

1 **§431: -2 Definitions.** As used in this article, unless
2 the context indicates otherwise:

3 "Commissioner" means the insurance commissioner.

4 "Complaint" means a written or documented oral
5 communication to the insurance division primarily expressing a
6 grievance, meaning an expression of dissatisfaction. For health
7 companies, a grievance is a written complaint submitted by or on
8 behalf of a covered person.

9 "Comprehensive market conduct examination" means a review
10 of one or more lines of business of an insurer domiciled in this
11 State that is not conducted for cause. The term includes a
12 review of rating, tier classification, underwriting,
13 policyholder service, claims, marketing and sales, producer
14 licensing, complaint handling practices, or compliance
15 procedures and policies.

16 "Insurance compliance audit" means a voluntary, internal
17 evaluation, review, assessment, audit, or investigation for the
18 purpose of identifying or preventing noncompliance with, or
19 promoting compliance with laws, regulations, orders, or industry
20 or professional standards, which is conducted by or on behalf of
21 a company licensed or regulated under this code, or which
22 involves an activity regulated under this code.



1 "Insurance compliance self-evaluative audit document" means
2 documents prepared as a result of or in connection with an
3 insurance compliance audit. An insurance compliance self-
4 evaluative audit document may include a written response to the
5 findings of an insurance compliance audit. An insurance
6 compliance self-evaluative audit document may include, but is
7 not limited to, as applicable, field notes and records of
8 observations, findings, opinions, suggestions, conclusions,
9 drafts, memoranda, drawings, photographs, exhibits, computer
10 generated or electronically recorded information, phone records,
11 maps, charts, graphs, and surveys; provided that this supporting
12 information is collected or developed for the primary purpose
13 and in the course of an insurance compliance audit.

14 "Market conduct action" means any of the full range of
15 activities that the commissioner may initiate to assess the
16 market and practices of individual insurers, beginning with
17 market analysis and extending to targeted examinations. The
18 commissioner's activities to resolve an individual consumer
19 complaint or other reports of a specific instance of misconduct
20 are not market conduct actions for purposes of this article.

21 "Market analysis" means a process whereby market conduct
22 surveillance personnel collect and analyze information from



1 filed schedules, surveys, required reports, and other sources in
2 order to develop a baseline and to identify patterns or
3 practices of insurers licensed to do business in this State that
4 deviate significantly from the norm or that may pose a potential
5 risk to the insurance consumer.

6 "Market conduct examination" means the examination of the
7 insurance operations of an insurer licensed to do business in
8 this State in order to evaluate compliance with the applicable
9 laws and rules of this State. A market conduct examination may
10 be either a comprehensive examination or a targeted examination.
11 A market conduct examination is separate and distinct from a
12 financial examination of an insurer performed pursuant to
13 article 5, but may be conducted at the same time.

14 "Market conduct surveillance personnel" means those
15 individuals employed or contracted by the commissioner to
16 collect, analyze, review or act on information on the insurance
17 marketplace, which identifies patterns or practices of insurers.

18 "National Association of Insurance Commissioners" means the
19 organization of insurance regulators from the fifty states, the
20 District of Columbia, and the four United States territories.

21 "Qualified contract examiner" means a person under contract
22 to the commissioner, who is qualified by education, experience



1 and, where applicable, professional designations, to perform
2 market conduct actions.

3 "Targeted examination" means a focused exam conducted for
4 cause, based on the results of market analysis indicating the
5 need to review either a specific line of business or specific
6 business practices, including but not limited to, underwriting
7 and rating, marketing and sales, complaint handling operations,
8 advertising materials, licensing, policyholder services, non-
9 forfeitures, claims handling, or policy forms and filings. A
10 targeted examination may be conducted by desk examination or by
11 an on-site examination.

12 "Third party model or product" means a model or product
13 provided by an entity separate from and not under direct or
14 indirect corporate control of the insurer using the model or
15 product.

