



STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

George E. Pataki
Governor

Howard Mills
Superintendent

The Office of General Counsel issued the following informal opinion on November 7, 2005, representing the position of the New York State Insurance Department.

Re: Requirements of training programs to identify and evaluate possible insurance fraud

Questions Presented

1. For what types or kinds of insurance must an insurer institute fraud training programs?
2. Are there any specific substantive requirements for such training, such as the length of time that employees must spend in such training?
3. Are there consequences for non-compliance with the training requirement?

Conclusions

1. Pursuant to N.Y. Ins. Law § 409(a) (McKinney's Supp. 2005), "[e]very insurer writing private or commercial automobile insurance, workers' compensation insurance, or individual, group or blanket accident and health insurance policies . . . except for insurers that write less than three thousand of such policies, . . . shall, . . . file with the superintendent a plan for the detection, investigation and prevention of fraudulent insurance activities in this state. . . ."

2. 11 NYCRR § Part 86.6(b)(6) (2002) (Regulation 95) requires that such plans include ". . . course descriptions, the approximate number of hours to be devoted to these sessions, and their frequency. . . ." Pursuant to N.Y. Ins. Law § 409(a) (McKinney's Supp. 2005), such a plan for the ". . . detection, investigation and prevention of fraudulent insurance activities . . ." shall include, pursuant to N.Y. Ins. Law § 409(c)(3) (McKinney's Supp. 2005), "in-service education and training for underwriting and claims personnel in identifying and evaluating instances of suspected fraudulent activity in underwriting or claims activities. . . ." Because each insurance company has a unique situation in terms of type and volume of insurance policies written, and differences in premiums collected and claims paid, the Department has not established a set of specific substantive guidelines for insurance companies to follow. Each company must review its own situation, and determine how best to combat fraud, and establish training for its employees so they can identify situations that may be fraudulent. The Department will review the training program to determine if it is reasonable and likely to be effective given the situation in which the insurance company functions.

3. Yes. N.Y. Ins. Law § 109 (McKinney's 2000) sets forth the possible penalties that may be imposed for a violation of Article Four.

Facts

No facts were provided.

Analysis

Pursuant to N.Y. Ins. Law § 409(a) (McKinney's Supp. 2005), "[e]very insurer writing private or commercial automobile insurance, workers' compensation insurance, or individual, group or blanket accident and health insurance policies . . . except for insurers that write less than three thousand of such policies, . . . shall, . . . file with the superintendent a plan for the detection, investigation and prevention of fraudulent insurance activities in this state. . . ." Pursuant to N.Y. Ins. Law § 409(a) (McKinney's Supp. 2005), such a plan for the " . . . detection, investigation and prevention of fraudulent insurance activities . . ." shall include, pursuant to N.Y. Ins. Law § 409(c)(3) (McKinney's Supp. 2005), "in-service education and training for underwriting and claims personnel in identifying and evaluating instances of suspected fraudulent activity in underwriting or claims activities. . . ."

11 NYCRR § Part 86.6(b)(6) (2002) (Regulation 95) requires that such plans include "... course descriptions, the approximate number of hours to be devoted to these sessions, and their frequency. . . ." N.Y. Ins. Law § 109 (McKinney's 2000) sets forth the possible penalties that may be imposed for a violation of Article Four.

Regarding the above cited law, the inquirer wanted to know what, if any, specific guidelines the Department has to assist insurance companies to comply with the law. Because each insurance company has a unique situation in terms of type and volume of insurance policies written, and differences in premiums collected and claims paid, the Department has not established a set of specific substantive guidelines for insurance companies to follow. Each company must review its own situation, and determine how best to combat fraud, and establish training for its employees so they can identify situations that may be fraudulent. The Department will review the training program to determine if it is reasonable and likely to be effective given the situation in which the insurance company functions.

Although the Department will monitor whether the number of Special Investigations Unit, (hereinafter SIU), personnel working for an insurance company is reasonable when compared with the parameters of the insurance company, such as the number of policies written, the Department will not dictate to an insurance company that the SIU function must be carried out by in-house employees of the insurance company versus contracting the function with an outside firm.

The Department does from time to time conduct training on specific types of fraud about which insurance companies should be aware. Also, the Department conducts fraud awareness sessions for the community and for law enforcement such as police officers at the Police Academy.

For further information one may contact, Susan Dess, Senior Attorney at the New York City Office.