

## Senate General Government, Consumer and Small Business Protection

March 15, 2013

Mr. Chairman and members of the committee:

My name is John C. Powell. I am an attorney and an associate at John Powell & Associates. Our offices are at 2015 State Street, Salem, Oregon.

Today I speak on behalf of Standard Insurance Company, Liberty Mutual and State Farm Insurance Companies. These insurers market most lines of insurance in Oregon, including but not limited to property/casualty, life, health, long-term care, and worker's compensation insurance. We oppose SB 686, which seeks to add insurance to Oregon's Unlawful Trade Practices Act (UTPA). This testimony speaks directly to SB 686, but is also applicable to the other so called "second lawsuit" or "bad faith" bills (SB 512, SB 513, SB 514). The UTPA is a statute that protects consumers from unfair general business practices by granting the Attorney General jurisdiction over such matters as well as creating a private cause of action. Insurance was explicitly excluded from the UTPA when it was written and should remain so for many reasons.

In this testimony, I want to first refer the committee to past testimony in opposition to or questioning similar bills that have come before the legislature. Second, I want to provide the committee with a glance at the wide difference between the insurance product and products you would buy at an appliance store, a retail electronics outlet or an online subscription. This is really the issue raised by SB 686 (and SB 512, SB 513, SB 514) and why each form of commerce should be regulated differently.

To begin, I refer you to the transcript of testimony given by the former Director of Oregon's Department of Insurance and Finance (now DCBS) and former Governor Ted Kulongoski (*see Exhibit #1*). The future Attorney General, Supreme Court Justice and Governor testified against the establishment of creating a private right of action under the insurance code stating in part:

"That if it's the committee's desire that there should be a private cause of action, I'm even more strongly opposed to the proposal...My objection to that is...is one, in my experience both as an attorney in a similar process as that and secondly, my experience now as the insurance commissioner in dealing with the carriers and trying to get settlements in these matters. My objections is that I can guarantee you that if you pass the bill, it's going to cost the administrative side just a great deal of time and money and we will not be able to resolve the claims...To be very blunt, that if the law is passed...if this measure is passed, the carriers will not respond to us...the parties, basically use the administrative agency as the investigatory arm to gather facts and then at the end of the period the matter becomes a public record and then they take it and then they make their decision whether they want to go to court or not. I don't like that process and I don't think that's the way we should be handling the resolution of these type of complaints. That's all I have."

While the proposal he was testifying against was different (although more limited, but similar to SB 686, SB 512, SB 513, SB 514), the central issue he raised is the same. If the parties to a dispute know it is going to court, they will respond to a regulatory agency differently. The parties to such disputes will use the regulator agency as a research arm to use in court, instead of resolving the issue equitably.

Next, I refer the committee to the written testimony given by former Director of DCBS, Cory Streisinger on a bill that sought to add insurance to the UTPA in 2010. In her testimony, then Director Streisinger points out the comprehensive consumer protection statutes that currently apply to insurance and raises concern about duplicating rulemaking and enforcement authority exercised within DCBS by adding such authority to the Attorney General (*see Exhibit #2*).

Again, in the 2011 session another bill was introduced proposing to add insurance to the UTPA. Writing in the *Oregon Insurance Regulator*, then Administrator of the Oregon Insurance Division, Teresa Miller stated (*see Exhibit #3*):

“Senate Bill 719 would allow the Attorney General to regulate insurance under the [UTPA]. In effect, this would create a dual system of state insurance regulation, which raises some concerns. For example, if the Attorney General and our Department of Consumer and Business Services (DCBS) both have authority to address violations of the Insurance Code, one could issue rules that are inconsistent with rules issued by the other. Also DCBS and the Attorney General could both separately require conflicting or different remedial action for a violation of the Insurance Code. If the Attorney General and DCBS could not agree on the remedial action necessary, which regulator should the producer or insurer listen to?”

Finally, the remaining portion of this testimony focuses on how insurance is different from other products and services we all use and purchase and for that reason should be regulated differently. When a consumer purchases a product in general commerce she is depending on the manufacturer and retailer to be fair. The consumer expects the product to be of reasonable quality and fairly represented by all involved in the sale. Those transactions and the actions of the parties are protected under the UTPA.

On the other hand, when a consumer purchases an insurance product, the issue of fairness has been addressed before the product can even be sold to a consumer. The Oregon Insurance Division (OID) must first approve the actual wording of the policy (*see Exhibit #4*). After the sale of an insurance product, the consumer continues to be protected by an entire governmental department, the OID. Insurance products, insurance companies and their producer agents are subject to an entire section of Oregon law --- 571 pages of statute known as the Insurance Code (ORS 731-52). Within the Insurance Code, insurers and insurance producers (agents) are subject to extensive and specific trade practices laws in ORS 746, including a section entitled, Unfair Claim Settlement Practices (ORS 746.230) (*See Exhibit #5*). This act gives protections to consumers against misrepresentations, delay in processing claims fairly and failure of insurers to respond promptly to communications related to claims, among many more protections.

Furthermore, the Insurance Code gives nearly unlimited regulatory authority to the Director of the Department of Consumer & Business Services (DCBS). ORS 746.240 is entitled, Undefined trade practices injurious to public prohibited (*See Exhibit #6*). This section of the code states:

“No person shall engage in this state in any trade practice that, although not expressly defined and prohibited in the Insurance Code, is found by the Director of the Department of Consumer and Business Services to be an unfair or deceptive act or practice in the transaction of insurance that is injurious to the insurance-buying public.”

In addition to the Insurance Code, the Insurance Division has vast rulemaking powers. *Exhibit #7* is a copy of the table of contents of the Division’s rules. Just the table of contents is 32 pages long and that is printed in very small font.

The Insurance Code and related administrative rules grant the Director of DCBS the authority to issue fines, issue cease and desist orders, revoke producer licenses and revoke the license of an entire insurance company to do business in Oregon. In *Exhibit #8* you will find an example of fines and revocations applied recently by the Insurance Commissioner.

In addition to the regulation described above, worker’s compensation insurance is regulated by a separate division of DCBS, the Worker’s Compensation Division. Insurers selling worker’s compensation coverage are regulated by this Division of government, and as you know, worker’s compensation insurance has its own voluminous consumer protection statutes and rules.

Insurance and the method of regulating it are different from other industries covered by the UTPA. The Insurance Code was drafted to deal *particularly* with insurance and creates a form of regulation that deals with the content of the product before it is sold and trade practices after it is sold. This large body of law and regulation is enforced by a specific agency that has teeth and expertise.

Currently, beyond the regulatory protection outlined above, a consumer may file a civil action against an insurance company or producer agent under contract law for breach of contract. If the insurer or agent’s actions were unconscionable, punitive damages can be assessed in addition to attorney fees and other damages found for the plaintiff. Adding the UTPA to this regulatory and contract law system will add costs that necessarily will be passed on to consumers.

Mr. Chairman and members of the committee, on behalf of the insurers and their producers, we ask that you oppose SB 686 and SB’s 512, 513, 514.

Sincerely,

John C. Powell

Testimony of Governor Kulongoski, when he was Director of the Department of Insurance and Finance in 1989. The Governor was testifying before the Senate Judiciary Committee on SB 521 – a bill introduced at the request of the Oregon Trial Lawyers Association, that would have created a first party right of action for an alleged violation of ORS 746.230 – the Unfair Claim Settlement Practices Statute.

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MADAM CHAIRPERSON AND MEMBERS OF THE COMMITTEE, FOR THE RECORD, MY NAME IS THEODORE KULONGOSKI, I AM THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AND FINANCE. THE REASON I AM HERE TODAY IS TO TESTIFY, REGARDING SENATE BILL 521. IN FACT I'LL BE VERY BRIEF. I'M HERE OPPOSING THE MEASURE AND THE CONCEPT IN 521 AND I WANT TO EXPLAIN WHY JUST VERY BRIEFLY.

OBVIOUSLY THE UNFAIR CLAIM SETTLEMENT PRACTICES ACT IS A REGULATORY ... ADMINISTRATIVE REGULATORY METHOD OF HANDLING DISPUTES BETWEEN CONSUMERS AND THE INSURER OR THEIR AGENTS ON MATTERS REGARDING A CLAIM. MY SPECIFIC OBJECTION IS THAT I THINK THAT THE CURRENT SYSTEM SHOULD BE RETAINED.

THAT IF IT'S THE COMMITTEE'S DESIRE THAT THERE SHOULD BE A PRIVATE CAUSE OF ACTION, I'M EVEN MORE STRONGLY OPPOSED TO THE PROPOSAL IN 521 THAT WOULD GIVE US 90 DAYS TO EITHER TELL THE CLAIMANT TO "PULL OVER" AND IF IT ISN'T RESOLVED IN

THAT 90-DAY PERIOD, TO MAKE OR INSTITUTE A PRIVATE CAUSE OF ACTION.

MY OBJECTION TO THAT IS...IS ONE, IN MY EXPERIENCE BOTH AS AN ATTORNEY IN A SIMILAR PROCESS AS THAT AND SECONDLY, MY EXPERIENCE NOW AS THE INSURANCE COMMISSIONER IN DEALING WITH THE CARRIERS AND TRYING TO GET SETTLEMENTS OF THESE MATTERS. MY OBJECTIONS IS THAT I CAN GUARANTEE YOU THAT IF YOU PASS THE BILL, IT'S GOING TO COST THE ADMINISTRATIVE SIDE JUST A GREAT DEAL OF TIME AND MONEY AND WE WILL NOT BE ABLE TO RESOLVE THE CLAIMS.

TO BE VERY BLUNT, THAT IF THE LAW IS PASSED...IF THIS MEASURE IS PASSED, THE CARRIERS WILL NOT RESPOND TO US AND WHAT WILL HAPPEN IS THEY'LL WAIT THE 90 DAYS AND THEN THEY'LL JUST HANDLE THE LEGAL PROCEDURE. THE REASON IS THAT A SIMILAR PROCEDURE LIKE THIS IS WITH THE BUREAU OF LABOR ON CERTAIN UNFAIR EMPLOYMENT PRACTICES WHERE IN FACT, THE PARTIES, BASICALLY USE THE ADMINISTRATIVE AGENCY AS THE INVESTIGATORY ARM TO GATHER FACTS AND THEN AT THE END OF THE PERIOD THE MATTER BECOMES A PUBLIC RECORD AND THEN THEY TAKE IT AND THEN THEY MAKE THEIR DECISION WHETHER THEY WANT TO GO TO COURT OR NOT. I DON'T LIKE THAT PROCESS AND I DON'T THINK THAT THAT'S THE WAY WE SHOULD BE HANDLING THE RESOLUTION OF THESE TYPE OF COMPLAINTS. THAT'S ALL I HAVE.



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Before the  
**House Committee on Consumer Protection and Government Accountability**

February 8, 2010

**HOUSE BILL 3615**

Testimony of  
Cory Streisinger, Director  
Department of Consumer and Business Services

My name is Cory Streisinger, and I am the Director of the Department of Consumer and Business Services. I am here today to offer comments on House Bill 3615, which would include insurance and lending under the Unfair Trade Practices Act (UTPA). As you know, DCBS currently regulates insurance and certain types of lending. And as a consumer protection agency, we support strong consumer protection standards in the areas we regulate.

With respect to insurance, states are the primary regulators of insurance, and our regulatory responsibilities cover all aspects of insurance. Existing law is fairly comprehensive, and includes broad consumer protections very similar, though not identical, to those in the UTPA. Attached to my testimony are some of the broad consumer protection statutes that apply to insurance. In addition to many specific prohibitions, there are general prohibitions on:

- Making any statement misrepresenting the terms of any insurance policy, or the benefits or advantages of any insurance policy. ORS 746.075(2)(a)
- Employing any device, scheme, or artifice to defraud. ORS 746.075(2)(e)
- Obtaining money or property by means of any untrue statement of a material fact, or any omission to state a material fact necessary in order to make the statement, in light of the circumstances under which it was made, not misleading. ORS 746.075(f)
- Engaging in any other transaction, practice, or course of business that operates as a fraud or deceit upon the purchaser, insured, or person with policy ownership rights. ORS 746.075(2)(g)
- Untrue, deceptive, or misleading advertising. ORS 746.110

In addition, ORS 746.240 provides that “No person shall engage in this state in any trade practice that, although not expressly defined and prohibited in the Insurance Code, is found by the Director of the Department of Consumer and Business Services to be an unfair or deceptive act or practice in the transaction of insurance that is injurious to the insurance-buying public.”

Some examples of issues we’ve addressed recently through rulemaking include our suitability rules for life insurance products, prohibiting the sale of life insurance or annuities to seniors when the product being sold is not suitable in light of the buyer’s age, financial situation and other needs; and our rule barring insurance salespeople from using non-substantive or misleading titles such as

“retirement specialist” or “senior advisor” when those titles do not represent actual professional credentials.