16 **§431: -3 Domestic responsibility and deference to other**
17 **states.** (a) The commissioner is responsible for conducting
18 market conduct examinations for policyholder protection, which
19 shall be accomplished by comprehensive or targeted examinations
20 of domestic insurers and targeted examinations of foreign
21 insurers as deemed necessary by the commissioner, based on the
22 results of market analysis. The commissioner may delegate



1 responsibility for conducting an examination of a domestic
2 insurer, foreign insurer, or an affiliate of an insurer to the
3 insurance commissioner of another state if that state's
4 insurance commissioner agrees to accept the delegated
5 responsibility for the examination.

6 (b) The commissioner may delegate responsibility to a
7 commissioner of a state in which the domestic insurer, foreign
8 insurer, or affiliate has a significant number of policies or
9 significant premium volume, as determined by the commissioner by
10 rule.

11 (c) If the commissioner elects to delegate responsibility
12 for examining an insurer, the commissioner shall accept a report
13 of the examination prepared by the commissioner to whom the
14 responsibility has been delegated.

15 (d) In lieu of conducting a market conduct examination of
16 an insurer, the commissioner shall accept a report of a market
17 conduct examination on the insurer prepared by the insurance
18 commissioner of the insurer's state of domicile or another
19 state, provided:

20 (1) The laws of that state applicable to the subject of
21 the examination are deemed by the commissioner to be
22 substantially similar to those of this State;



1 (2) The examining state has a market conduct surveillance
2 system that the commissioner deems comparable to the
3 market conduct surveillance system required under this
4 article; and

5 (3) The examination from the other state's commissioner
6 has been conducted within the past three years.

7 (e) If the insurance commissioner to whom the examination
8 responsibility was delegated pursuant to subsection (a) or the
9 report of a market conduct examination prepared by the insurance
10 commissioner of another state pursuant to subsection (d), did
11 not evaluate the specific area or issue of concern to the
12 commissioner, the commissioner may pursue a targeted examination
13 or market analysis of the unexamined area pursuant to this
14 article.

15 (f) The commissioner's determination under subsection (d)
16 is discretionary and is not subject to appeal.

17 (g) Subject to a determination under subsection (d), if a
18 market conduct examination conducted by another state results in
19 a finding that an insurer should modify a specific practice or
20 procedure, the commissioner shall accept documentation that the
21 insurer has made a similar modification in this State, in lieu
22 of initiating a market conduct action or examination related to



1 that practice or procedure. The commissioner may require other
2 or additional practice or procedure modifications as are
3 necessary to achieve compliance with specific state laws or
4 regulations, which differ substantially from those of the state
5 that conducted the examination.

6 **§431: -4 Market analysis procedures.** (a) The
7 commissioner shall gather information from data currently
8 available to the insurance division, as well as surveys and
9 required reporting requirements, information collected by the
10 National Association of Insurance Commissioners and a variety of
11 other sources in both the public and private sectors, and
12 information from within and outside the insurance industry from
13 objective sources, information from websites for insurers,
14 agents and other organizations and information from other
15 sources, provided the sources are published at least annually in
16 a bulletin or circular, prior to use.

17 The information shall be analyzed in order to develop a
18 baseline understanding of the marketplace and to identify for
19 further review insurers or practices that deviate significantly
20 from the norm or that may pose a potential risk to the insurance
21 consumer. The commissioner shall use procedures, adopted by
22 rule, that are substantially similar to the National Association



1 of Insurance Commissioners' Market Analysis Handbook as one
2 resource in performing this analysis.

3 The commissioner shall use the following policies and
4 procedures in performing the analysis required under this
5 section:

6 (1) Identify key lines of business for systematic review;
7 and

8 (2) Identify companies for further analysis based on
9 available information.

10 (b) If the analysis compels the commissioner to inquire
11 further into a particular insurer or practice, the following
12 continuum of market conduct actions may be considered prior to
13 conducting a targeted, on-site market conduct examination. The
14 action selected shall be made known to the insurer in writing.

