

# The Colorado Regulator

## Commissioner's Column

Thank you for the gracious welcome I received since becoming Commissioner of Insurance on July 1<sup>st</sup>. I look forward to working with you and for you in the coming years.

After five years of teaching, I entered the business world and worked in retail, insurance, real estate and management positions. In 1992 I earned a Master's Degree in Gerontology and spent the next twelve years working with nonprofit agencies on hunger, housing and aging issues.

That work compelled me to run for the State Legislature in 2004. I was elected to the Colorado House of Representatives and served seven years on the Health and Human Services and Appropriations committees and six years on the Capital Development Committee.

As a legislator, I held many town halls to listen to constituents. As Commissioner of Insurance, I've heard many stories from consumers on their problems with health insurance costs. Most people say health insurance costs too much, and some say they have to do without other essentials of life in order to afford their health insurance. There are also more than 829,000 Coloradans who don't have health insurance at all.

Another problem is what happens

to those reaching their middle years. Many who retire before 65 do so because of health problems, and in the past, employers used to cover the health insurance costs until the employee reached the age for Medicare. That isn't always the case anymore, and because of those pre-existing conditions, early retirees aren't eligible for private health insurance.

To address those issues, the Colorado General Assembly this year passed Senate Bill 11-200, creating the Colorado Health Benefit Exchange. This law will help reduce the numbers of uninsured Coloradans and increase

*Cont. on Page 2*



*Jim Riesberg,  
Commissioner of Insurance*



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## Commissioner's Column *(from first page)*

competition in the marketplace. The Exchange is expected to be ready for business by January, 2014.

In my role as commissioner, I am a non-voting member of the Exchange's board of directors, and the Division has many people working on the implementation and funding of the Colorado Health Benefit Exchange. Colorado is a step ahead of most states in reforming our health care system to control costs, reduce the number of uninsured Coloradans, and increase competition in the marketplace.

With many changes ahead in health insurance in the next two years, we are helping Coloradans get informed and be prepared. Toward that goal of consumer education, we hosted several educational seminars this fall to help people understand the relationship between the services they demand and the premiums they pay. If you would like to see a video of one of these seminars, please [click here](#) or go to the "What's New" page on the Division's website

([www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance)). Since positive change will only occur when people accept more personal responsibility for their own health care choices, it is our goal at the Division to help provide information about the tools that are available to generate that positive result. We have been awarded a federal grant to make even more information on health insurance available in the future. On September 1st, we premiered our new health insurance website that can be accessed by clicking the blue "Are you Prepared?" box at [www.askdora.gov](http://www.askdora.gov).

The Division has the responsibility of reviewing all insurance rates and approving all health insurance rate increases. Companies must be able to justify their rates, or their requests for increases will be denied or modified. We are making that process much more transparent for consumers by including a rate review section on our redesigned website (see page 8), which includes the ability to comment on a rate filing or be notified when a health insurance company has filed

rate increases.

In the short time since joining the Division of Insurance, I've been impressed by the depth and breadth of experience of the staff. As commissioner I plan to empower the Division staff, and I'm fortunate to have many excellent people in the right positions.

As part of Governor Hickenlooper's directive that state government be more effective, elegant and efficient, I will make sure that regulations dealing with the insurance industry are appropriate and that we have a level-playing field for insurers and producers, while maintaining our responsibility to protect consumers and ensure that they are treated fairly.

I look forward to serving as your Commissioner of Insurance and hope you will feel free to contact the Division whenever you have a question or concern regarding insurance issues.

Regards,



### Earthquakes a rarity in Colorado

An earthquake with a magnitude of 5.3 hit southwestern Colorado on August 22, with the epicenter located nine miles southwest of Trinidad, Colorado. That quake, and resulting aftershocks, reportedly caused significant damage to several homes and roads, including the collapse of a storefront in Segundo, Colorado. One estimate placed the dollar amount of damage at about \$100,000.

Property insurance in Colorado typically does not cover earthquake damage. Property owners who want earthquake coverage must purchase a separate endorsement on the policy. In addition, most insurance companies will not allow you to add earthquake coverage to a policy within 30 days of an earthquake because the chance of damaging aftershocks is increased.

### Medicare 101 webinar to help Colorado consumers turning 65

Cher..Bill Clinton..Diane Sawyer..Tommy Lee Jones...Goldie Hawn. What do they have in common? They all turned 65 in 2011 and are now eligible for Medicare.

