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# Closing the Loopholes on Fraud





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## *OIFP's Recommendations for Legislative and Regulatory Reform*

Pursuant to N.J.S.A. 17:33A-24, the Office of the Insurance Fraud Prosecutor (OIFP) is required to evaluate and formulate proposals for legislative, administrative, and judicial initiatives to strengthen insurance fraud enforcement.

Some of the recommendations made by OIFP in prior Annual Reports have been implemented through the enactment of legislation, or by the adoption of regulations.

One important regulatory recommendation proposed by OIFP last year involved the regulation of towing companies.<sup>1</sup>

This proposal was directed toward unscrupulous towing companies which artificially inflate fees for the towing and storing of automobiles which have been involved in accidents or which have been towed and stored after retrieval as abandoned or stolen property. This conduct greatly impacts automobile insurance claims.

Two legislative initiatives are under review by the State Legislature.<sup>2</sup> These bills require the Department of Banking and Insurance to promulgate regional fee schedules addressing the recovery, towing, and storage of automobiles. Additional legislative action with respect to these bills is anticipated during calendar year 2005.

Other recommendations include:

### **Criminal Use of Runners Statute**

#### **Statement of the Problem:**

The Criminal Use of Runners statute, N.J.S.A. 2C:21-22.1, currently does not apply to schemes which target the Medicaid, Pharmaceutical Assistance to the Aged and Disabled Program (PAAD), and Senior Gold Prescription Discount Program (SG). These programs are not "contracts of insurance" and the Medicaid program is not an insurance carrier as defined in the "Runners" statute. The State spent approximately \$1 billion in calendar year 2004 on these programs. In addition, the definition of "provider" does not currently include "practitioners" as defined in the Health Care Claims Fraud statute.

#### **Proposed Solution:**

Amend the definition of "provider" in N.J.S.A. 2C:21-22.1(a) to include "practitioner" as defined in N.J.S.A. 2C:21-24.2. The inclusion of "practitioner" within the definition of "provider" conforms this statute to our Health Care Claims Fraud statute, N.J.S.A. 2C:21-4.2. This inclusion is appropriate

<sup>1</sup> 2003 Annual Report, Office of the Insurance Fraud Prosecutor, p.178.

<sup>2</sup> Assembly Bill 2829 and Senate Bill 1497.



because the “Runners” statute is designed to deter Health Care Claims Fraud schemes. Amend the definition of “runner” in N.J.S.A. 2C:21-22.1(a) to include any State or federally-funded health insurance or prescription assistance plan. Since the “Runners” statute carries a penalty of five years State prison with a presumption of imprisonment and a \$15,000 fine, enforcement efforts would be enhanced by the passage of this amendment and greater protection would be given to taxpayer-funded programs.

## **Fictitious Insurance Identification Cards**

### **Statement of the Problem:**

The conduct of issuing, selling, offering for sale, possession, creating, or displaying a fictitious insurance identification card is not expressly actionable pursuant to the Insurance Fraud Prevention Act. It is not actionable because this conduct does not involve a policy of insurance, but rather a purported policy of insurance.

### **Proposed Solution:**

N.J.S.A. 17:33A-4a should be amended to include a section 4a(6) as follows:

A person or practitioner violates this Act if he:

- A. Produces, sells, offers, or exposes for sale a document, printed form, or other writing which simulates a motor vehicle insurance identification card;
- B. Exhibits or displays to a law enforcement officer or a person conducting a motor vehicle inspection pursuant to Chapter 8 or Title 39 of the Revised Statutes, a falsely made, forged, altered, counterfeited, or simulated motor vehicle insurance identification card, knowing that the insurance identification card was falsely made, forged, altered, counterfeited, or simulated.
- C. Possesses a falsely made, forged, altered, counterfeited, or simulated motor vehicle insurance identification card, knowing that the insurance card was falsely made, forged, altered, counterfeited, or simulated.

OIFP intends to provide updates on these and other statutory and regulatory recommendations in the near future.

# OIFP Expenditures for Fiscal Year 2001 – 2004

	FY 2001	FY 2002	FY 2003	FY 2004
<b>Resources</b>				
Resources	\$29,771,000	\$29,771,000	\$29,771,000	\$29,771,000
Carry Forward	\$37,225	\$282,960	\$95,445	\$189,600
<b>Total Resources Available<sup>1</sup></b>	<b>\$29,808,225</b>	<b>\$30,053,960</b>	<b>\$29,866,445</b>	<b>\$29,960,600</b>

	FY 2001	FY 2002	FY 2003	FY 2004
<b>Expenditures</b>				
Salaries	\$14,998,761	\$16,321,577	\$16,689,972	\$17,580,358
Fringe Benefits	\$3,659,287	\$3,839,786	\$3,971,668	\$5,194,421
Non-Salary	\$4,760,995	\$2,808,513	\$2,594,686	\$2,830,986
Division of Law Payment	\$1,294,544	\$1,561,695	\$1,711,597	\$1,665,474
Public Awareness	\$2,197,970	\$1,858,186	\$1,900,000	\$300,000
County Prosecutor Program	\$2,884,225	\$3,024,438	\$2,998,521	\$2,389,361
<b>Total Expenditures<sup>2</sup></b>	<b>\$29,795,782</b>	<b>\$29,414,195</b>	<b>\$29,866,444</b>	<b>\$29,960,600</b>

<sup>1</sup> These figures represent total funding available to support OIFP operations in a given fiscal year. Unencumbered funds are not billed to the insurance industry.

<sup>2</sup> These figures represent the total expenditures for OIFP operations in the given fiscal year.

*Fiscal Year = July 1 through June 30*