15 These actions may include, but are not limited to:

16 (1) Correspondence with the insurer;

17 (2) Insurer interviews;

18 (3) Information gathering;

19 (4) Policy and procedure reviews;

20 (5) Interrogatories; and

21 (6) Review of insurer self-evaluation and compliance

22 programs, including membership in an organization such



1 as a best-practice organization that has as its
2 central mission the promotion of high ethical
3 standards in the marketplace.

4 (c) The commissioner shall select a market conduct action
5 that is cost effective for the insurance division and the
6 insurer, while still protecting the insurance consumer.

7 (d) The commissioner shall take those steps reasonably
8 necessary to eliminate requests for information that duplicate
9 information provided as part of an insurer's annual financial
10 statement, the annual market conduct statement of the National
11 Association of Insurance Commissioners, or other required
12 schedules, surveys, or reports that are regularly submitted to
13 the commissioner, or with data requests made by other states if
14 that information is available to the commissioner, unless the
15 information is state specific, and coordinate market conduct
16 actions and findings with other states.

17 (e) Causes or conditions, if identified through market
18 analysis, that may trigger a targeted examination, are:

19 (1) Information obtained from a market conduct annual
20 statement, market survey or report of financial
21 examination indicating potential fraud, that the
22 insurer is conducting the business of insurance



1 without a license or is engaged in a potential pattern
2 of unfair trade practice in violation of article 13;

3 (2) A number of complaints against the insurer or a
4 complaint ratio sufficient to indicate potential
5 fraud, conducting the business of insurance without a
6 license, or a potential pattern of unfair trade
7 practice in violation of article 13. For the purposes
8 of this section, a complaint ratio shall be determined
9 for each line of business;

10 (3) Information obtained from other objective sources,
11 such as published advertising materials indicating
12 potential fraud, conducting the business of insurance
13 without a license, or evidencing a potential pattern
14 of unfair trade practice in violation of article 13;
15 or

16 (4) Patterns of violations of this chapter and the rules
17 adopted thereunder regarding rate filings, form
18 filings, and termination requirements.

19 **§431: -5 Protocols for market conduct actions. (a)**

20 Market conduct actions taken as a result of a market analysis
21 shall focus on the general business practices and compliance



1 activities of insurers, rather than identifying infrequent or
2 unintentional random errors that do not cause consumer harm.

3 (b) The commissioner is authorized to determine the
4 frequency and timing of such market conduct actions. The timing
5 shall depend upon the specific market conduct action to be
6 initiated, unless extraordinary circumstances indicating a risk
7 to consumers require immediate action.

8 If the commissioner has information that more than one
9 insurer is engaged in common practices that may violate the law,
10 the commissioner may schedule and coordinate multiple
11 examinations simultaneously.

12 (c) The insurer shall be notified of any practice or
13 procedure which is to be the subject of a market conduct action
14 and shall be given an opportunity to resolve such matters that
15 arise as a result of a market analysis to the satisfaction of
16 the commissioner before any additional market conduct actions
17 are taken against the insurer. If the insurer has modified the
18 practice or procedure as a result of a market conduct action
19 taken by the commissioner of another state, the commissioner
20 shall accept appropriate documentation that the insurer has
21 satisfactorily modified the practice or procedure and made



1 similar modification to such practice or procedure in this
2 State.

3 §431: -6 Protocols for targeted market conduct

4 examinations. (a) When market analysis identifies a pattern of
5 conduct or practice by an insurer which requires further
6 investigation, and less intrusive market conduct actions
7 identified in section 431: -4(b) are not appropriate, the
8 commissioner has the discretion to conduct targeted, market
9 conduct examinations in accordance with procedures, adopted by
10 rule, that are substantially similar to the National Association
11 of Insurance Commissioners' Market Conduct Uniform Examination
12 Procedures and the Market Regulation Handbook.

13 (b) If the insurer to be examined is not a domestic
14 insurer, the commissioner shall communicate with and may
15 coordinate the examination with the insurance commissioner of
16 the state in which the insurer is organized.

17 (c) Concomitant with the notification requirements
18 established in subsection (e), the commissioner shall post
19 notification on the National Association of Insurance
20 Commissioners' Examination Tracking System, or comparable
21 product as determined by the commissioner, that a market conduct
22 examination has been scheduled.