We have a staff of consumer advocates who work with consumers to resolve individual insurance problems. When we see a recurring problem or trend, it will be referred to our market analysis staff who can do a more in-depth investigation. We have broad enforcement powers as well, including the ability to impose fines and require disgorgement of profits, issue cease-and-desist orders, suspend or revoke licenses and certificates of authority, and even seek criminal penalties.

An example of how this process works is our enforcement action against Bankers Life for the sale of unsuitable annuities to seniors. We learned of the problem through a contact to our consumer advocates; our market analysis staff did an investigation; and we imposed a \$150,000 fine, obtained restitution for those who had been sold annuities that weren't suitable for them, revoked the licenses of several agents who had sold the products, and required the company to make substantial changes in its business practices going forward.

In the lending area, the state regulatory framework is not quite as comprehensive, although consumer lending is also subject to a variety of federal consumer protection laws. We regulate state-chartered banks and credit unions, mortgage brokers and bankers, consumer finance lenders, payday and title lenders, and pawnbrokers, but we do not regulate federal banks and credit unions (and are preempted from doing so). The statutes governing each of these areas vary in how they address lending practices.



Mortgage lending has been a major focus for us over the past several years, and in this area there are also broad consumer protections similar to those in the UTPA. Excerpts from our mortgage lending statutes are attached. In addition to many specific prohibitions, it is unlawful for a person subject to our mortgage lending laws to:

- Employ a device, scheme or artifice to defraud, or engage in an act, practice or course of business that operates as a fraud or deceit. ORS 86A.154(1)&(2); ORS 86A.236(2)
- Knowingly make an untrue statement of a material fact or omit from a statement a material fact that would make the statement not misleading. ORS 86A.154(2); ORS 86A.236(3)
- Engage in an unfair or deceptive practice toward another person. ORS 86A.236(5)

We have broad rulemaking authority – an example is our rules prohibiting misleading advertising by mortgage lenders in connection with refinance offers. And we have extensive enforcement powers – fines, cease-and-desist orders, the ability to suspend or revoke licenses, and criminal penalties. Over the past two years we have taken enforcement action and issued sanctions in 75 mortgage lending cases, resulting in 26 license suspensions, revocations, or other bars from the mortgage business, and over \$400,000 in fines.

House Bill 3615 would impose new substantive standards on insurance and lending – those contained in the UTPA. As I mentioned, those standards are similar, though not identical, to standards existing in some areas of current law. The bill would create a private right of action. And finally, it would create

rulemaking and enforcement authority for the Attorney General, duplicating rulemaking and enforcement authority currently exercised by DCBS.

This last issue gives us some concern, because it raises the potential for confusion and lack of clarity. In general, we think it is preferable to for those in highly regulated areas to deal with a single regulator at the state level, so that expectations and directions are clear and consistent. This is particularly true with respect to insurance, where the state is the sole regulator and our authority extends to the entire industry. We have staff with a great deal of expertise in these areas, and we believe it would make most sense to leave primary rulemaking and enforcement authority with DCBS for those entities we regulate today, regardless of how you decide with respect to the other issues in the bill.

Thank you, and I'll be happy to respond to any questions.

## Insurance – Consumer Protection (Selected Statutes)

### 746.075 Misrepresentation generally.

(1) A person may not engage, directly or indirectly, in any action described in subsection (2) of this section in connection with:

(a) The offer or sale of any insurance; or

(b) Any inducement or attempted inducement of any insured or person with ownership rights under an issued life insurance policy to lapse, forfeit, surrender, assign, effect a loan against, retain, exchange or convert the policy.

(2) Subsection (1) of this section applies to the following actions:

(a) Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages therein or the dividends or share of surplus to be received thereon;

(b) Making any false or misleading representation as to the dividends or share of surplus previously paid on similar policies;

(c) Making any false or misleading representation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(d) Using any name or title of any policy or class of policies misrepresenting the true nature thereof;

(e) Employing any device, scheme or artifice to defraud;

(f) Obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statement, in light of the circumstances under which it was made, not misleading;

(g) Engaging in any other transaction, practice or course of business that operates as a fraud or deceit upon the purchaser, insured or person with policy ownership rights;  
or

(h) Materially misrepresenting the provider network of an insurer offering managed health insurance or preferred provider organization insurance as defined in ORS 743.801, including its composition and the availability of its providers to enrollees in the plan. [1967 c.359 §574; 2001 c.266 §7]

746.080 [Amended by 1967 c.359 §509; renumbered 743.708]

746.240 Undefined trade practices injurious to public prohibited. No person shall engage in this state in any trade practice that, although not expressly defined and prohibited in the Insurance Code, is found by the Director of the Department of Consumer and Business Services to be an unfair or deceptive act or practice in the transaction of insurance that is injurious to the insurance-buying public. [1967 c.359 §589; 1973 c.281 §2]

746.250 [1967 c.359 §590; repealed by 1973 c.281 §3]

746.110 False, deceptive or misleading statements. No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which is untrue, deceptive or misleading. [Formerly 736.608]

746.120 Illegal dealing in premiums. No person shall willfully collect any sum as premium or charge for insurance which is not then provided, or is not in due course to be provided subject to acceptance of the risk by the insurer, under an insurance policy issued by an insurer in conformity to the Insurance Code. [1967 c.359 §579]

**746.230 Unfair claim settlement practices.** (1) No insurer or other person shall commit or perform any of the following unfair claim settlement practices:

(a) Misrepresenting facts or policy provisions in settling claims;

(b) Failing to acknowledge and act promptly upon communications relating to claims;

(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims;

(d) Refusing to pay claims without conducting a reasonable investigation based on all available information;

(e) Failing to affirm or deny coverage of claims within a reasonable time after completed proof of loss statements have been submitted;

(f) Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear;

(g) Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants;

(h) Attempting to settle claims for less than the amount to which a reasonable person would believe a reasonable person was entitled after referring to written or printed advertising material accompanying or made part of an application;

(i) Attempting to settle claims on the basis of an application altered without notice to or consent of the applicant;

(j) Failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them, of the coverage under which payment has been made;

(k) Delaying investigation or payment of claims by requiring a claimant or the physician of the claimant to submit a preliminary claim report and then requiring subsequent submission of loss forms when both require essentially the same information;

(l) Failing to promptly settle claims under one coverage of a policy where liability has become reasonably clear in order to influence settlements under other coverages of the policy; or

(m) Failing to promptly provide the proper explanation of the basis relied on in the insurance policy in relation to the facts or applicable law for the denial of a claim.

(2) No insurer shall refuse, without just cause, to pay or settle claims arising under coverages provided by its policies with such frequency as to indicate a general business

practice in this state, which general business practice is evidenced by:

(a) A substantial increase in the number of complaints against the insurer received by the Department of Consumer and Business Services;

(b) A substantial increase in the number of lawsuits filed against the insurer or its insureds by claimants; or

(c) Other relevant evidence.

(3)(a) No health maintenance organization, as defined in ORS 750.005, shall unreasonably withhold the granting of participating provider status from a class of statutorily authorized health care providers for services rendered within the lawful scope of practice if the health care providers are licensed as such and reimbursement is for services mandated by statute.

(b) Any health maintenance organization that fails to comply with paragraph (a) of this subsection shall be subject to discipline under ORS 746.015.

(c) This subsection does not apply to group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Health Maintenance Organization Act. [1967 c.359 §588a; 1973 c.281 §1; 1989 c.594 §1]

**744.074 Authority of director to place licensee on probation or to suspend, revoke or refuse to issue or renew license.**

(1) The Director of the Department of Consumer and Business Services may place a licensee on probation or suspend, revoke or refuse to issue or renew an insurance producer license and may take other actions authorized by the Insurance Code in lieu thereof or in addition thereto, for any one or more of the following causes:

(a) Providing incorrect, misleading, incomplete or materially untrue information in the license application.

(b) Violating any insurance laws, or violating any rule, subpoena or order of the director or of the insurance commissioner of another state or Mexico or Canada.

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud.

(d) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business.

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

(f) Having been convicted of a felony, of a misdemeanor involving dishonesty or breach of trust, or of an offense punishable by death or imprisonment under the laws of the United States. The record of the conviction shall be conclusive evidence of the conviction.

(g) Having admitted or been found to have committed any unfair trade practice or fraud related to insurance.

(h) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

(i) Cancellation, revocation, suspension or refusal to renew by any state of a license or other evidence of authority to act as an adjuster or an insurance producer or consultant. The record of the cancellation, revocation, suspension or refusal to renew shall be conclusive evidence of the action taken.

(j) Cancellation, revocation, suspension or refusal to renew by any state or federal agency, by a Canadian province or by the government of Mexico of the authority to practice law or to practice under any other regulatory authority if the cancellation, revocation, suspension or refusal to renew was related to the business of an adjuster or an insurance producer or consultant, or if dishonesty, fraud or deception was involved. The record of the cancellation, revocation, suspension or refusal to renew shall be conclusive evidence of the action taken.

(k) Forging another person's name to an application for insurance or to any document related to an insurance transaction.

(L) Improperly using notes or any other reference material to complete an examination for an insurance license.

(m) Knowingly accepting insurance business from an individual who is not licensed.

(n) Error by the director in issuing or renewing a license.

(o) Failing to pay a civil penalty assessed by the director that has become final by operation of law or upon appeal.

(p) Failing to pay any fee or charge to the director.

(q) Failing to comply with continuing education requirements applicable to the license or any class of insurance authorized under the license, unless the director has waived the requirements.

(2) If the director refuses to issue or renew an insurance producer license, the director shall notify the applicant or licensee and inform the applicant or licensee in writing of the reason for the refusal to issue or renew and of the applicant's or licensee's rights under ORS chapter 183.

(3) The director may suspend, revoke or refuse to issue or renew the insurance producer license of a business entity if the director determines that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation but the violation was not reported to the director and corrective action was not taken. [2001 c.191 §14; 2003 c.364 §15]

744.075 [1967 c.359 §532; 1983 c.76 §4; 1989 c.701 §28; 1991 c.810 §7; repealed by 2001 c.191 §61]

**746.045 Rebates.** No person shall personally or otherwise offer, promise, allow, give, set off, pay or receive, directly or indirectly, any rebate of or rebate of part of the premium payable on an insurance policy or the insurance producer's commission thereon, or earnings, profit, dividends or other benefit founded, arising, accruing or to accrue on or from the policy, or any other valuable consideration or inducement to or for insurance on any domestic risk, which is not specified in the policy. [1967 c.359 §571; 2003 c.364 §135]

746.050 [Amended by 1961 c.256 §4; repealed by 1967 c.359 §704]

## Administrator's message



Teresa Miller

Following the disaster in Japan, I'm sure some of you are seeing increased interest in earthquake insurance and perhaps flood insurance for coastal residents wanting protection against a tsunami. While earthquake coverage remains readily available in Oregon, I want you to know that we do expect to see increases in the cost of this insurance. Our property and casualty technician, Cece Newell, explains why on Page 5 of this newsletter.

Meanwhile, as we pass the midway point for the 2011 Legislature, I want to share these updates on some key legislation. I apologize in advance that some of this will be outdated by the time you see this newsletter.

**Children's health insurance enrollment:** Senate Bill 514, if passed, is intended to restore year-round enrollment for children in Oregon's individual insurance market. As you know, insurers may no longer reject children under age 19 for coverage because of pre-existing conditions. They may, however, limit signups to certain enrollment periods. This bill and related rules would establish a reinsurance program through the Oregon Medical Insurance Pool that evenly spreads the risk of enrolling high-cost children so that no insurer pays a disproportionate amount. The legislation has passed in the Senate and now is awaiting House approval. If it becomes law, we could return to year-round enrollment by fall 2011 and put an end to a lot of consumer confusion.

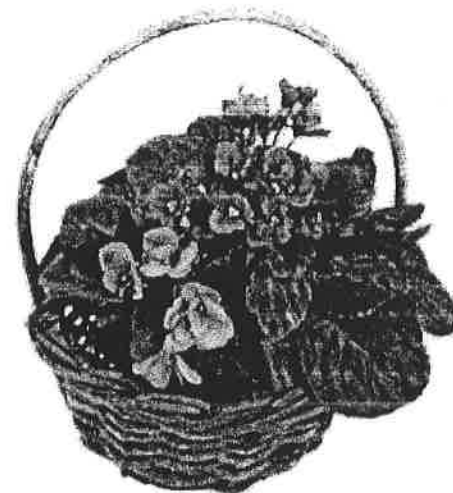
**Interstate compact:** House Bill 2095 passed out of the House and is now in the Senate. This legislation would add Oregon to the states that belong to the Interstate Insurance Product Regulation Commission, making life insurance products more readily available to Oregonians.

