expressed that:
 - i. we're looking for something new. That's not the case; we simply want to know that insurer's guidelines comply with Maine's Insurance Code. For example declining PAP because a driver is older than 65 or declining a HO due to a daycare or solely based on credit information.
 - ii. there is trade secret information in guidelines
 1. procedure outlined on our SERFF Maine introduction page for how to seek confidentiality for this
 2. make sure you understand the statutory elements of trade secret; it must be information that
 - a. derives independent economic value from not being generally known to and readily ascertainable by proper means by others who may obtain economic value from its use or disclosure
 - b. is the subject of reasonable efforts to maintain its secrecy
 3. there is also Maine case law that's worth looking at
 - a. *Spottiswoode v. Levine*, 1999 ME 79, fn 6 deals with economic value factors, fn 7 with secrecy efforts factors
 4. Know what you've filed elsewhere, we do see instances where other states have made public information that companies have sought to keep confidential here.

3. Frequent Filing Faux Pas – lack of rate support, saying “refer to company” (aka ‘a’ rated) instead of filing the rate, post-judgment interest, voidance/rescission, non-compliant cancellation conditions, and lack of appropriate COA authority.
 - a. Post-Judgment Interest and Bulletin 353 (02-11-09) – POJI may not be covered within limits based on ME rule that’s a function of statute and case law:
 - i. 14 M.R.S. § 1602-C – POJI is allowed in all civil and small claims actions, accrues when judgment is entered and through any appeal.
 - ii. *Moholland v. Empire Fire and Marine Ins. Co.*, 2000 ME 26 held that POJI doesn’t compensate underlying loss, but the delay in paying a judgment
 1. POJI comes after the steps that establish the loss (litigation and judgment)
 2. POJI ensures that the defendant will pay the judgment and not erode its value
 - b. Voidance/rescission – often see forms that basically allow unilateral rescission or voidance
 - i. 24-A M.R.S. § 2411 allows cancellation or denial based on fraudulent or material misrepresentation, but insurer must go to court for this. See, e.g., *Liberty Ins. Underwriters, Inc. v. Estate of Faulkner*, 2008 ME 149, 957 A.2d 94 (Me. 2008)
 - c. Non-compliant cancellation conditions – relevant statutes for personal lines are CCAs (24-A M.R.S. § 2911 – 24 (AICCA) and 24-A M.R.S. § 3048 – 3061 (PICCA)) and for other lines are 24-A M.R.S. § 2908 and 3007
 - i. Motorcycles go under 2908, not AICCA
 - ii. Personal Umbrellas go under 2908, not PICCA (note: if endorsed onto a PAP or HO then the appropriate control act applies).
 - iii. Commercial lines must include the reasons listed in 24-A M.R.S. § 2908 and 24-A M.R.S. § 3007
 - iv. May not use cancellation to remove an individual employee from E&O policy or a specific site from a BOP. ME Superior Court recently affirmed BOI decision in 2908 case denying insurer’s effort to “cancel” a BOP as to two of four or five rental properties. See *Providence Mut. Fire Ins. Co. v. BOI*, Docket No. CUMSC-AP-15-034 (03-22-16)
 - d. Rating Tiers – 24-A M.R.S. § 2304-A and Bulletin 277
 - i. § 2304A – requires filing of “every manual rate, minimum premium, class rate, rating schedule or rating plan and every other rating rule,” and every proposed modification of any of these filings. “Rating rules” include any established criteria or guidelines that affect premiums charged to insureds
 - ii. Bulletin 277 (03-04-98) – Guidelines used to assign insureds to specific rating classifications, or by insurance groups marketing on a coordinated basis to assign insureds to specific companies within the group, affect premium and must be filed

- e. Missing information category
 - i. When relying on a prior filing or another carrier's filing, include a copy of the prior filing or its SERFF file tracking number
 - ii. When relying on a competitive market study for determining rates, include the study. Assuming you do remember to include the study, identify the companies and include the SERFF file tracking numbers
 - iii. When relying on a filing from another jurisdiction for support, attach a PDF copy of the filing and explain how it correlates to Maine
 - iv. When adopting a rating organization filing, incorporate the organization's SERFF file tracking number(s).
 - v. For insurers who rarely make filings, keep in mind that we only retain records for ten years. So, if the prior filing(s) or other carriers filing(s) are older, include a complete PDF copy of the earlier filing. The exception to this is filings that were made in SERFF. Currently, SERFF retains all the electronic filings that have been made.
 - f. Do use old Maine file tracking numbers because they are pre-SERFF – roughly 2004 and therefore outside our 10-year record keeping plan.
 - g. Unfiled predictive models for acceptance and pricing
4. Price Optimization
- a. Bulletin 405 issued 08-15
 - b. Classify risk according to actuarially supported considerations grounded in insurance loss and expense and disclose those considerations fully in rate filings.
 - i. remember basic rating requirements
 - ii. give due consideration to loss experience, fire/cat hazards, reasonable margins for UW profit/contingencies, dividends, expense
 - iii. file every rate, etc. and every other rating rule that you propose to use
 - iv. do not allow unfair discrimination between insureds having like insuring/risk characteristics
 - c. OK to use capping/transitional pricing applied on a group basis
5. Credit Scoring
- a. 24-A M.R.S. § 2169-B
 - b. Bulletin 406 issued 08-25-15