1 (d) The commissioner may not conduct a comprehensive
2 market conduct examination more frequently than once every three
3 years. The commissioner may waive conducting a comprehensive
4 market conduct examination based on market analysis.

5 (e) Prior to commencement of a targeted on-site market
6 conduct examination, market conduct surveillance personnel shall
7 prepare a work plan and proposed budget. The proposed budget,
8 which shall be reasonable for the scope of the examination, and
9 work plan, shall be provided to the company under examination.
10 Market conduct examinations shall, to the extent feasible,
11 utilize desk examinations and data requests prior to a targeted
12 on-site examination.

13 Market conduct examinations shall be conducted in
14 accordance with the provisions set forth in procedures, adopted
15 by rule, that are substantially similar to the National
16 Association of Insurance Commissioners' Market Regulation
17 Handbook and the National Association of Insurance
18 Commissioners' Market Conduct Uniform Examinations Procedures.

19 Prior to the conclusion of a market conduct examination,
20 the individual among the market conduct surveillance personnel
21 who is designated as the examiner-in-charge shall schedule an
22 exit conference with the insurer.



1 (f) Announcement of the examination shall be sent to the
2 insurer and posted on the National Association of Insurance
3 Commissioners' Examination Tracking System or comparable
4 product, as determined by the commissioner, as soon as possible
5 but in no case later than sixty days before the estimated
6 commencement of the examination. The announcement shall
7 contain:

- 8 (1) The name and address of the insurer being examined;
- 9 (2) The name and contact information of the examiner-in-
10 charge;
- 11 (3) The reason for and the scope of the targeted
12 examination;
- 13 (4) The date the examination is scheduled to begin;
- 14 (5) Identification of any non-insurance department
15 personnel who will assist in the examination, if known
16 at the time the notice is prepared;
- 17 (6) A time estimate for the examination;
- 18 (7) A budget and work plan for the examination and
19 identification of reasonable and necessary costs and
20 fees that will be included in the bill, if the cost of
21 the examination is billed to the company; and



1 (8) A request for the insurer to name its examination
2 coordinator.

3 (g) If a targeted examination is expanded beyond the
4 reasons provided to the insurer in the notice of the examination
5 required under this section, the commissioner shall provide
6 written notice to the insurer, explaining the extent of the
7 expansion and the reasons for the expansion. The department
8 shall provide a revised work plan to the insurer before the
9 beginning of any significantly expanded examination, unless
10 extraordinary circumstances indicating a risk to consumers
11 require immediate action.

12 (h) The commissioner shall conduct a pre-examination
13 conference with the insurer examination coordinator and key
14 personnel to clarify expectations thirty days prior to
15 commencement of the examination.

16 (i) The department shall use the National Association of
17 Insurance Commissioners' Standard Data Request or comparable
18 product.

19 A company responding to a commissioner's request to produce
20 information shall produce it as it is kept in the usual course
21 of business or shall organize and label it to correspond with
22 the categories in the demand.



1 If a commissioner's request does not specify the form or
2 forms for producing electronically stored information, a company
3 responding to the request must produce the information in a form
4 or forms in which the company ordinarily maintains it or in a
5 form or forms that are reasonably usable.

6 A company responding to an information request need not
7 produce the same electronically stored information in more than
8 one form.

9 A company responding to an information request need not
10 provide the electronically stored information from sources that
11 the company identifies as not reasonably accessible because of
12 undue burden or cost.

13 (j) The commissioner shall adhere to the following
14 timeline, unless a mutual agreement is reached with the insurer
15 to modify the timeline:

16 (1) The commissioner shall deliver the draft report to the
17 insurer within sixty days of the completion of the
18 examination. Completion of the examination shall be
19 defined as the date the commissioner confirms in
20 writing that the examination is completed;

21 (2) The insurer must respond with written comments within
22 thirty days of receipt of the draft report;



1 (3) The insurance division shall make a good faith effort
2 to resolve issues and prepare a final report within
3 thirty days of receipt of the insurer's written
4 comments, unless a mutual agreement is reached to
5 extend the deadline. The commissioner may make
6 corrections and other changes, as appropriate; and

7 (4) The insurer shall, within thirty days, accept the
8 final report, accept the findings of the report, file
9 written comments, or request a hearing. An additional
10 thirty days shall be allowed if agreed to by the
11 commissioner and the insurer. Any such hearing
12 request must be made in writing and must follow
13 chapter 91.