**Unlawful Trade Practices Act:** Senate Bill 719 would allow the Attorney General to regulate insurance under the Unlawful Trade Practices Act (UTPA). In effect, this would create a dual system of state insurance regulation, which raises some concerns. For example, if the Attorney General and our Department of Consumer and Business Services (DCBS) both have authority to address violations of the Insurance Code, one could issue rules that are inconsistent with rules issued by the other. Also, DCBS and the Attorney General could both separately require conflicting or different remedial action for a violation of the Insurance Code. If the Attorney General and DCBS could not agree on the remedial action necessary, which regulator should the producer or insurer listen to? This bill is with the Senate Committee on General Government, Consumer, and Small Business Protection.

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**STANDARDS FOR MOTOR VEHICLE FORMS FILING**

This checklist (product standards) has been provided as an aid to assist you in preparing your filing. Please complete this checklist and attach it to the Supporting Documentation tab where indicated. ORS 731.296, OAR 836-010-0011 (2) & (3). This checklist includes relevant statutes, rules, bulletins, and other documented positions to enforce ORS 731.016. **The standards are summaries. Review of the entire statute or rule may be necessary.** After diligent consideration has been given to each item, mark either the "Yes" or the "N/A" box, or provide the page and paragraph where the information may be found. If a state specific amendatory endorsement is being used, please note the form number under the page and paragraph area. Compliance with these provisions must be certified by both the filer and an officer of the company signing the Certificate of Compliance form. These signatures certify the forms being submitted meet the requirements of our checklist and statutes. "Not applicable" can be used only if the item does not apply to the coverage being filed. Any line left blank may result in the delay or disapproval of the filing.

**The checklist is NOT APPLICABLE to the following:**

- For TOIs not listed, see our Web site for specific standards at: [http://insurance.oregon.gov/docs/serff/filing\\_requirements.html](http://insurance.oregon.gov/docs/serff/filing_requirements.html).
- Adopting bureau forms, see requirements under *Bureau Form Adoption* on our Web site.
- Adopting rating organization loss cost; see requirements under *Rating Organization Loss Cost* on our Web site.
- Motor-vehicle applications filed separately from the policy; see specific standards on our Web site.
- Mechanical breakdown, GAP and rental vehicle company filings; see specific requirements on our Web site.
- Filing of simple endorsements, title or declaration pages, or advertisements does not require a checklist of standards; see the Web site.

**Insurer name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Market:** \_\_\_\_\_

**TOI (type of insurance):**  19.0 Personal Auto

**Commercial lines**

20.0 Commercial Auto

**Sub-TOI code:** \_\_\_\_\_

19.0001 Private Passenger Auto  
 19.0002 Motorcycle  
 19.0003 Recreational Vehicles  
 19.0004 Other \_\_\_\_\_

20.0001 Business Auto  
 20.0002 Garage  
 20.0003 Other \_\_\_\_\_  
 20.0004 Truckers

**Type of filing:**

- Standard market  
 Non-standard market

- Antique/classic  
 Named driver exclusion (Requirements listed under limits.)

- Non-owner  
 Requirements listed under limits.)

**GENERAL REQUIREMENTS FOR ALL FILINGS**

Review requirements	Reference	Description of review standards requirements	Check answer
	<p>OAR 836-010-0011                      As required on SERFF or our Web site</p>	<p>Filing requirements are located on SERFF or on our Web site at: <a href="http://www.insurance.oregon.gov/docs/serff/filing_requirements.html">www.insurance.oregon.gov/docs/serff/filing_requirements.html</a>. If filing via SERFF, the correct information must be attached to the appropriate schedule items in order for your filing to be considered complete.</p> <p>The clean copy of the submitted form must be attached under the Form Schedule tab. Each form filed for approval must be attached to a separate Schedule Item under this tab. <b>The form number should appear exactly as shown on the PDF document.</b> Any edition/revision date used in the form number must be included under the Form Number column. It is not necessary to use the Edition Date column. However, if you prefer to use the Edition Date column, please do not include the edition date in the Form Number column. The Form Type column and the Action Specific Data column must be completed correctly by providing the Oregon Filing Number of the previous filing, and the correct form number with the edition date of the form being replaced. Please do not file the same form for approval more than once. If the same policy form will be used for multiple product offerings, it need only be filed once. Provide an explanation of the different programs under the General Filing Description in SERFF, or in a cover letter. Forms of a generic nature that will be used on different lines of insurance may be filed using "interline" coding. Use the General Filing Description or a cover letter to note all of the lines or programs it will apply to. For example, a FRAUD WARNING STATEMENT filed as a simple endorsement that could be attached to all personal lines or all commercial lines policies, need only be sent once; thereby avoiding duplicates of the same form being assigned to more than one analyst.</p> <p>If submitting a paper filing, please see 9 below.</p> <ol style="list-style-type: none"> <li>1. The NAIC Transmittal form (for paper filings only not required for SERFF filings).</li> <li>2. Is a Filing Description attached under the General Information tab, or a Cover letter or Filing Memorandum attached under the Supporting Documentation tab that explains the intent or purpose of the forms/rules/rates?</li> <li>3. Is a third party filers' letter of authorization attached if applicable?</li> <li>4. The signed Certificate of Compliance, form 440-3894 is attached to the Supporting Documentation tab</li> </ol>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p>



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Requirements, continued	OAR 836-010-0011 As required on SERFF or our Web site	<p>5. For form submissions, has a comparison document (annotated, highlighted, red-lined, or side-by-side) been provided for each previously approved form? Submit document/s under the Supporting Documentation tab.</p> <p>6. The rates and/or rules are attached to the Rate Schedule tab. An actuarial documentation that provides an overview of the contents of the filing, and the reasons and procedures used to support the rate change has been attached to the Supporting Documentation tab.</p> <p>7. The forms being filed for approval are attached to the Form Schedule tab.</p> <p>8. Attach to the Supporting Documentation tab, those approved amendatory endorsements which bring the forms into compliance with Oregon statutes. For example: Domestic Partnerships, Fraud, Appraisal/Arbitration, Cancellation and Non-renewal, Proof of Loss, and Suit.</p> <p>9. When submitting a paper filing, send two complete sets of the entire filing. Include a self-addressed, stamped envelope that is large enough to return the second copy of the filing.</p>	Yes <input type="checkbox"/> N/A <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	ORS 742.468	<p><b>Exemptions from these standards:</b> (ORS 742.468) Certain policies are not considered motor vehicle liability policies and do not mandate types or amounts of coverage. The following are not considered motor-vehicle liability policies and may not be used as evidence of motor vehicle financial responsibility. Refer to form 440-3610, the appropriate product standards for these lines.</p> <p>(1) Comprehensive general liability.</p> <p>(2) Excess liability.</p> <p>(3) Umbrella liability.</p>	Yes <input type="checkbox"/> N/A <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	ORS 742.003(1)	<p><b>Included in this filing for review:</b></p> <p>1. New policy or program.</p> <p>2. Endorsements amending an existing program that include additional coverages in these standards need only attach the pages addressing that area.</p> <p>3. Notice of claim requirements issued with liability policies</p> <p>4. Application form.</p> <p>5. Insurance identification card.</p> <p>6. Statement Electing Lower Limits (example in Exhibit 1 under OAR 836-054-0000).</p>	Yes <input type="checkbox"/> N/A <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Discrimination	ORS 106.300 thru ORS 106.340 Bulletin 2008-2 OAR 836-081-0010	<p>A provision that recognizes a domestic partnership is included in the policy. Terms and provisions in the Insurance Code and in rules adopted under the Code that refer to or indicate the marital relationship, its dissolution and dependents in a marital relationship will apply in the same manner to domestic partnerships, to their dissolution and to dependents in the partnership.</p>	Yes <input type="checkbox"/>
Requirements	ORS 742.003	<p>No policy has been issued or will be issued using the forms in this filing until the filing is approved.</p>	Complied <input type="checkbox"/>

Other related forms		
Review requirement	Reference	Description of review standards requirements
Cancellation/ Non-renewal	ORS 742.570	When required by ORS 742.570, notification is given to the named insured of possible eligibility for automobile liability insurance through any insurance pool or facility operating in Oregon when automobile bodily injury and property damage liability coverage is canceled. The notice is included with the notice of cancellation or the notice of intent not to renew.
Requirements	ORS 742.447	<b>Insurance Card</b> - A card is issued for each covered vehicle with every motor vehicle liability policy. The card must show the effective date and the expiration date of insurance that meets either the financial or future-responsibility requirements of ORS Chapter 806. Refer to <a href="http://www.oregon.gov/ODOT/DMV/driverid/insurance.shtml">http://www.oregon.gov/ODOT/DMV/driverid/insurance.shtml</a>
Requirements	ORS 746.290	<b>Notice of Claim</b> - Motor vehicle liability policies are accompanied by a prominent notice of the claim rights and responsibilities of the insured and notice that a particular repair shop cannot be required as a condition for recovery.
Uninsured/ underinsured motorist	ORS 742.502(2)(b) OAR 836-054-0000	<b>Statement Electing Lower Limits</b> - The company meets one of the following to satisfy the approval requirement: <u>Approval option 1</u> - The example statement obtained from OIID is used for electing lower limits. <u>Approval option 2</u> - The statement used is in substantial compliance and includes the following: (a) An acknowledgment by the named insured that the named insured was offered uninsured-motorist coverage with limits equal to those for bodily injury liability. (b) A brief summary, not part of the insurance contract, of uninsured- and underinsured-motorist coverages. (c) A statement of the price for coverage per insured vehicle, with limits equal to the named insured's bodily injury-liability limits and the price for coverage per insured vehicle with the lower limits requested by the named insured. (d) A notice to the effect that the statement shall remain in force until rescinded in writing by a named insured or until such time as motor-vehicle-bodily-injury-liability limits are changed. (e) Signed, dated, and submitted within 60 days from the time insured elects lower limits.
		<u>Approval option 3</u> - The statement is included in this filing for prior approval or has been previously approved and complies with ORS 742.502 (2)(b)

Check answer

Yes  N/A

Yes  N/A

Yes  N/A

Yes  N/A

Yes  NA

Yes  N/A

Application form		
Review requirement	Reference	Description of review standards requirements
Applications	ORS 742.458(1) Bulletin 2010-3	The application is filed for approval as part of the entire contract as required under ORS 742.003(1) and does not conflict with laws relating to the coverage. If fraud language is included in the policy, a fraud warning must be included in the application.
	ORS 742.562 ORS 742.564	<b>Cancellation</b> - The application does not state coverage will be considered "null and void." It may state that coverage may be canceled or a claim denied. Notice of cancellation is delivered by the insurer to the named insured at least 30 days prior to the effective date of cancellation and is accompanied by the reason for cancellation, unless cancellation is for nonpayment of premium, in which case at least 10 days' notice of cancellation is given accompanied by the reason.
	ORS 746.265(2)(a)	<b>Conviction for violations</b> - The application asks for convictions of violations, not just violations. <u>The application should not use non-specific terminology, such as: tickets, citations, occurrences, incidents, etc.</u>
	ORS 746.661 ORS 746.662 ORS 746.663 OAR 836-080-0425 thru OAR 836-080-0440	<b>Credit Scoring for Personal Lines</b> - Credit history may be used as a factor in underwriting and rating new business. The Use of Personal Information Disclosure portion of a personal lines application may indicate that credit will be checked for new business. Once an account has been underwritten and rated that score may not be reviewed or changed unless the policyholder requests it. The renewal score may only be changed if it results in a lower rate/premium.
	ORS 746.260 ORS 746.265(2)(a) & 3	<b>Personal Auto Driving Record</b> - The application does not ask for convictions or accidents beyond three years immediately preceding the application for new or renewal coverage unless the question is specifically asked to provide a discount. <u>The application should not use non-specific terminology, such as: tickets, citations, occurrences, incidents, etc.</u>
	ORS 802.200(9) ORS 802.202 ORS 825.410	<b>Commercial Auto/Garage Driving Record</b> - The insurer may ask for information regarding accidents and convictions for violations as outlined in ORS 802.200 (9). The application should not use non-specific terminology, such as; tickets, citations, occurrences, incidents, etc.
	ORS 746.265(2)(c) ORS 809.280 (7) or (9)	<b>Non-driving Offense Prohibited</b> - The application does not ask for records of convictions or driver-license suspensions that are non-driving offenses.
	ORS 742.450(6), OAR 836-058-0010	<b>Named Drivers Exclusion</b> -A named insured cannot be an excluded driver. Any excluded driver must be named on an approved Named Driver Exclusion endorsement that is signed by all named insureds on the policy.