If you're joining the ranks of the turning-65 crowd, do you know how to apply for Medicare? How to find a prescription drug plan or a Medicare Advantage plan? Do you qualify for financial assistance? Those questions and more can be answered at a free Medicare 101 webinar hosted by the Senior Health Insurance Assistance Program (SHIP) on January 25 from 11 a.m. to 12:30 p.m. Space is limited; to register, go to <https://www1.gotomeeting.com/register/959744569> or click on the button below.

**REGISTER NOW**

## Division of Insurance Recovers More Than \$11.7 Million for Consumers

Complaints by consumers against their insurance companies filed with the Division of Insurance resulted in more than \$11.7 million in recovered insurance benefits in fiscal year 2010-11. In approximately half of the complaints filed with the Division, the Division found the insurance company had violated state law or regulation, or disregarded policy provisions.

“Assisting consumers and helping to resolve issues they have with their insurance company are some of our most important responsibilities,” said Commissioner of Insurance Jim Riesberg.

The Division recently published its annual analysis of the consumer complaints it received last fiscal year (July, 2010 to July, 2011). The report covers the most common insurance areas for consumers: annuities, auto, health, homeowners/renters, liability, life, and title insurance. Overall, the Division’s Consumer Affairs staff handled more than 4,200 complaints in FY 2010-11 and those complaints resulted in more than \$11.7 million recovered on behalf of consumers.

Consumer complaints include misrepresentation by insurers or agents, denial of claims, and complaints and protests about premiums or ratings. Storm activity from hail, high winds and even snow during the past

two to three years has resulted in an increased proportion of homeowner’s claim denial complaints.

Auto insurance continues to be the number one area for complaints handled by the Division of Insurance in FY 2010-11, with more than 50 percent of the complaints. Auto insurance complaints include issues such as liability, medical payments, collision and comprehensive coverage, and uninsured and underinsured motorist problems. It also includes auto protest, or consumer challenges to an auto insurer’s imposition of surcharges, cancellations, non-renewals, or reduction in coverage. Colorado is unique among the nation in how consumers are allowed to challenge auto insurance surcharges, cancellations, non-renewals or reductions in coverage.

Under the Division’s complaint process, complaints must be filed in writing, which can be done through the Division’s website, faxed, or mailed. Once filed, each complaint is researched by the Consumer Affairs staff and the company is contacted for a response. Errors made by insurance companies may result in refunds, restoration of benefits, or in some cases, a change in the way the insurer does business. [Click here](#) to read the report.

## Brown Earns Unique Honor from NAIC

Peg Brown, Deputy Commissioner of Consumer Affairs for the Colorado Division of Insurance, is the first person in the nation to successfully complete all three levels of a national training program for insurance regulators.

The program is the Insurance Regulator Professional Designation Program, operated by the National Association of Insurance Commissioners (NAIC). The seven-year old program provides state insurance regulators with a well-rounded knowledge and understanding of insurance regulation.

“We are very proud of Peg’s accomplishment,” said Commissioner of Insurance Jim Riesberg. “Her knowledge of insurance regulation and issues gained from the NAIC program will serve the citizens of Colorado well in the years to come.”

As deputy commissioner for consumer affairs, Brown is responsible for overseeing consumer assistance efforts, including complaint handling and resolution. She also is in charge of the Division’s compliance and investigations section, which handles agent/broker licensing and enforcement.

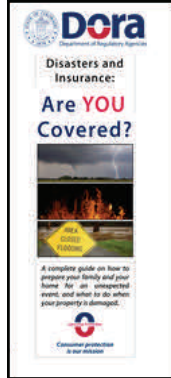
Brown has been employed by the Division since 2005. She holds a Juris Doctorate from the University of Denver and has legal and legislative experience. She enrolled in the NAIC program in 2007 because, “the breadth of insurance regulation was new to me. The program gave me insight into the areas of