14 The final written and electronic market conduct report
15 shall include the insurer's written response and any agreed-to
16 corrections or changes. The response may be included either as
17 an appendix or in text of the examination report. The company
18 is not obligated to submit a response. References to specific
19 individuals by name shall be limited to an acknowledgement of
20 their involvement in the conduct of the examination.

21 (k) Upon adoption of the examination report pursuant to
22 subsection (j), the commissioner shall continue to hold the



1 content of the examination report as private and confidential
2 for a period of thirty days, except as provided in this
3 subsection. During this time, the report shall not be subject
4 to subpoena and shall not be subject to discovery or admissible
5 in evidence in any private action, provided no court of
6 competent jurisdiction has ordered production. Thereafter, the
7 commissioner shall open the report for public inspection,
8 provided no court of competent jurisdiction has stayed its
9 publication. This section shall not be construed to limit the
10 commissioner's authority to use any final or preliminary market
11 conduct examination report, and examiner or company work papers
12 or other documents, or any other information discovered or
13 developed during the course of an examination in the furtherance
14 of any legal or regulatory action that the commissioner, in the
15 commissioner's sole discretion may deem appropriate.

16 Nothing contained in this article shall prevent or be
17 construed as preventing the commissioner from disclosing the
18 content of an examination report, preliminary examination report
19 or results, or any matter relating thereto, to the insurance
20 division of this or any other state or agency of the federal
21 government at any time, provided the agency or office receiving



1 the report or matters relating thereto agrees to hold it
2 confidential and in a manner consistent with this article.

3 (1) Where the reasonable and necessary cost and fees of a
4 market conduct examination are to be assessed against the
5 insurer under examination, the costs and fees shall be
6 consistent with that otherwise authorized by law. Costs and
7 fees shall be itemized and bills shall be provided to the
8 insurer on a monthly basis for review prior to submission for
9 payment.

10 The commissioner shall maintain active management and
11 oversight of examination costs and fees, including costs and
12 fees associated with the use of insurance division personnel and
13 examiners and with retaining qualified contract examiners
14 necessary to perform an examination. To the extent the
15 commissioner retains outside assistance, the commissioner must
16 have in writing protocols that:

- 17 (1) Clearly identify the types of functions to be subject
18 to outsourcing;
- 19 (2) Provide specific timelines for completion of the
20 outsourced review;
- 21 (3) Require disclosure of contract examiners'
22 recommendations;



- 1 (4) Establish and utilize a dispute resolution or
2 arbitration mechanism to resolve conflicts with
3 insurers regarding examination costs and fees; and
4 (5) Require disclosure of the terms of the contracts with
5 the outside consultants that will be used,
6 specifically the costs and fees or hourly rates, or
7 both that can be charged.

8 The commissioner shall review and affirmatively endorse
9 detailed billings from the qualified contract examiner before
10 the detailed billings are sent to the insurer.

11 The commissioner may contract in accordance with applicable
12 state contracting procedures, for qualified contract actuaries
13 and examiners as the commissioner deems necessary, provided that
14 the compensation and per diem allowances paid to the contract
15 persons shall not exceed one hundred twenty-five per cent of the
16 compensation and per diem allowances for examiners set forth in
17 the guidelines adopted by the National Association of Insurance
18 Commissioners, unless the commissioner demonstrates that one
19 hundred twenty-five per cent is inadequate under the
20 circumstances of the examination.