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
Application, continued	<p>ORS 742.013  ORS 742.456  ORS 742.458  ORS 742.562(1)(b)  ORS 742.564  Bulletin INS 2010-3</p>	<p><b>Fraud warning</b> - If the policy has fraud, concealment, misrepresentation language, then the application is required to include a fraud warning. If one is included, it is general in nature and does not state that the applicant is "guilty" of fraud, but that he or she "may be" guilty of fraud. Fraud or misstatement warnings that mention criminal or civil penalties must avoid definite statements of the criminal nature of an act, guilt, or possible penalties. A warning that specifies that knowingly providing false information "may be" a crime, which "may be" grounds for criminal or civil penalties is appropriate.</p> <p>A motor vehicle fraud or misstatement warning cannot mention voiding or rescission of a policy as possible consequences of an omission, concealment, misstatement or misrepresentation. Insurers should review Bulletin INS 2010-3 and the Insurance Code to determine whether their statements comply.</p> <p>The liability of an insurer with respect to the motor vehicle liability insurance policy required by ORS 806.060, 806.240 or 806.270 shall become absolute whenever injury or damage covered by the policy occurs. The policy may not be canceled or annulled as to such liability by any agreement between the insurer and the insured after the occurrence of the injury or damage. A bound application is the equivalent to a policy.</p> <p><b>Warranties</b> - All statements and descriptions in the application made by or on behalf of the insured are representations and not warranties. Misrepresentations do not prevent coverage unless fraudulent or material to the acceptance of the risk.</p>	
<b>FORMS</b>			
Legibility of forms	ORS 742.005(2)	The forms are clear and understandable in the presentation of premiums, labels, description of contents, title, headings, backing, and other indication (including restrictions) in the provisions. The information is clear and understandable to the consumer and is not unintelligible, uncertain, ambiguous, abstruse, or likely to mislead.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Policy documentation	ORS 742.023 ORS 742.450(1)	Every policy shall contain the following: <ul style="list-style-type: none"> <li>• the name of the underwriting insurer.</li> <li>• the name and address of the named insured(s).</li> <li>• the coverage afforded by the policy.</li> <li>• the premium charged.</li> <li>• the policy period.</li> <li>• the limits of liability.</li> </ul>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
Policy documentation, continued	<p>ORS 742.458</p> <p>ORS 742.500  ORS 742.504(2),  ORS 742.508,  ORS 742.510,  ORS 742.520,  ORS 742.560 to  ORS 742.562</p> <p>HB 3149 (2011)</p>	<p>(1) The policy contains an "entire contract" provision.</p> <p>(2) The policy contains a statement that the satisfaction by the insured of a judgment for injury or damage is not a prerequisite to the insurer fulfilling its right or duty to make payment on account of such injury or damage.</p> <p>Definitions - the policy includes, either in general section or the applicable section of the policy, statutory or substantially equivalent definitions for the following:</p> <p>Uninsured and Underinsured Motorist - ORS 742.500 and ORS 742.504(2)  Uninsured Motorist Property damage - ORS 742.508, ORS 742.510  Personal injury protection - 742.520(1)  Cancellation and nonrenewal - ORS 742.560 to ORS 742.562</p> <p><b>Personal Vehicle Sharing Program:</b> If the company excludes a personal automobile from coverage when it is being used in a Personal Vehicle Sharing Program as authorized by HB 3149 (2011), the policy or endorsement language needs to mirror the bill. The bill prohibits insurers from cancelling a policy or re-classifying vehicle use from a private passenger motor vehicle to a commercial use vehicle because of the vehicle's use in a Personal Vehicle Sharing Program.</p> <p><b>Personal vehicle sharing</b> means the use of a private passenger motor vehicle by persons other than the vehicle's registered owner, in connection with a <b>personal vehicle sharing program</b>. <b>Personal vehicle sharing program</b> means a legal entity qualified to do business in this state engaged in the business of facilitating the sharing of private passenger motor vehicles for non-commercial use by individuals within this state.</p> <p><b>Coverage exclusions:</b> For bodily injury, property damage, medical payments, automobile personal injury protection, uninsured/underinsured motorist bodily injury, uninsured motorists property damage, comprehensive, and collision coverages arising out of a lease, maintenance or use, loading or unloading of a covered auto when the covered auto is used in a <b>personal vehicle sharing program</b>.</p> <p>The company may also exclude legal liability to defend or indemnify the insured, for any loss or injury that occurs during any time period while a covered auto is under the operation and/or control of any person or organization using <b>the insured's</b> vehicle in a <b>personal vehicle sharing program</b>.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Requirements Not Part of a Listed Category			<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
Requirements Not Part of a Listed Category	ORS 742.005 ORS 746.240	<b>Newly Acquired Vehicle</b> - The policy provides the insured at least 14 days to report a newly acquired vehicle for liability coverage, APIP, and UM/UIM coverage. The policy also provides at least 4 days to report a newly acquired vehicle for physical damage coverage.	
Policy documentation	ORS 806.080, ORS 806.270, ORS 806.075, ORS 742.450	<p><b>Minimum requirements</b> - A motor vehicle liability insurance policy that meets the financial-responsibility requirements under ORS 806.060 ORS 806.070 and/or ORS 806.075, or future responsibility requirements under ORS 806.270 contains all of the following requirements:</p> <p>(1) The policy explicitly describes or references all motor vehicles covered by the policy.</p> <p>(2) The policy insures the named insured and all other persons insured under the terms of the policy against loss from liabilities imposed by law for damages arising out of the ownership, operation, use, or maintenance of motor vehicles by persons insured under the policy.</p> <p>(3) The policy includes coverage for all persons who, with the consent of the named insured, use the motor vehicles insured under the policy, except for any person specifically excluded from coverage under ORS 742.450. Named driver exclusions address liability coverage only. No exclusion or reduced limits apply to UM/UIM or APIP.</p>	Yes <input type="checkbox"/>
	ORS 742.046(2)	<p><b>Delivery of policy to lien holder</b> - <b>Delivery of a duplicate policy to lien holder</b> - When a vendor, mortgagee, or pledgee of any motor vehicle requires a duplicate policy, a duplicate copy of the policy shall be delivered that provides the name and address of the insurer, insurance classification of the vehicle, type of coverage, limits of liability, premium for the respective coverage, and duration of the policy, or memorandum thereof containing the same such information. If the policy does not provide coverage of legal liability for injury to persons or damage to the property of third parties, a statement of such fact shall be printed, written, or stamped conspicuously on the face of such duplicate policy or memorandum.</p>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	OAR 836-062-0005 & OAR 836-062-0010	<b>Physical damage only policies notice requirement</b> - The face page of a physical damage policy includes the required disclosure or a notice which is substantially the same.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Policy period	ORS 742.048	<b>Effective date and time</b> - Policy states that coverage commences at 12:01 a.m. and the date. It includes a statement that coverage applies only to accidents that occur on or after the effective date of the policy; during the policy period.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Titles & headings	ORS 742.005(2)	Each form filed is clearly titled. Headings for benefits include references to any limitations and restrictions in the provision.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Access to courts	ORS 742.061	<p><b>Attorney fees</b> - If a claim settlement is not made within six months and action is brought to court, should the plaintiff's recovery exceed the amount of payment made by the defendant, the court will set attorney fees to be paid as part of the costs of legal action and any appeal, unless the parties agree to binding arbitration.</p>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Bankruptcy	ORS 742.031	The policy includes a bankruptcy provision similar to that in ORS 742.031.	
Cancellation & nonrenewal	ORS 742.562(1)	<p><b>Grounds for cancellation</b> - The policy provides that notice of cancellation is limited to one or more of the following reasons:</p> <ul style="list-style-type: none"> <li>(a) Nonpayment of premium.</li> <li>(b) Fraud or material misrepresentation affecting the policy or in the presentation of a claim, or a violation of any of the terms or conditions of the policy.</li> <li>(c) The named insured or any customary operator of an automobile insured under the policy has had driving privileges suspended or revoked during the policy period or 180 days immediately preceding the effective renewal date. An insurer may not cancel a policy for suspension of driving privileges if based on a non-driving offense.</li> </ul> <p>[No policy is canceled or annulled after the occurrence of an injury or damage that takes place prior to the effective date of cancellation, and no statement made by or for the insured in violation of the policy is used to defeat or void the policy. ORS 742.456]</p>	
	ORS 742.702	For commercial auto which is included in a package with commercial general liability the general liability cancellation statute applies, a policy in effect for 60 or more days may be cancelled prior to policy expiration only for specific reasons listed in ORS 742.702. The effective date of cancellation for cause is no less than 10 working days after the insured receives notice.	
	ORS 742.023(1)(e) & (f)	The policy clearly defines the cancellation refund method.	
	ORS 742.564(1)	<b>Notice</b> - Notice of cancellation is delivered by the insurer to the named insured at least 30 days prior to the effective date of cancellation and is accompanied by the reason for cancellation, unless cancellation is for nonpayment of premium, in which case at least 10 days' notice of cancellation is given accompanied by the reason.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.566(1) ORS 742.706 OAR 836-085-0025	<b>Renewal and nonrenewal</b> - The policy provides for renewal of the policy contingent upon payment of premium unless the insurer mails or delivers to the named insured, at the address shown in the policy, at least 30* days advance notice and the reason for nonrenewal. *For commercial auto, when the coverage for auto is part of a package that includes general liability the general liability law applies. If renewal is on terms less favorable or at higher rates, the new terms or rates may take effect on the renewal date, if the insurer provides the insured, and the agent if any, 45 days written notice.	

Review requirement	Reference	Description of review standards requirements	Check answer
Cancellation & nonrenewal	ORS 742.566  ORS 742.568 ORS 742.708 OAR 836-085-0050  ORS 731.808 OAR 836-071-0269  ORS 742.464	<b>Termination</b> - The policy provides for automatic termination on the effective date of any replacement or succeeding automobile insurance policy, with respect to any automobile designated in both policies.  Documentation of mailing the notice of cancellation or nonrenewal to the named insured at the address shown in the policy serves as record of proof of notice.  All charges to the policyholder are listed on the declarations page. Field add-ons are not permitted.  The policy contains lawful coverage exceeding or in addition to required coverage, and such coverage is clearly disclosed as not subject to the provisions of ORS 742.031 and 742.450 - 464. The coverage that provides minimum limits meets the requirements of those sections.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>  Yes <input type="checkbox"/> N/A <input type="checkbox"/>  Yes <input type="checkbox"/> N/A <input type="checkbox"/>  Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Fees, service charges, taxes  Excess coverage	OAR 836-058-0020	<b>Named Person Excluded from Excess Limits</b> – An insurer who excludes one or more persons as provided by law from any coverage in excess of the coverage required by ORS 742.450(2) (a) to be provided in a motor vehicle liability insurance policy issued for delivery in this state, must state in the policy or endorsement the policy limits applicable to that person. See exception in ORS 742.450 (8)	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Exclusions	ORS 742.450(2)(a),(6) & (7)(a)(b) OAR 836-058-0010	<b>Named Driver Exclusions</b> All exclusions and limitations are defined, and definitions include financial responsibility requirements as described in ORS 806.070, 806.075 and 806.080 or the coverage described in ORS 801.270.  Specific Exclusions are allowed only as stated in ORS 742.450(6)&(7)(a & b) and in OAR 836-058-0010 Exclusions apply to liability coverage as described in ORS 806.070/075 & ORS 806.080 only. No exclusion or step down limits apply to UM/UIM or APIP.  The policy may exclude <b>by name</b> any person other than a named insured for any of the following reasons when an endorsement has been signed by each named insured that the policy will not provide coverage (exclusion does not apply to uninsured motorist, underinsured motorist and auto personal injury protection coverages): <ul style="list-style-type: none"> <li>• A person may be excluded because of the driving record of the person.</li> <li>• A person may be excluded because the excluded person's risk category would cause premiums to create a financial hardship to the named insured.</li> <li>• A person may be excluded due to a suspended license as outlined in ORS 809.409</li> <li>• A person may be excluded due to a medical suspension under ORS 809.419(3).</li> </ul>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.450 ORS 742.502 ORS 742.520 OAR 836-058-0010		Yes <input type="checkbox"/> N/A <input type="checkbox"/>



Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
Fraud	ORS 742.013	<p>A motor vehicle fraud or misstatement clause cannot mention voiding or rescission of a policy as possible consequences of an omission, concealment, misstatement or misrepresentation. Insurers should review Bulletin INS 2010-3 and the Insurance Code to determine whether their statements comply.</p> <p>The liability of an insurer with respect to the motor vehicle liability insurance policy required by ORS 806.060, 806.240 or 806.270 shall become absolute whenever injury or damage covered by the policy occurs. The policy may not be canceled or annulled as to such liability by any agreement between the insurer and the insured after the occurrence of the injury or damage.</p>	
Limits	<p>ORS 742.450(2), (3) &amp; (4) and ORS 806.070            See cases: <i>Wright and Strickland vs. State Farm Mutual Auto Ins. Co.</i>, 332 Or. 20, 22 P.3d 739 (2001); and <i>North Pacific Ins. Co. vs. Hamilton</i>, 332 Or.1, 22 P.3d 744 (2001)            ORS 742.450(5)</p>	<p>Every motor vehicle liability policy delivered in this state contains an agreement or endorsement stating that, as respects bodily injury and death or property damage, the insurance provides either the coverage described in ORS 806.070 or 806.075 as outlined in 806.080.</p> <p><u>Minimum limits</u> - The policy provides at least the minimum amount required to qualify for financial responsibility under ORS 806.070 or ORS 806.075.</p> <p>The policy includes an agreement that states, the insurance provided is subject to all provisions of the Oregon Vehicle Code related to financial responsibility requirements, including those in ORS 801.280, or for future responsibility in ORS 801.290.</p> <p>The policy provides liability coverage up to the limits of coverage when the named insured operates a temporary replacement motor vehicle while the named insured's vehicle is being repaired or serviced, whether or not the insured pays for the use of such a vehicle.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Loss settlement	<p>ORS 742.450(8)             ORS 746.280            ORS 742.053</p>	<p>Every motor vehicle liability insurance policy issued for delivery in this state shall contain a provision that provides liability coverage for each family member of the insured residing in the same household as the insured in an amount equal to the amount of liability coverage purchased by the insured.</p> <p><u>Designation of repair shop prohibited</u> - Coverage is not dependent on a particular person or shop making the repairs.</p> <p><u>Proof of Loss Forms</u> - Policy states that proof of loss forms are available from an insurer upon request by an insured.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Participating plans	OAR 836-080-0120(2)	A participating policy requires a participation provision that includes substantially equivalent wording to that stated in the rule.	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Premium payment refund, retention	ORS 742.023(1)(f)	<b>Refunds</b> - The policy states the method and formula used for refunding premium for early cancellation.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Rebates	ORS 746.035 ORS 746.045	Inducements or rebates are specified in the policy. If the answer is "yes", details must be included in the rates and rules filing.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
<b>Motor vehicle liability</b>			
Risk classification	ORS 742.449	A higher risk category is not assigned solely due to absence of coverage, lapse in coverage, or suspension for a non-driving offense pursuant to ORS 809.280(7)(9), as long as the applicant did not violate ORS 806.010.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Binders	ORS 742.458(3)	Any binder issued pending the issuance of a motor vehicle liability insurance policy fulfills the requirements of the policy.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Exclusions	ORS 742.454	Exclusions may include the following: (1) Liability under any workers' compensation law. (2) Liability on account of bodily injury to, or death of, an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance, or repair of a vehicle. (3) Liability for damage to property owned by, rented to, in charge of, or transported by the insured.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Loss settlement	ORS 742.460  ORS 742.462  ORS 742.456	The motor vehicle liability policy may require the insured to reimburse the insurer for any payment made by the insurer that the insurer would not have been obligated to make under the terms of the policy and provides for the prorating with other valid and collectible insurance. The insurer has the right to settle any claim covered by the policy, and the amount is deductible from the limits of liability. The liability of an insurer shall be absolute whenever injury or damage covered by the policy occurs.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
<b>Personal injury protection (PIP)</b>			
Arbitration	ORS 742.520(6), ORS 742.521, ORS 742.522	Disputes between insurers and beneficiaries about the amount of personal injury protection benefits or about the denial of personal injury benefits, shall be decided by arbitration if mutually agreed to at the time of the dispute. The arbitration shall take place under the arbitration laws of the state of Oregon or, if the parties agree, according to any other procedure. "Costs" to the insured of the arbitration proceeding do not exceed \$100. Costs as used in this provision does not include attorney fees or expenses incurred in the production of evidence or witnesses or the making of transcripts of the proceedings.	Yes <input type="checkbox"/>

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Exclusions	ORS 742.530(1)	<p>The insurer may exclude from coverage for personal injury protection benefits any injured person meeting the following criteria:</p> <ul style="list-style-type: none"> <li>(a) Intentionally caused self-injury.</li> <li>(b) Participated in any prearranged or organized racing or speed contest or practice or preparation for any such contest.</li> <li>(c) Willfully conceals or misrepresents any material fact in connection with a claim for PIP</li> </ul>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Expenses	ORS 742.530(2)	<p><b>Pedestrians</b> - The insurer may exclude from coverage benefits required by ORS 742.524 (1)(b) and (c) any person injured as a pedestrian in an accident outside this state, other than the insured person or a member of that person's family residing in the insured's household.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Loss settlement	ORS 742.520(3)	<p>Personal injury protection benefits consist of payments for expenses, loss of income, and loss of essential services as stated in ORS 742.524.</p>	
	ORS 742.520(2)	<p><u>Injury or death</u> - Benefits apply to a person's injury or death resulting:</p> <ul style="list-style-type: none"> <li>(a) In the case of the person insured under the policy and members of that person's family residing in the same household, from the use, occupancy or maintenance of any motor vehicle, except the following vehicles: <ul style="list-style-type: none"> <li>(A) A motor vehicle, including a motorcycle or moped, that is owned or furnished or available for regular use by any of such persons and that is not described in the policy;</li> <li>(B) A motorcycle or moped not owned by any of such persons (this exclusion applies only when the injury or death results from such person's operating or riding upon the motorcycle or moped); and</li> <li>(C) A motor vehicle not a private passenger motor vehicle. (This exclusion applies only when the injury or death results from such person's operating or occupying the motor vehicle).</li> </ul> </li> <li>(b) In the case of a passenger occupying or a pedestrian struck by the insured motor vehicle, from the use, occupancy or maintenance of the vehicle.</li> </ul>	
	ORS 742.524(1)	<p>Personal injury protection shall provide the minimum benefits, as prescribed by ORS 742.524(1), for the following:</p> <ul style="list-style-type: none"> <li>(a) Medical, dental, surgical, ambulance, prosthetic services incurred within 1 year of injury.</li> <li>(b) Loss of income for disability if injured party is usually engaged in remunerative occupation.</li> <li>(c) Incurred cost for essential services during disability if injured party is not employed.</li> <li>(d) Funeral expenses.</li> <li>(e) Child care.</li> </ul>	

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Loss settlement, continued	ORS 742.542	Payment by a motor vehicle liability insurer of personal injury protection benefits for its own insured is applied to reducing the amount of damages the insured may be entitled to recover from the insurer under uninsured or underinsured motorist coverage for the same accident, but is not applied in reduction of the uninsured or underinsured motorist coverage policy limits.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.524(2)	<b>Allowable deductible</b> - With respect to the insured person and members of that person's family residing in the same household, the benefits for personal injury protection may include a deductible not to exceed \$250.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.526(2)	<b>Benefit reduction</b> - The personal injury protection benefits may be reduced or eliminated by policy provision when the injured person is entitled to receive workers' compensation benefits or any other, similar medical or disability benefits.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.528	<b>Notice of denial of benefits</b> - For any denial of payment for personal injury protection benefits to or on behalf of an insured a written notice of the denial is required within 60 days of receipt of the claim from the provider stating the reason for the denial and method for contesting the denial with a copy provided to the provider of services under ORS 742.524 (1)(a).	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.536(1)	<b>Required notice</b> - If the injured person makes claim or institutes legal action for damages for injuries against any person, the insured must give notice of the claim or action to the insurer.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Primary coverage	ORS 742.520(1)	<p><b>Persons insured</b> - The motor vehicle liability policy provides personal injury protection benefits to the following:</p> <ul style="list-style-type: none"> <li>(a) The person insured.</li> <li>(b) Members of that person's family and domestic partners residing in the same household.</li> <li>(c) Children not related to the insured by blood, marriage, or adoption who are residing in the same household as the insured and being reared as the insured's or a domestic partner's own.</li> <li>(d) Passengers occupying the insured motor vehicle.</li> <li>(e) Pedestrians struck by the insured motor vehicle.</li> </ul>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>

Review requirement	Reference	Description of review standards requirements	Check answer of enter page & paragraph Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Primary coverage continued	ORS 742.526(1)	<p><b>Primary nature of benefits:</b></p> <p>(a) The insured and members of the family of the insured residing in the same household, injured while occupying the insured motor vehicle are primary.</p> <p>(b) Passengers injured while occupying the insured motor vehicle are primary.</p> <p>(c) The insured and members of family residing in the same household, injured as pedestrians, are primary.</p> <p>(d) The insured and members of family residing in the same household, injured while occupying a motor vehicle not insured under the policy, are excess.</p> <p>(e) Pedestrians injured by the insured motor vehicle, other than the insured and members of family residing in the same household, are excess over any other collateral benefits to which the injured person is entitled, including, but not limited to, insurance benefits, governmental benefits, or gratuitous benefits.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Subrogation	ORS 742.538  ORS 742.538 OAR 836-080-0240(10)	<p><b>Rights of insurer</b> - The policy describes subrogation rights of the insurer, if personal injury protection benefits are furnished, and the extent to which insurer is entitled to the proceeds of any settlement for benefits furnished by the insurer less the insurer's share of expenses, costs, and attorney fees incurred by the injured person in connection with the recovery.</p> <p><b>Recovery calculation:</b></p> <p>(1) The provision calculates respective shares of expenses, costs, and attorney fees under this section; the basis of allocation shall be the respective proportions borne to the total recovery by such benefits furnished by the insurer, and the total recovery less insurer benefits.</p> <p>(2) If the first-party claimant requests, the claimant's deductible is included in the insurer's demands under its subrogation rights. No deduction for expenses can be taken from the deductible recovery unless an outside attorney is retained.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Requirements Not Part of a Listed Category	ORS 742.536(2), (3)(a) & (b)  ORS 744.850 thru ORS 744.992 ORS 742.502, ORS 742.524 ORS 806.070 Division position [1992]	<p>The policy provides for the insurer to seek entitled reimbursement for benefits paid from any recovery under the claim. The insurer has a lien for benefits it has furnished, less the proportion, (not to exceed 100 percent), of expenses, costs, and attorney fees incurred by the injured person in connection with the recovery. In the case of a legal action, the action shall be taken in the name of the injured person.</p> <p><b>APIP on Rental or Leased Vehicles</b> - Insurance written on leased and rental vehicles must provide bodily injury, property damage, uninsured motorists, underinsured motorists, and automobile personal injury protection coverage that is no less than the Oregon Financial Responsibility limits stated in ORS 806.070 for BI and PD, ORS 742.502 for UM/UIM, and ORS 742.524 for APIP.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>

Physical damage Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
Appraisal	ORS 742.005 ORS 742.466 <i>Molodyh v. Truck Insurance Exchange</i>	<b>Appraisal to Determine Value of Motor Vehicles</b> – Appraisal should contain one of the following: (1) mutual agreement of the parties at the time of the dispute, with the resulting decision binding on the parties; or (2) the process is mandatory but the resulting decision is not binding. The insurer shall reimburse the insured for the reasonable appraisal costs if the final appraisal decision under the policy provision is greater than the amount of the insurer's last offer prior to the incurrence of the appraisal costs. The policy provides that, in the event of a dispute, the insured is authorized to obtain an independent appraisal of the physical damage from a disinterested party. In a total loss situation, the appraisal must be performed by a certified appraiser.	
Loss valuation	Oregon case law <i>Rossier vs Union Automobile Ins. Co.</i> 134 Or.211, 291 P.498(1930), <i>Dunmire Motor Co vs Oregon Mutual Fire Ins</i> 166 Or. 690, 114 P. 2d 1005(1941)	<b>Diminution of value</b> if the policy does not provide coverage for loss of market value or "diminution of value," the term describing the limitation is specifically defined in the policy.  The policy provides a separate exclusion stating there is no coverage for diminished value.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>  Yes <input type="checkbox"/> N/A <input type="checkbox"/>
<b>Uninsured and underinsured motorist</b>			
Policy documentation	ORS 742.502 ORS 742.504	Only a motor vehicle policy may be used to meet financial responsibility limits. A bond is not considered to be motor vehicle liability insurance.	Yes <input type="checkbox"/>
Policy documentation	ORS 742.504(4)(e)	The insured shall promptly provide any information reasonably requested by the insurer that is in the custody and control of the insured, when requesting the insurer to consent to a settlement.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Arbitration	ORS 742.504(10)	This policy provides for arbitration if claim settlement cannot be reached. The parties may elect arbitration by mutual agreement at the time of the dispute. The arbitration shall take place under the arbitration laws of the state of Oregon or, if the parties agree, according to any other procedure. Costs to the insured of the arbitration proceeding do not exceed \$100. Costs as used in this provision does not include attorney fees or expenses incurred in the production of evidence or witnesses or the making of transcripts of the proceedings.  The person and the insurer each agree to consider themselves bound and to be bound by any award made by the arbitrators.	