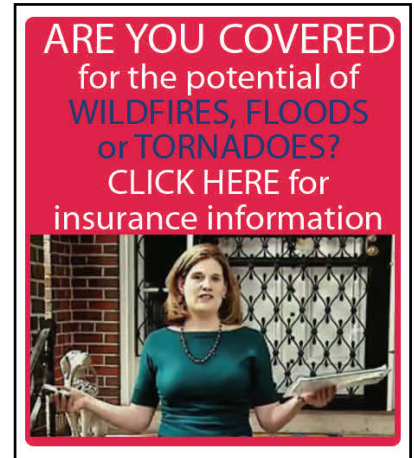
*Pictured at the NAIC Fall Meeting in Washington, D.C.: Peg Brown, DOI Deputy Commissioner of Consumer Affairs (right); Susan Voss, NAIC President and Iowa Insurance Commissioner (center); and Monica Lindeen, Montana Commissioner and NAIC Designation Advisory Board Chair (left). Brown is the first person in the nation to earn all three levels of the NAIC Insurance Regulator Professional Designation Program.*

insurance regulation with which I was not familiar, and greatly assisted me in efforts to provide integrated, coordinated regulation of insurance carriers and producers. All this helps me focus on our mission of consumer protection,” Brown said. Brown’s accomplishment was recognized this month by NAIC at their annual fall meeting in National Harbor, MD.

## New brochure topic of TV ads



Have you seen her? Paula Sisneros, director of Compliance and Investigations, was the face of the Division of Insurance in a series of public service announcements that aired on KUSA-TV9 Denver during the summer. Sisneros helped promote “Are You Covered,” a new [brochure](#) from the Division that encourages consumers to go to the Division’s website and download the Home Inventory Checklist. The checklist can help document your belongings, which will make filing a claim in the event of a fire, flood or tornado just a little easier.



To download the Home Inventory Checklist, [click here](http://www.dora.state.co.us/insurance/consumer/PSA.htm) or go to <http://www.dora.state.co.us/insurance/consumer/PSA.htm>  
The checklist is also available from the National Association of Insurance Commissioners as a downloadable app for [iPhone](#) or [Android](#).

## Auto protest — P&C Spotlight

Colorado law allows insurance companies to increase premiums, cancel, non-renew and reduce coverage on personal automobile policies. If the company takes such an action as a result of an at-fault motor vehicle accident, a motor vehicle conviction or a change in a credit insurance score, it must send a formal “Right to Protest Notice.” The auto protest process is a very unique way for Colorado policyholders to dispute these adverse actions. No other state has a process like it to address whether an auto insurance company has legally taken an action against a policy.

If an insurance company initiates one of the actions above, the “Right to Protest Notice” must be sent at least 30 days prior to the policy renewal date. The insurance company must state in clear and specific language the reasons for the proposed action and must also clearly describe its underwriting rule, policy, or guideline, which is the basis for the proposed action. Because the insurance company is required to

send the protest notice, auto protests are the most frequent type of consumer complaints the Division of Insurance handles.

Protests cannot be filed on policies insuring commercial vehicles. If the adverse action is the result of an at-fault accident or motor vehicle conviction, and there are multiple drivers in the household, the insurance company must offer to exclude the driver causing the action. A renewal premium with the driver excluded must be provided to enable the consumer to make an informed decision. If the policyholder chooses to file a protest, he or she must



continue to pay the premium throughout the protest process. Failure to pay the premium could allow the policy to lapse and render the protest moot.

The Division has [consumer tips](#) on when and how to file an auto protest. You can also read the Division’s regulations regarding auto protest, including the statutory background for the regulations, [here](#).



Follow the Department of Regulatory Agencies and the Division of Insurance on Facebook and Twitter.



## Credit scoring versus credit-based insurance scoring — What's the diff?

Credit-based insurance scores are one of many rating tools used by insurance companies. Credit-based insurance scores are used in both homeowner and personal auto lines of insurance, and result in some consumers receiving premium discounts and others premium increases. The insurance companies have shown that, statistically, individuals with lower than average scores are more likely to file claims. Many consumers do not understand how their credit history relates to insurance, particularly if they are paying their insurance premiums on time.

Credit-reporting agencies, such as TransUnion and Choice Point, collect data from creditors, such as lenders and collection agencies, and public records, such as bankruptcies, to generate a financial credit score. This credit score is the score commonly used by banks and mortgage companies to determine if an individual is credit-worthy.

Similarly, these credit reporting agencies contract with insurance companies to provide the credit-based insurance scores, which are based on similar, but fewer, characteristics as those used in determining the financial credit score. However, insurance companies use only those factors that are statistically indicative of future losses.

It is important to note that individual companies statistically analyze these factors against their own book of business and each company may weigh certain factors differently than others.