21 **§431: -7 Confidentiality requirements.** (a) Except as
22 otherwise provided by law, market conduct surveillance personnel



1 shall have free and full access to all books and records,
2 employees, officers and directors, as practicable, of the
3 insurer during regular business hours. An insurer utilizing a
4 third-party model or product for any of the activities under
5 examination shall cause, upon the request of market conduct
6 surveillance personnel, the details of those models or products
7 to be made available to those personnel. All documents, whether
8 from a third party or an insurer, including but not limited to
9 working papers, third party models or products, complaint logs,
10 and copies thereof, created, produced, or obtained by or
11 disclosed to the commissioner or any other person in the course
12 of any market conduct actions made pursuant to this article, or
13 in the course of market analysis by the commissioner of the
14 market conditions of an insurer, or obtained by the National
15 Association of Insurance Commissioners as a result of any of the
16 provisions of this article, shall be confidential by law and
17 privileged, shall not be subject to subpoena and shall not be
18 subject to discovery or admissible in evidence in any private
19 civil action.

20 (b) No waiver of any applicable privilege or claim of
21 confidentiality in the documents, materials, or information



1 shall occur as a result of disclosure to the commissioner under
2 this section.

3 (c) Market conduct surveillance personnel shall be vested
4 with the power to issue subpoenas and examine insurance company
5 personnel under oath when such action is ordered by the
6 commissioner.

7 (d) Notwithstanding any other law to the contrary, the
8 Commissioner may:

- 9 (1) Share documents, materials, or other information,
10 including the confidential and privileged documents,
11 materials, or information subject to subsection (a),
12 with other state, federal, and international
13 regulatory agencies and law enforcement authorities
14 and the National Association of Insurance
15 Commissioners and its affiliates and subsidiaries;
16 provided that the recipient agrees to and has the
17 legal authority to maintain the confidentiality and
18 privileged status of the document, material,
19 communication, or other information;
- 20 (2) Receive documents, materials, communications, or
21 information, including otherwise confidential and
22 privileged documents, materials, or information, from



1 the National Association of Insurance Commissioners
 2 and its affiliates or subsidiaries, and from
 3 regulatory and law enforcement officials of other
 4 foreign or domestic jurisdictions, and shall maintain
 5 as confidential or privileged any document, material,
 6 or information received with notice or the
 7 understanding that it is confidential or privileged
 8 under the laws of the jurisdiction that is the source
 9 of the document, material, or information; and

10 (3) Enter into agreements governing the sharing and use of
 11 information consistent with this subsection; and

12 (4) No insurer shall be compelled to disclose an insurance
 13 compliance self-evaluative audit document or waive any
 14 statutory or common law privilege, but may voluntarily
 15 disclose such document to the commissioner in response
 16 to any market analysis, market conduct action, or
 17 examination as provided in this article.

18 **§431: -8 Market conduct surveillance personnel. (a)**

19 Market conduct surveillance personnel shall be qualified by
 20 education, experience, and, where applicable, professional
 21 designations. The commissioner may supplement the in-house
 22 market conduct surveillance staff with qualified outside



1 professional assistance if the commissioner determines that
2 assistance is necessary.

3 (b) Market conduct surveillance personnel have a conflict
4 of interest, either directly or indirectly, if they are
5 affiliated with the management, have been employed by, or own a
6 pecuniary interest in the insurer subject to any examination
7 under this article within the most recent five years prior to
8 the use of the personnel. This section shall not be construed
9 to automatically preclude an individual from being:

10 (1) A policyholder or claimant under an insurance policy;

11 (2) A grantee of a mortgage or similar instrument on the
12 individual's residence from a regulated entity if done
13 under customary terms and in the ordinary course of
14 business;

15 (3) An investment owner in shares of regulated diversified
16 investment companies; or

17 (4) A settlor or beneficiary of a "blind trust" into which
18 any otherwise permissible holdings have been placed.

19 **§431: -9 Immunity for market conduct surveillance**

20 **personnel.** (a) No cause of action shall arise nor shall any
21 liability be imposed against the commissioner, the
22 commissioner's authorized representatives or an examiner



1 appointed by the commissioner for any statements made or conduct
2 performed in good faith while carrying out the provisions of
3 this article.