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
Action against insurer	ORS 742.504(6) ORS 742.504(8)	<p>Any legal action instituted by the insured is required to be forwarded immediately to the insurer by the insured or legal representative of the insured.</p> <p>No action is against the insurer unless, as a condition precedent, the insured or the legal representative of the insured has fully complied with all the terms of the policy.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Excess coverage	ORS 742.504(9)(a) & (9)(b)	<p><b>Vehicle not owned by insured</b> - Bodily injury coverage to an insured while occupying a vehicle not owned by a named insured, applies only as excess insurance over any other insurance available to such occupant that is similar to this coverage, and the amount is applied only to the applicable limit of liability of this coverage that exceeds the sum of the applicable limits of liability of all other insurance.</p> <p>If an insured is an insured under other primary or excess insurance available to the insured that is similar to this coverage, then the insured's damages are deemed not to exceed the higher of the applicable limits of liability of this insurance or the additional primary or excess insurance available to the insured, and the insurer is not liable under this coverage for a greater proportion of the insured's damages than the applicable limit of liability of this coverage bears to the sum of the applicable limits of liability of this insurance and other primary or excess insurance available to the insured.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
	ORS 742.504(9)(c)	<p><b>Public vehicle</b> - With respect to bodily injury to an insured while occupying any motor vehicle used as a public or delivery conveyance, the insurance under this coverage applies only as excess insurance over any other, similar coverage, and this insurance is then applied only in the amount by which the applicable limit of liability of this coverage exceeds the sum of the applicable limits of liability of all such other insurance.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
Exclusions	ORS 742.504(2)(e)	<p>The policy excludes from the “uninsured vehicle” category the following:</p> <p>(A) An insured vehicle.</p> <p>(B) Except as provided in paragraph (j) (E) a vehicle owned or operated by a self-insurer, within the meaning of any motor-vehicle-financial-responsibility law, motor-carrier law or any similar law. Paragraph (j) (E) States that a vehicle owned or operated by a self insurer is an uninsured vehicle if (i) it is not in compliance with ORS 806.130 or (ii) that provides recovery to an insured in an amount that is less than the limits for uninsured motorist coverage of the insured.</p> <p>(C) A vehicle owned by the United States of America, Canada, a state* a political subdivision of any such government*, or an agency of any such organization*  *NOTE: HB2908 (2007) requires an insurer to apply its’ uninsured coverage benefits to vehicles owned by Oregon public bodies if the insured carries higher limits than the Oregon Tort Claims Act for public bodies (outlined in ORS 30.270 requires. A vehicle owned by an Oregon public body is thus treated like an uninsured/underinsured vehicle even though the vehicle is not included in the definition of uninsured vehicle in ORS 742.504.</p> <p>(D) A land motor vehicle or trailer operated on rails or crawler treads or while used as a residence or premises and not as a vehicle.</p> <p>(E) A farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.</p> <p>(F) A vehicle owned by or furnished for the regular or frequent use of the insured or any member of the household of the insured.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
	ORS 742.504(4)(a)	<p>The coverage does not apply to bodily injury of an insured when the insured or the legal representative, without the written consent of the insurer, makes a settlement with or prosecutes to judgment any action against any person or organization who may be legally liable.</p>	
	ORS 742.504(4)(b)	<p>The coverage does not apply to bodily injury to an insured while occupying a vehicle (other than an insured vehicle) owned by, or furnished for the regular use of, the named insured or any relative resident in the same household, or through being struck by such a vehicle.</p>	
	ORS 742.504(4)(c)	<p>The coverage does not apply to the benefit of any workers' compensation carrier, any person or organization qualifying as a self-insurer under any workers' compensation or disability benefits law, or any similar law, or the State Accident Insurance Fund Corporation.</p>	



Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
Limits	ORS 742.502(2)(a) OAR 836-054-0000	The uninsured-motorist coverage contains the same limits as for bodily injury liability coverage unless a named insured elects lower limits in writing. Lower limits are not lower than amounts prescribed to meet requirements of ORS 806.070 for bodily injury or death.	
	ORS 742.504(1)(a) & (1)(b)	<p><b>Minimum limits</b> - The policy provides for the payment of all sums legally entitled to recover for bodily injury sustained by the insured and caused by accident by an uninsured vehicle. Disagreement about damages may be settled in arbitration as provided under the policy.</p> <p>The policy provides that no judgment against any person or organization alleged to be legally responsible for bodily injury, except for proceedings instituted against the insurer as provided in the policy, is conclusive, as between the insured and the insurer, on the issues of liability of such person or organization or of the amount of damages to which the insured is legally entitled.</p>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.502(3)	<p><b>Larger limits</b> - If uninsured motorist coverage larger than the amounts required by ORS 806.070 is offered:</p> <p>a) Underinsurance coverage shall be included for damages or death caused by accident and arising out of the ownership, maintenance, or use of a motor vehicle with liability insurance that provides recovery in an amount that is less than the insured's uninsured motorist coverage.</p> <p>b) Underinsurance benefits shall be equal to uninsured-motorist-coverage benefits less the amount recovered from other automobile liability insurance policies.</p>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.504(4)(d)	<p>The coverage does not apply with respect to underinsured motorist benefits unless:</p> <p>(A) The limits of liability under any bodily injury liability policies applicable at the time of the accident regarding the injured person have been exhausted by payment of judgments or settlements to the injured person or other injured persons.</p> <p>(B) The described limits have been offered in settlement, the insurer has refused consent to settlement, and the insured protects the insurer's right of subrogation to the claim against the tortfeasor.</p> <p>(C) The insured gives credit to the insurer for the unrealized portion of the described liability limits as if the full limits had been received if less than the described limits have been offered in settlement, and the insurer has consented to settlement.</p> <p>(D) The insured gives credit to the insurer for the unrealized portion of the described liability limits as if the full limits had been received if less than the described limits have been offered in settlement and, if the insurer has refused consent to settlement, the insured protects the insurer's right of subrogation to the claim against the tortfeasor.</p>	

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
Limits, continued	ORS 742.504(7)(a)	<p><b>Limits per accident</b> - The limit on liability stated in the declarations for "each person" is the limit of the insurer's liability for all damages because of bodily injury for that person per accident, and the limit stated for "each accident" is the total limit of the insurer's liability for all damages because of bodily injury sustained by two or more persons as the result of any one accident.</p> <p><b>Liability limits</b> - Any payment made under this coverage to or for an insured reduces the amount the insured may be entitled to recover from any person who is insured under the bodily injury liability coverage of this policy.</p> <p>Any damage amount payable under the terms of this coverage because of bodily injury sustained in an accident by a person who is an insured under this coverage is reduced by:</p> <p>(A) All sums paid on account of such bodily injury by or on behalf of the owner or operator or any other person or organization jointly or severally liable, together with such owner or operator, for such bodily injury, including all sums paid under the bodily injury liability coverage of the policy; and</p> <p>(B) The amount paid and the present value of all amounts payable on account of such bodily injury under any workers' compensation law, disability benefits law or any similar law</p>	
Loss settlement	ORS 742.504(5)	<p>Any amount payable under the terms of this coverage because of bodily injury sustained in an accident by a person who is an insured under this coverage is reduced by the credit given to the insurer, pursuant to ORS 742.504(4)(C) or (D).</p> <p>The amount payable is not reduced by the amount of liability proceeds offered, as described in ORS 742.504(4)(B) or (D) and has not been paid to the injured person. If liability proceeds have been offered and not paid, the amount payable is included in the amount of liability limits offered but not accepted due to the insurer's refusal to consent. The insured shall cooperate so as to permit the insurer to proceed by subrogation or assignment to prosecute the claim against the uninsured motorist.</p> <p>The policy describes the following claims procedures:</p> <p>(a) As soon as practicable, the insured or other person making claim must give the insurer written proof of claim and submit to examinations under oath as may reasonably be required. Proof of claim is made on forms furnished by the insurer unless the insurer fails to furnish forms within 15 days after receiving notice of claim.</p> <p>(b) Upon reasonable request of and at the expense of the insurer, the injured person must submit to physical examinations by physicians selected by the insurer and give authorization to the insurer to obtain medical reports and copies of records.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>

Review requirement	Reference	Description of review standards requirements	Check answer
Loss settlement, continued	ORS 742.504(2)(f) & (g)	When a "hit-and-run" or "phantom" vehicle is involved, the accident must be reported within 72 hours to a police or equivalent department as listed in the statute and within 30 days to the insurer.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.504(9)(b)	With respect to bodily injury to an insured while occupying or through being struck by an uninsured vehicle, if the insured has other, similar coverage, then the damages are deemed not to exceed the higher of the applicable limits of liability of this insurance or such other insurance, and the insurer is not liable under this coverage for a greater proportion of the damages than the pro-rata portion of this coverage.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.502(7)	<p><b>Recovery proceeds</b> - The policy defines the "amount recovered from other automobile liability insurance policies" to mean the proceeds of liability insurance recovered by or on behalf of the injured party. Proceeds include reimbursement to injured party's insurer, medical providers, and attorney fees; but, it does not include any proceeds of that liability policy received by other injured persons.</p> <p>(7) As used in this section and except as otherwise provided in this subsection, "amount recovered from other motor vehicle liability insurance policies" means the proceeds of liability insurance or the proceeds received from a public body under ORS 30.260 to 30.300 recovered by or on behalf of the injured party. Proceeds recovered on behalf of the injured party include proceeds received by the injured party's insurer as reimbursement for personal injury protection benefits provided to the injured person, proceeds received by the medical providers of the injured person and proceeds received as attorney fees on the claim of the injured person. Where applicable liability insurance policy limits are exhausted upon payment, settlement or judgment by division among two or more injured persons, "amount recovered from other motor vehicle liability insurance policies" means the proceeds that are recovered by or on behalf of the injured person but does not include any proceeds of that liability policy received by other injured persons.</p>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Primary Coverage	ORS 742.502(2)(a)	<p>Uninsured motorist coverage in amounts larger than those required by ORS 806.070 includes underinsurance coverage for damages or accidental death equal to uninsured motorist coverage benefits, less the amount recovered from other automobile liability policies, and when the coverage amount is less than the insured's uninsured motorist coverage.</p> <p>(2)(a) A motor vehicle bodily injury liability policy shall have the same limits for uninsured motorist coverage as for bodily injury liability coverage unless a named insured in writing elects lower limits. The insured may not elect limits lower than the amounts prescribed to meet the requirements of ORS 806.070 for bodily injury or death. Uninsured motorist coverage shall include underinsurance coverage for bodily injury or death caused by accident and arising out of the ownership, maintenance or use of a motor vehicle with motor vehicle liability insurance that provides recovery in an amount that is less than the insured's uninsured motorist coverage. Underinsurance coverage shall be equal to uninsured motorist coverage less the amount recovered from other motor vehicle liability insurance policies.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Policy Territory	ORS 742.506	<p>The policy contains a provision that expressly allocates responsibility between insurers, or self-insurers, without repugnancy.</p>	
Uninsured/underinsured motorist	ORS 742.504	<p>Uninsured Motorist policy territory is within the United States of America, its Territories or possessions or Canada.</p> <p><b>UM/UI/M Property damage</b></p> <p>(1) Every insurer issuing motor vehicle liability insurance policies for delivery in this state on private passenger motor vehicles as defined in 742.508(3) or a self propelled motor home shall offer coverage for property damage to a vehicle of the insured caused by an uninsured vehicle. Coverage offered under this section shall be at least the amount prescribed to meet the requirements of ORS 806.070 for insurance for injury to or destruction of the property of others in any one accident.</p> <p>(2) A policy does not cover the first \$300 of property damage to the covered motor vehicle as the result of an accident with a hit-and-run vehicle or phantom vehicle. In all other cases, the first \$200 damage is not covered.</p> <p>(3) Coverage for property damage applies only to the amount of damages the insured may be legally entitled to recover and does not include coverage for loss of use of the covered vehicle.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>

Review requirement	Reference	Description of review standards requirements	Enter form number
Underinsured Motorist	ORS 742.504 OAR 836-054-0000	<p><b><u>Selection Form – Election of Lower Limits for Uninsured Motorist Coverage</u></b></p> <p>(1) This rule is adopted under the authority of ORS 731.244 for the purpose of implementing ORS 742.502.</p> <p>(2) This rule establishes in Exhibit 1 an example of the form of statement electing lower limits for uninsured motorist coverage in a motor vehicle liability insurance policy that may be used to comply with the requirement in ORS 742.502 for a statement of election. A form used by an insurer or insurance producer that is in substantial compliance with this rule is considered to be approved by the Department. A form is in substantial compliance if the form contains all of the following elements in any order:</p> <p>(a) An acknowledgement by the named insured that the named insured was offered uninsured motorist coverage with the limits equal to those for bodily injury liability;</p> <p>(b) A brief summary, which is not part of the insurance contract, of uninsured and underinsured motorist coverages;</p> <p>(c) A statement of the price for coverage per insured vehicle with limits equal to the named insured's bodily injury liability limits and the price for coverage per insured vehicle with the lower limits requested by the named insured;</p> <p>(d) A statement to the effect that the statement shall remain in force until rescinded in writing by a named insured or until such time as motor vehicle bodily injury liability limits are changed; and</p> <p>(e) Provision for signature of a named insured, to be made within 60 days of the time the named insured makes the election, and for the date of signature.</p> <p>(3) Regarding the summary required in subsection (2)(b) of this rule, if an insurer issuing a policy that refers only to uninsured motorist coverage because uninsured motorist coverage under the policy includes underinsured motorist coverage meeting statutory requirements, the insurer need not use the term "underinsured motorist coverage."</p> <p>(4) The statement required under subsection (2)(c) of this rule may state the term of coverage to which the prices relate.</p> <p>(5) The form may include one or both of the following statements in addition to the items required under section (2) of this rule:</p> <p>(a) A statement to the effect that the form is required by Oregon law or specifically by ORS 742.502; and</p> <p>(b) A statement to the effect that limits for uninsured motorist coverage cannot be less than the amounts required to comply with financial responsibility requirements under ORS 806.070.</p>	Form #

**746.230 Unfair claim settlement practices.** (1) No insurer or other person shall commit or perform any of the following unfair claim settlement practices:

(a) Misrepresenting facts or policy provisions in settling claims;

(b) Failing to acknowledge and act promptly upon communications relating to claims;

(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims;

(d) Refusing to pay claims without conducting a reasonable investigation based on all available information;

(e) Failing to affirm or deny coverage of claims within a reasonable time after completed proof of loss statements have been submitted;

(f) Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear;

(g) Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants;

(h) Attempting to settle claims for less than the amount to which a reasonable person would believe a reasonable person was entitled after referring to written or printed advertising material accompanying or made part of an application;

(i) Attempting to settle claims on the basis of an application altered without notice to or consent of the applicant;

(j) Failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them, of the coverage under which payment has been made;

(k) Delaying investigation or payment of claims by requiring a claimant or the physician of the claimant to submit a preliminary claim report and then requiring subsequent submission of loss forms when both require essentially the same information;

(L) Failing to promptly settle claims under one coverage of a policy where liability has become reasonably clear in order to influence settlements under other coverages of the policy; or

(m) Failing to promptly provide the proper explanation of the basis relied on in the insurance policy in relation to the facts or applicable law for the denial of a claim.