Insurance companies do not obtain an actual financial credit score; they only obtain the data applicable to insurance ratings. Inaccurate information

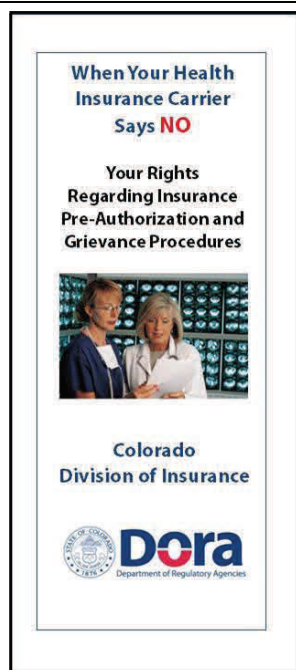
on a credit report must be disputed through the credit reporting agency from which the insurer obtained the information.

The use of credit-based insurance scores varies widely among insurers. Some use it only to rate new customers or those who are adding new vehicles, while others utilize the rating tool in virtually all aspects of the business, including new and renewal business. However, pursuant to § 10-4-116(1)(g), Colorado Revised Statutes (C.R.S.), unless an insurer has filed a different methodology, the credit-based insurance score must be ordered at least every 36 months. Some insurers will adjust the premium up or down after the credit-based insurance score is reordered, while others will only adjust the premium if it benefits the insured.

Federal law specifically allows credit scoring models in the rating and/or underwriting of insurance policies. This law is referred to as the Fair Credit Reporting Act ("FCRA") and is found in United States Code (USC) § 1681. [Click here](#) for a link to the Federal Trade Commission website.

State law also specifically allows credit scoring models in the rating and/or underwriting of insurance policies. This law is the Colorado Consumer Credit Reporting Act and is found in § 12-14.3-103, C.R.S.

In addition, Sections § 10-4-116 and § 10-4-616, C.R.S., set forth the parameters for the use and disclosure of credit-based insurance scores in Colorado. There are certain criteria an insurance company cannot use when developing the insurance score. These criteria are set forth in the aforementioned Colorado laws.



### The Consumer Insurance Council Wants You!

*The Consumer Insurance Council meets four to eight times per year to discuss and share information on insurance issues, and to provide insight from the consumers' perspective on regulations and initiatives developed by the Division of Insurance. The Council currently has vacancies; members serve a one-to-two year term. For more information, click [here](#).*

### "Health Insurer Says No" brochure changed

Due to changes in state regulations tied to federal health care reform, the amount of time that consumers have to submit appeals for medical claims denials has changed. As a result, we've updated the "When Your Health Insurance Carrier Says No" [brochure](#) to reflect the new timelines.

Click [here](#) to view or print this or any current Division of Insurance brochure.

## Division of Insurance Unveils New Health Insurance Website

The fall has been a busy time for the Division of Insurance, which included the end of the first rate-review grant from the U.S. Department of Health & Human Services (HHS), a series of town halls and webinars on how consumers can learn about the factors that influence the cost of health insurance premiums, and the beginning of a new three-year grant from HHS to continue that work.

A new health insurance website, debuted in July by the Division, got glowing reviews from consumer groups and from [Marguerite Salazar](#), the regional director for HHS Region VIII.

"When we come across something new and helpful, we like to share it. And in this case, we think this is a good example of government being efficient and responding to the needs of [citizens](#)...."

"[The Colorado DOI website](#)...is a great resource for residents looking for general information about rate increases or for specific information about their own health insurance carrier..."

...[T]his new website...is a shining example of consumer-friendly and transparent information designed to help consumers make informed choices and better understand their health care."