4 (b) No cause of action shall arise, nor shall any
5 liability be imposed against any person for the act of
6 communicating or delivering information or data to the
7 commissioner or the commissioner's authorized representative or
8 examiner pursuant to an examination made under this article, if
9 the act of communication or delivery was performed in good faith
10 and without fraudulent intent or the intent to deceive.

11 (c) A person identified in subsection (a) shall be
12 entitled to an award of attorney's fees and costs if the person
13 is the prevailing party in a civil cause of action for libel,
14 slander, or any other relevant tort arising out of activities in
15 carrying out the provisions of this article and the party
16 bringing the action was not substantially justified in doing so.
17 For purposes of this section a proceeding is "substantially
18 justified" if it had a reasonable basis in law or fact at the
19 time that it was initiated.

20 (d) This section does not abrogate or modify in any way
21 any common law or statutory privilege or immunity heretofore
22 enjoyed by any person identified in subsection (a).



1 **§431: -10 Fines and penalties.** (a) Fines and penalties
2 levied pursuant to this article or other provisions of this
3 chapter shall be consistent, reasonable, and justified.

4 (b) The commissioner shall take into consideration actions
5 taken by insurers that maintain membership in best-practice
6 organizations that exist to promote high ethical standards of
7 conduct in the marketplace, and insurers that self assess, self-
8 report and remediate problems detected to mitigate fines levied
9 pursuant to this article.

10 **§431: -11 Data collection and participation in national**
11 **market conduct databases.** (a) The commissioner shall collect
12 and report market data to the market information systems of the
13 National Association of Insurance Commissioners, including the
14 complaint database system, the examination tracking system, and
15 the regulatory information retrieval system, or other comparable
16 successor products as determined by the commissioner. In
17 addition to complaint data, the accuracy of insurer-specific
18 information reported to the National Association of Insurance
19 Commissioners to be used for market analysis purposes or as the
20 basis for market conduct actions shall be reviewed by
21 appropriate personnel in the insurance department and by the
22 insurer.



1 (b) Information collected and maintained by the insurance
2 division shall be compiled in a manner that meets the
3 requirements of the National Association of Insurance
4 Commissioners.

5 (c) After completion of any level of market analysis,
6 prior to further market conduct action, the State shall contact
7 the insurer to review the analysis.

8 (d) A company responding to a commissioner's request to
9 produce information shall produce it as it is kept in the usual
10 course of business or shall organize and label it to correspond
11 with the categories in the demand.

12 If a commissioner's request does not specify the form or
13 forms for producing electronically stored information, a company
14 responding to the request must produce the information in a form
15 or forms in which the company ordinarily maintains it or in a
16 form or forms that are reasonably usable.

17 A company responding to an information request need not
18 produce the same electronically stored information in more than
19 one form.

20 A company responding to an information request need not
21 provide the electronically stored information from sources that



1 the company identifies as not reasonably accessible because of
2 undue burden or cost.

3 **§431: -12 Coordination with other states through the**
4 **National Association of Insurance Commissioners.** The
5 commissioner shall share information and coordinate the
6 insurance division's market analysis and examination efforts
7 with other states through the National Association of Insurance
8 Commissioners.

9 **§431: -13 Additional duties of the commissioner.** (a)
10 At least once per year, or more frequently if deemed necessary,
11 the commissioner shall make available in an appropriate manner
12 to insurers and other entities subject to the scope of this
13 chapter, information on new laws and rules, enforcement actions,
14 and other information the commissioner deems pertinent to ensure
15 compliance with market conduct requirements.

16 (b) The commissioner shall designate a specific person or
17 persons within the insurance division whose responsibilities
18 shall include the receipt of information from employees of
19 insurers and licensed entities concerning violations of laws, as
20 defined in this section. The person or persons shall be
21 provided with proper training on the handling of the



Report Title:

Insurance; Market Conduct

Description:

Enacts the National Conference of Insurance Legislators market conduct surveillance model law, which requires the insurance commissioner to conduct market conduct examinations of domestic and foreign insurers.