(2) No insurer shall refuse, without just cause, to pay or settle claims arising under coverages provided by its policies with such frequency as to indicate a general business practice in this state, which general business practice is evidenced by:

(a) A substantial increase in the number of complaints against the insurer received by the Department of Consumer and Business Services;

(b) A substantial increase in the number of lawsuits filed against the insurer or its insureds by claimants; or

(c) Other relevant evidence.

(3)(a) No health maintenance organization, as defined in ORS 750.005, shall unreasonably withhold the granting of participating provider status from a class of statutorily authorized health care providers for services rendered within the lawful scope of practice if the health care providers are licensed as such and reimbursement is for services mandated by statute.

(b) Any health maintenance organization that fails to comply with paragraph (a) of this subsection shall be subject to discipline under ORS 746.015.

(c) This subsection does not apply to group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Health Maintenance Organization Act. [1967 c.359 §588a; 1973 c.281 §1; 1989 c.594 §1]

**746.240 Undefined trade practices injurious to public prohibited.** No person shall engage in this state in any trade practice that, although not expressly defined and prohibited in the Insurance Code, is found by the Director of the Department of Consumer and Business Services to be an unfair or deceptive act or practice in the transaction of insurance that is injurious to the insurance-buying public. [1967 c.359 §589; 1973 c.281 §2]



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## Department of Consumer and Business Services

### Insurance Division

#### DIVISION 1

##### GENERAL DEFINITIONS

**836-001-0001** Statutory Authority; Purpose

**836-001-0005** Insurance Code Definitions Adopted

#### DIVISION 5

##### PROCEDURAL RULES

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**836-080-0546** Limits on Sharing Account Number Information for Marketing Purposes

**836-080-0551** Authorization Request Delivery

### **Privacy of Health Insurance-Related Information**

#### **Generally**

**836-080-0600** Authority; Rule of Construction; Applicability

**836-080-0610** Definitions and Examples

#### **Notice of Information Practices**

**836-080-0615** Personal Information Notice

**836-080-0620** Notice of Personal Financial Information Practices

**836-080-0625** Alternative Procedures

**836-080-0630** Application of Notice Requirements

**836-080-0635** Initial Notice to Consumers

**836-080-0640** Information to Be Included in Initial Privacy Notice

**836-080-0645** Annual Notice

**836-080-0650** Information to Be Included in Annual Notice

**836-080-0655** Revised Privacy Notices

**836-080-0660** Delivery

#### **Disclosure of Personal, Privileged Information**

**836-080-0665** Authorization

**836-080-0670** Authorization Exemptions

**836-080-0675** Disclosure Without Authorization

**836-080-0680** Opt in Notice; Form of Opt Out Notice to Consumers and Opt Out Methods for Purpose of OAR 836-080-0675

**836-080-0685** Limits on Sharing Account Number Information for Marketing Purposes

**836-080-0690** Authorization Request Delivery

**836-080-0695** Access to Recorded Personal Information

**836-080-0700** Correction, Amendment or Deletion of Recorded Personal Information

**Military Sales Practices**

**836-080-0750** Purpose; Statutory Authority

**836-080-0755** Application of OAR 836-080-0750 to 836-080-0775

**836-080-0760** Definitions for OAR 836-080-0750 to 836-080-0775

**836-080-0765** Practices Declared false, Misleading, Deceptive or Unfair on a Military Installation

**836-080-0770** Practices Declared False, Misleading, Deceptive or Unfair, Regardless of Location

**836-080-0775** Severability

**Commercial Loss Runs**

**836-080-0800** Definitions

**836-080-0805** Statutory Authority, Purpose, and Applicability

**836-080-0810** Provision of Commercial Loss Runs

**DIVISION 81**

**TRADE PRACTICES -- GENERAL PROVISIONS**

**836-081-0005** Statutory Authority; Purpose; Definitions

**836-081-0010** Unfair Discrimination -- Insurance Other Than Life or Health Insurance

**Unfair Discrimination on the Basis of Blindness or Partial Blindness**

**836-081-0020** Statutory Authority; Purpose; Applicability

**836-081-0030** Unfair Discrimination Acts or Practices

**Standards for Safeguarding Customer Information**

**836-081-0101** Purpose, Policy, Authority and Effective Date

**836-081-0106** Definitions

**836-081-0111** Information Security Program

**836-081-0116** Objectives of Information Security Program

**836-081-0121** Examples of Methods of Development and Implementation

**836-081-0126** Unfair Insurance Trade Practice

**DIVISION 82**

**DISCONTINUANCE AND REPLACEMENT OF GROUP COVERAGE**

**836-082-0050** Statutory Authority

**836-082-0055** Continuance of Group Health Insurance Coverage in Situations Involving Replacement

**DIVISION 85**

**PRACTICES INJURIOUS TO PUBLIC OR FREE COMPETITION**

**Midterm Cancellation, Midterm Premium Increases, and Nonrenewal Notice**

**836-085-0001** Statutory Authority; Purpose; Applicability

**836-085-0005** Definitions

**836-085-0010** Midterm Cancellation

- 836-085-0011** Hearing on Cancellation
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- 836-085-0025** Renewal with Altered Terms
- 836-085-0035** Cancellation or Nonrenewal Notice
- 836-085-0040** Cancellation for Nonpayment of Premium
- 836-085-0045** Unfair Trade Practices
- 836-085-0050** Proof of Notice
- 836-085-0055** Cancellation of Commercial Package Policies

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- 836-085-0205** Definitions
- 836-085-0210** Adjustment for Experience of Employer; Calculation of Tentative Modification Factors
- 836-085-0215** Insurer Implementation of Employer Experience Rating Modifications
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- 836-100-0025** Eligible Carriers and Plans
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- 836-100-0105** Definitions
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**836-200-0020** Filing Procedures

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**836-200-0040** Reimbursement Insurance Policy

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**836-200-0100** Notice, Collision Damage Waivers

#### **Vehicle Protection Product Warranties**

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**836-200-0110** Registration Procedures

**836-200-0120** Warranty

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**836-200-0140** Registration Requirements Not Exclusive

#### **Discount Medical Plan Organizations**

**836-200-0200** License, Discount Medical Plan Organization; Renewal

**836-200-0210** Renewal of expired license

**836-200-0215** One-time Processing Fee, Cancelled Application

**836-200-0220** License Requirement Not Exclusive

**836-200-0250** Purpose and Authority

**836-200-0255** Registration of Contracting Entity

#### **Retainer Medical Practices**

**836-200-0300** Statement of Purpose; Authority

**836-200-0305** Retainer Medical Practice Application for Certification

**836-200-0310** Retainer Medical Practice Application for Renewal

**836-200-0315** Disclosures; Form and Contents

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1.) The OAR Compilation is updated on the first of each month to include all rule actions filed with the Secretary of State's Office by the 15th of the previous month, or by the previous workday if the 15th is on a weekend or holiday.

2.) The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division, 800 Summer St. NE, Salem, Oregon 97310. Any discrepancies with the published version are satisfied in favor of the Administrative Order. The Oregon Administrative Rules and the Oregon Bulletin are copyrighted by the Oregon Secretary of State. Terms and Conditions of Use





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### **21st Century Pacific Insurance Company**

Wilmington, Delaware

**Violation:** Recouped more from insureds than its assessment by the Oregon Insurance Guaranty Association.

**Penalty:** \$20,000

**Date of Order:** 01/24/2012

Final

### **Aetna Life Insurance Company**

Hartford, Connecticut

**Violation:** Failed to follow required claims-handling procedures in cases where additional information was needed

**Penalty:** \$15,000

**Date of Order:** 03/06/2012

Final

### **Allianz Life Insurance Company of North America**

Minneapolis, Minnesota

**Violation:** A multistate examination of Allianz practices involving the marketing, sale and handling of annuities.

**Penalty:** Paid \$10 million to states nationwide (\$20,000 to Oregon) and developed corrective action and remediation plans to ensure suitable annuity sales to past and future clients

**Date of Order:** 08/21/2012

Final

Regulatory Settlement Agreement

### **American Home Assurance Company**

New York, New York

**Violation:** Recouped more from insureds than its assessment by the Oregon Insurance Guaranty Association.

**Penalty:** \$20,000

**Date of Order:** 01/24/2012

Final

**American International Group, Inc. and others**

**Violation:** A multistate examination of AIG insurers' practices to ensure that life insurance, annuities and other products are timely paid to beneficiary

**Penalty:** Paid \$11 million to states nationwide (\$138,070 to Oregon) and initiated reforms to ensure thorough searches for beneficiaries

**Date of Order:** 11/16/2012

Final

Regulatory Settlement Agreement

**American Medical and Life Insurance Company**

New York, New York

**Violation:** Issued group health insurance policy to unapproved association

**Penalty:** \$20,000

**Date of Order:** 02/15/2012

Final

**Bankers Life and Casualty Company**

Carmel, Indiana

**Violation:** Failed to acknowledge claim and settle claim promptly.

**Penalty:** \$14,000

**Date of Order:** 02/06/2012

Final

**Chartis Property Casualty Company**

New York, New York

**Violation:** Recouped more from insureds than its assessment by the Oregon Insurance Guaranty Association.

**Penalty:** \$10,000

**Date of Order:** 01/24/2012

Final

**Chartis, Inc., and others**

Pittsburgh, Pennsylvania

**Violation:** Multistate examination found a variety of operations problems including failure to supervise the sale of certain limited benefit health plans through banks and other vendors; failure to properly file forms and rates with state regulatory agencies; and failure to implement internal controls of agent licensing, claims and consumer complaints.

**Penalty:** Company agrees to pay minimum nationwide fine of \$39 million; Oregon's share of the fine is \$539,546

**Date of Order:** 11/16/2012

Final  
Regulatory Settlement Agreement

**Commerce and Industry Insurance Company**

New York, New York

**Violation:** Recouped more from insureds than its assessment by the Oregon Insurance Guaranty Association.

**Penalty:** \$20,000

**Date of Order:** 01/24/2012

Final

**Government Employees Insurance Company**

Washington, D.C.

**Violation:** Issued motor vehicle policy for less than required \$20,000 of uninsured motor vehicle property damage coverage

**Penalty:** \$2,500

**Date of Order:** 07/23/2012

Final

**Hartford Life and Accident Insurance Company**

Hartford, Connecticut

**Violation:** Issued group insurance policy to unapproved association

**Penalty:** \$5,000

**Date of Order:** 02/06/2012

Final

**Metropolitan Life Insurance Company et al**

New York, New York

**Violation:** A multistate examination of the adequacy of MetLife's practices to ensure that life insurance, annuities and other funds are timely paid to beneficiaries.