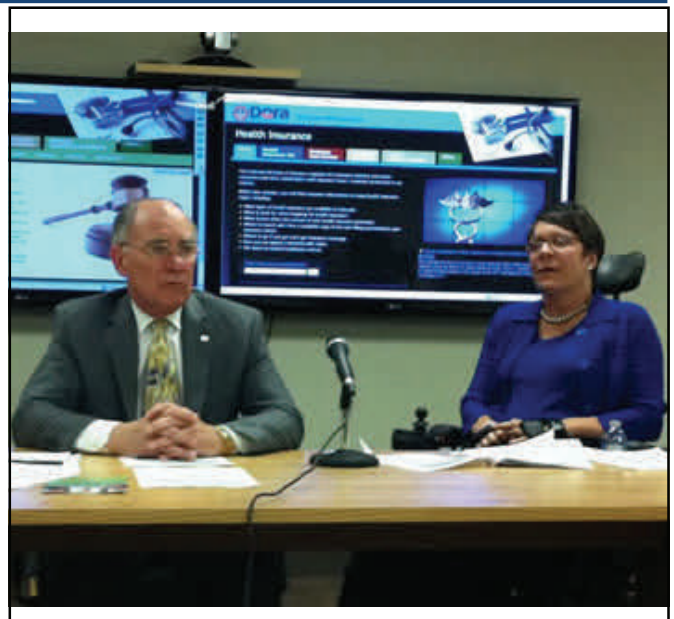
The website is designed to be an appealing and consumer-friendly guide to everything on health insurance, from the questions to ask when you're shopping for insurance, updates on federal health care reform, how to search for premium rate filings submitted to the Division by health insurance carriers, what to do when a health insurance claim is denied, information on senior health and more.



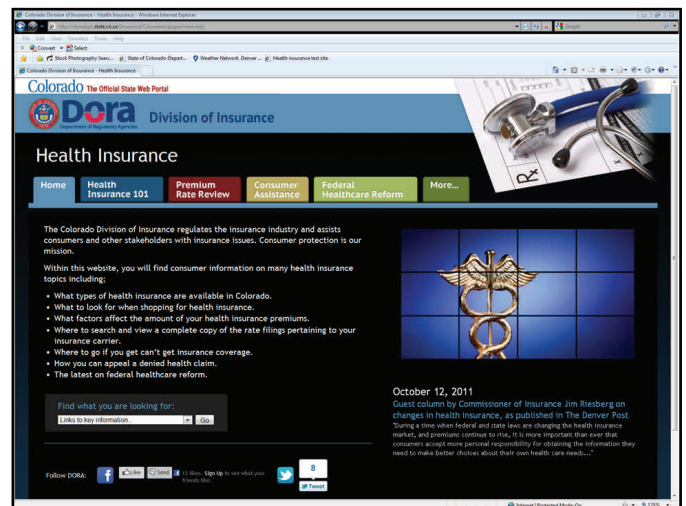
The website was the subject of a public service campaign in September and October, along with a new brochure, [Are You Informed?](#) The website, its display of consumer-friendly rate information and its ability to allow consumers to be notified about premium rate increases, was cited as one of the successes of rate review grants by a federal healthcare.gov report in September.

The website and public service campaign were paid for by a one-year HHS grant awarded to the Division last year. The grant also paid for the development of a database of premium rate review filings and to enhance the Division's rate review process.

The next grant, the three-year HHS funding on rate



*Commissioner Riesberg and Jo Donlin, director of external affairs, hosted several webinars and town halls around the state to help consumers become informed on health insurance rate review and factors that drive the cost of health insurance.*



Check out our new [health insurance website](#):  
<http://doraapps.state.co.us/Insurance/Consumer/pages/main.aspx>

review, will allow the Division to continue its efforts to better protect Colorado consumers through the premium rate review process. The \$4 million grant was awarded to the Division in October and runs through 2014.



Check out the Division of Insurance and the Department of Regulatory Agencies on Facebook and Twitter!



To see a video of the webinar on health insurance hosted by the Division of Insurance, go to the "What's New" page at the Division of Insurance website at [www.dora.state.co.us/insurance/what.html](http://www.dora.state.co.us/insurance/what.html) or [click here](#).

Are You Prepared?  
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Are you informed...about  
changes in your health  
insurance?

Colorado Division of Insurance  
Webinar/Webcast  
October 11, 2011



Division of Insurance

*Erin Colbrese of DOI's Rates & Forms section helped promote the Division's new health insurance website in a public service announcement that aired on TV stations statewide in October and November. Also in the PSA: Chris Myklebust, Commissioner of Financial Services, and Kennetha Julien, Division of Registrations, and her new baby boy, Tatum.*

## Senior Medicare Patrol Receives Three National Awards for Fraud-busting



*Senior Health Insurance Program (SHIP) and Senior Medicare Patrol (SMP) staff stand with Insurance Commissioner Jim Riesberg (second from left) at a Division announcement of their awards.*

[The Colorado Senior Medicare Patrol \(SMP\) has received three national awards from the U.S. Administration on Aging.](#) The awards were handed out in August at the SMP national conference in Washington, D.C.