**Penalty:** Paid \$40 million to states nationwide (\$418,436 to Oregon) and initiated reforms to ensure thorough searches for beneficiaries

**Date of Order:** 08/22/2012

Final

Regulatory Settlement Agreement

**Navigators Insurance Company**

Rye Brook, New York

**Violation:** Failed to respond timely to a DCBS director's request for information; failed to notify claimants that it needed more time to investigate claims and the reasons

**Penalty:** \$17,000

**Date of Order:** 05/16/2012

Final

**New Hampshire Insurance Company**

New York, New York

**Violation:** Recouped more from insureds than its assessment by the Oregon Insurance Guaranty Association.

**Penalty:** \$30,000

**Date of Order:** 01/24/2012

Final

**The Insurance Company of the State of Pennsylvania**

New York, New York

**Violation:** Recouped more from insureds than its assessment by the Oregon Insurance Guaranty Association.

**Penalty:** \$10,000

**Date of Order:** 01/24/2012

Final

**The Prudential Insurance Company of America et al**

Newark, New Jersey

**Violation:** A multistate examination of the adequacy of Prudential's practices to ensure that life insurance, annuities and other funds are timely paid to beneficiaries.

**Penalty:** Paid \$17 million to states nationwide (\$158,130 to Oregon) and initiated reforms to ensure thorough searches for beneficiaries

**Date of Order:** 08/23/2012

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Regulatory Settlement Agreement

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## Administrative Orders - 2012 Company - filing violations

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### **The Camden Fire Insurance Association**

Canton, Massachusetts

**violation:** Filed its Oregon Insurance Guaranty Association recoupment assessment certification late

**penalty:** \$1,100

**date of order:** 08/21/2012

Final

### **Employers' Fire Insurance Company**

Canton, Massachusetts

**violation:** Filed its Oregon Insurance Guaranty Association recoupment assessment certification late

**penalty:** \$1,100

**date of order:** 08/21/2012

Final

### **The Northern Assurance Company of America**

Canton, Massachusetts

**violation:** Filed its Oregon Insurance Guaranty Association recoupment assessment certification late

**penalty:** \$1,100

**date of order:** 08/21/2012

Final

### **One Beacon America Insurance Company**

Canton, Massachusetts

**violation:** Filed its Oregon Insurance Guaranty Association recoupment assessment certification late

**penalty:** \$1,100

**date of order:** 08/21/2012

Final

### **One Beacon Insurance Company**

Canton, Massachusetts

**violation:** Filed its Oregon Insurance Guaranty Association

recoupment assessment certification late

**penalty:** \$1,100

**date of order:** 08/21/2012

Final

**Pennsylvania General Insurance Company**

Canton, Massachusetts

**violation:** Filed its Oregon Insurance Guaranty Association  
recoupment assessment certification late

**penalty:** \$1,100

**date of order:** 08/21/2012

Final

**Global Reinsurance Company of America**

New York, New York

**violation:** Filed Special Oregon Schedule P late

**penalty:** \$500

**date of order:** 05/14/2012

Final

**Colony Specialty Insurance Company**

San Antonio, Texas

**violation:** Filed Special Oregon Schedule P late

**penalty:** \$100

**date of order:** 05/14/2012

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## Administrative Orders - 2012 Enforcement Orders - Company Financial

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### Suspension

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#### **American Financial Security Life Insurance Company**

Clayton, Missouri

***Date of Order:*** 09/18/2012

[Order](#)

[\*\(Termination of Suspension and Reinstatement of Certificate of Authority\)\*](#)

#### **American Manufacturers Mutual Insurance Company**

Long Grove, Illinois

***Date of Order:*** 08/21/2012

[Order](#)

#### **First Sealord Surety, Inc.**

Villanova, Pennsylvania

***Date of Order:*** 03/14/2012

[Order](#)

#### **Home Value Insurance Company**

Columbus, Ohio

***Date of Order:*** 10/12/2012

[Order](#)

#### **Jamestown Insurance Company, A Risk Retention Group**

Charleston, South Carolina

***Date of Order:*** 11/15/2012

[Order](#)

#### **Lumbermens Mutual Casualty Company**

Long Grove, Illinois

***Date of Order:*** 08/21/2012

[Order](#)

## Other

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### Great Divide Insurance Company

Scottsdale, Arizona

**Violation:** Failed to timely increase special Workers' Compensation deposit

**Penalty:** \$1,100

**Date of Order:** 06/18/2012

[Order](#)

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## Administrative Orders - 2012 Enforcement Orders - Producer Actions

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### **Appalachian Underwriters, Inc.**

Oak Ridge, Tennessee

**Violation:** Received impermissible compensation

**Penalty:** \$40,000

**Date of Order:** 01/18/2012

Final

### **Banuelos Jr., Jose Luis**

Woodburn, Oregon

**Violation:** Producer subject to order suspending license pursuant to ORS 25.780 (1)

**Penalty:** Resident individual producer license suspended

**Date of Order:** 07/23/2012

Final

### **Bell, Allan B**

West Linn, Oregon

**Violation:** Sent multiple fictitious insurance applications with forged signatures to insurance company, receiving more than \$8,000 in commissions in return.

**Penalty:** Expired resident individual insurance producer license revoked; Bell agrees never to work in industry again

**Date of Order:** 10/01/2012

Final

### **Bell, Shelby 'Saku' H dba Hobo Prince Economic Project, Be'Rio Investments, Be'Rio Transports LLC**

Vancouver, Washington

**Violation:** Transacted insurance in Oregon as an intermediary without a license

**Penalty:** Ordered to cease and desist from transacting insurance in Oregon without a license

Cease & Desist

**Bieker, Pepie D, dba B&W Company**

Bend, Oregon

**Violation:** Charged impermissible premium financing fee

**Penalty:** \$5,000; must make refunds

**Date of Order:** 05/07/2012

Final

**Black, Alvin and Columbia Evergreen Marketing, Inc.**

Penn Valley, California

**Violation:** California insurance regulator revoked insurance producer licenses; Black and Columbia Evergreen failed to report the California revocations to Oregon regulators; Columbia Evergreen knew about insurance law violations by Black but failed to report them to the DCBS director

**Penalty:** Black's nonresident individual insurance producer license revoked; Columbia Evergreen's nonresident business entity insurance producer license revoked

**Date of Order:** 03/16/2012

Final

**Brumand-Far, Lisa L**

Salem, Oregon

**Violation:** Failed to respond to a DCBS director's inquiry

**Penalty:** Oregon resident individual insurance producer license revoked

**Date of Order:** 01/18/2012

Final

**Butler, James E**

Springfield, Oregon

**Violation:** Failed to report change of address for business and for residence; failed to report criminal prosecution involving cocaine charges; failed to report conviction for possession of cocaine; failed to respond to a DCBS director's inquiry.

**Penalty:** Oregon resident individual insurance producer license revoked

**Date of Order:** 10/30/2012

Final

**Castparts Employees Federal Credit Union**

Portland, Oregon

**Violation:** Compensated unlicensed person for transacting insurance

**Penalty:** \$13,000

**Date of Order:** 07/24/2012

Final

**Cook, Frank D**

Portland, Oregon

**Violation:** Producer subject to an order suspending Oregon insurance producer license pursuant to ORS 25.780 (1)

**Penalty:** Oregon resident individual insurance producer license suspended

**Date of Order:** 10/23/2012

Final

**Cooley, Logan B**

Lynchburg, Virginia

**Violation:** Represented that Pennsylvania client had certain auto insurance coverages, including roadside assistance, when the client did not; charged the credit card of a Pennsylvania resident a membership fee without the person's knowledge; insurance regulators in Kentucky revoked agent's nonresident individual insurance producer license; Cooley failed to report the Kentucky action to Oregon regulators.

**Penalty:** Oregon nonresident individual insurance producer license revoked

**Date of Order:** 11/16/2012

Final

**Geye, Christopher S. and Pamela M**

Grants Pass, Oregon

**Violation:** Both used insurance certification or designation without authorization while transacting insurance

**Penalty:** Christopher Geye assessed civil penalty of \$1,000; Pamela Geye assessed civil penalty of \$2,000

**Date of Order:** 05/24/2012

Final

**Gordon, Yoram**

Portland, Oregon

**Violation:** Provided incorrect, misleading, or incomplete information in a 2009 license application

**Penalty:** Oregon resident individual insurance producer license revoked

**Date of Order:** 01/18/2012

Final

Proposed

**Goss, Julie A**

Vancouver, Washington

**Violation:** Filled out fictitious applications for insurance, receiving more than \$17,000 in commissions; Washington resident insurance producer license revoked by regulators in that state

**Penalty:** Expired Oregon nonresident individual insurance producer license revoked

**Date of Order:** 10/22/2012

Final

**Griffin, Donetta E**

Orlando, Florida

**Violation:** Failed to report two theft convictions in Florida; falsely reported that she had not been convicted of a crime on a 2009 producer license application when both theft convictions occurred prior to that time; failed to report that Florida revoked her resident individual producer license; and failed to respond to a DCBS director's request for information.

**Penalty:** Oregon nonresident individual insurance producer license revoked

**Date of Order:** 05/07/2012

Final

**Hansen, Erik S and Erik Hansen Insurance Agency, Inc.**

Portland, Oregon

**Violation:** Gave false information on a life insurance application for his child; Hansen was authorized to act on behalf of the agency but failed to report the violation to the state or take correction action

**Penalty:** Hansen's surrendered Oregon resident individual insurance producer license revoked; Hansen agency's expired Oregon resident business insurance producer license revoked

**Date of Order:** 10/09/2012

Final

**Hess, Aimee M**

Klamath Falls, Oregon

**Violation:** Misappropriated money by using one person's premium to pay another person's premium; was dishonest in accounting for premium that had been paid but removed from office records; failed to account for multiple insurance premiums received; and failed to notify DCBS director of address change

**Penalty:** Expired Oregon resident individual insurance producer license revoked

**Date of Order:** 09/21/2012

Final

**Horne, Marcus W**

Tigard, Oregon

**Violation:** Producer subject to an order suspending Oregon insurance producer licenses pursuant to ORS 25.780 (1)**Penalty:** Oregon resident individual insurance producer license suspended from June 14, 2012, to July 23, 2012.**Date of Order:** 06/14/2012FinalLicense reinstatement order**Horst, J. Timothy**

Portland, Oregon

**Violation:** Failed to pay \$3,400 civil penalty for prior misconduct**Penalty:** Oregon resident individual insurance producer license revoked**Date of Order:** 01/18/2012Final**Javier Insurance Agency, Inc**

Beaverton, Oregon

**Violation:** Failed to respond to a DCBS director's inquiry**Penalty:** Oregon resident business entity insurance producer license revoked**Date of Order:** 05/30/2012Final**Javier-Aroche, Francisco**

Milwaukie, Oregon

**Violation:** Provided the wrong Social Security number on a license application; convicted of forgery and identity theft; failed to report the prosecution and convictions to the DCBS director**Penalty:** Resident individual insurance producer license revoked**Date of Order:** 02/15/2012FinalProposed**Kansier, Jason A**

Portland, Oregon

**Violation:** Provided false producer exam certificate to employer**Penalty:** Oregon resident individual insurance producer license revoked**Date of Order:** 04/05/2012FinalProposed**Mehta, Rupa H**

Valrico, Florida

**Violation:** Florida, South Carolina and Maine insurance regulators suspended agent's licenses and Kansas regulators revoked agent's license; Mehta failed to other states' administrative actions to Oregon insurance regulators

**Penalty:** Surrenders Oregon nonresident individual producer license; agrees not to apply for any insurance license in the future

**Date of Order:** 05/30/2012

Final

**Mullican, Rhonda L**

Portland, Oregon

**Violation:** Transacted insurance without a license

**Penalty:** \$2,500

**Date of Order:** 07/24/2012

Final

**Savoia, Carl M**

San Diego, California

**Violation:** Failed to report a California regulator's order to pay restitution to a client for charging an undisclosed broker fee on a policy and to pay another fee to cover part of the cost of the investigation; Savoia provided incomplete and misleading information in response to a DCBS director's inquiry into the matter.

**Penalty:** \$2,000

**Date of Order:** 11/08/2012

Final

**Siefarth, David B and Siefarth Insurance Services, Inc.**

Salem, Oregon

**Violation:** Misappropriated insurance premium money; comingled premium with other money in trust account; failed to notify the DCBS director of a change in business address; failed to respond timely to an inquiry from the DCBS director; failed to report a criminal prosecution for theft; was convicted of felony theft; and failed to report these violations of insurance law or take corrective action as president of Siefarth Insurance Services.

**Penalty:** Oregon resident business entity insurance producer license revoked

**Date of Order:** 11/08/2012

Final

**Taliaferro, Craig K**

Eugene, Oregon

**Violation:** Transacted business while license was suspended; failed to notify the Insurance Division of a contempt conviction; and failed to

notify Insurance Division of change of business address

**Penalty:** Oregon resident individual insurance producer license revoked

**Date of Order:** 01/18/2012

Final

Proposed

**Williams, David E**

Portland, Oregon

**Violation:** Adjuster subject to an order suspending Oregon insurance license pursuant to ORS 25.780 (1)

**Penalty:** Oregon resident individual insurance adjuster license suspended from Dec. 6, 2012, to Feb. 6, 2013.

**Date of Order:** 12/06/2012

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License reinstatement order

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