Colorado SMP received two awards in the Complex Issues category: an award for the state with the highest number of Medicare fraud cases referred for investigation (87), and recognition for the cumulative highest dollar amount referred for further action (more than \$156,000).

Once investigated by SMP staff, cases are referred to the appropriate federal entity for further investigation.

The third award given to the SMP is the Volunteerism Award, given for overall increased volunteer program capacity, and according to SHIP/SMP Director Alice Ierley, it's a direct result of the statewide volunteer training done by SMP staff. More than 100 volunteers were trained in how to root out Medicare fraud in 2010, and they also are involved in public outreach and education efforts.

Ierley said SMP has "a particularly skillful team of investigators, educated in what fraud looks like."

This is the second time the SMP has received the awards for the highest number of Medicare fraud cases and the highest cumulative dollar amount.

SMP is a part of the Senior Health Insurance Assistance Program (SHIP), a federally-funded program housed within the Division of Insurance. The purpose of SMP is to provide consumer education on fraud, increase reporting of suspected fraud and abuse, assist consumers in the resolution of fraud and abuse complaints, and ultimately decrease the incidence of fraud and abuse.

And the accolades just kept coming.

On September 22, the SMP fraud-busters were featured in an article in *USA Today*. [Click here for the article.](#)

For more information or to volunteer for the Senior Medicare Patrol, call 1-800-503-5190 or send an email to [smp@dora.state.co.us](mailto:smp@dora.state.co.us).

## Update on Health Rate Transparency

By John Barela, ASA, MAAA, Actuary  
Division of Insurance, Rates & Forms

As part of the Division's ongoing efforts to improve transparency, the Division began collecting additional information on September 1, 2011.

The federal Center for Consumer Information and Insurance (CCIIO) requires additional information to be reported for all rate increases of 10% or more for "non-grandfathered" individual and small group health policies. A non-grandfathered policy is a policy issued on or after March 23, 2010.

A sample of this information is available at <http://www.cms.gov/PaperWorkReductionActof1995/downloads/CMS-10379.zip>. Insurers should log into the HIOS system, <https://insuranceoversight.hhs.gov/HIOS/Login.aspx>, for the most recent version of the forms.

As of September 1, 2011, for rate increases of 10 percent or more, the Division requests health plan

providers submit Part I, a brief summary of the data that supports the rate increase. In addition, the Division wants health plan providers to submit Part II, a brief narrative that supports the rate increase for all "non-grandfathered" small and individual rate filings, regardless of the size of the rate increase. Rate filings for grandfathered-only policies and policies sold to large employers are not required to provide this information. Carriers can still combine grandfathered and non-grandfathered policies in the same filing, but must include this additional information.

The Division needs this information to ensure consistency in rate review. The Division will make this information available to consumers at <http://doraapps.state.co.us/Insurance/Consumer/page/reviewProcess.aspx>. Additional information is available in Bulletin B-4.35, [http://www.dora.state.co.us/insurance/regs/B-4.35\\_10122011.pdf](http://www.dora.state.co.us/insurance/regs/B-4.35_10122011.pdf).

## Latest News at the Division of Insurance

The annual NCCI loss cost filing, effective January 1, 2012, shows loss cost rates for workers' compensation will go up 3.7 percent. To review the NCCI loss cost filing, [click here](#); to read the news release, [click here](#); 10/27/2011.

[First American Title fined \\$303,000 for Market Conduct Violations](#), 10/25/11.

[Annual Complaint Report Shows Division of Insurance Recovered More than \\$11.7 Million for Consumers](#), 10/19/11.

[Annual Insurance Industry Statistical Report Reveals Consumer and Insurance Company Spending](#), 9/15/11.

[Auto, Health & Renter's Insurance Should be Part of Back-to-School Package for College Students](#), 8/3/2011.

[Colorado Division of Insurance Issues Guidelines for Fees Charged for Workers' Compensation Audits](#), 7/29/2011.

[Judge Fines Former Colorado Insurance Producer \\$1.245 Million for Consumer and Insurance Fraud](#), 6/30/2011

[Five Economic Trends that May Impact Your Car Insurance Costs](#), 6/23/2011.

**Division of Insurance** news releases are on the web at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance). Look for the link to "**News Releases**." Updates on upcoming events, reports and regulations can be found under the "**What's New**" button on the Division homepage.



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is our mission**