

Senate Committee on Judiciary

March 16, 2015

Chair Prozanski and members of the committee:

My name is John C. Powell. I am an attorney with John Powell & Associates.

Today I speak on behalf of Standard Insurance Company, Liberty Mutual and State Farm Insurance Companies in opposition to SB 313 and SB 314. These insurers market most lines of insurance in Oregon, including but not limited to property/casualty, life, disability, long-term care, and worker's compensation insurance. We oppose SB 313 and SB 314, which both seek to add insurance to Oregon's Unlawful Trade Practices Act (UTPA). 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 private causes of action. Insurance was explicitly excluded from the UTPA when it was written and should remain so for many reasons.

This testimony will focus on the wide difference between the insurance product and other products consumers would buy at an appliance store, automobile dealership, a retail electronics outlet, an online subscription service, etc. This is really the issue raised by SB 313 and SB 314 and why each form of commerce should be regulated differently. In addition, this testimony will discuss the regulatory framework of the insurance marketplace today, the vast array of remedies available to consumers under current law and finally why SB 313 and SB 314 are unnecessary and unwise public policy.

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 and marketed to the consumer. The Oregon Insurance Division (OID) must first approve the actual wording of the policy (*see Exhibit #1*). 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 producers/agents are subject to an entire section of Oregon law – over 575 pages of statute known as the Insurance Code (ORS 731-752).

Within the Insurance Code, insurers and insurance producers/agents are subject to extensive and specific trade practice laws in ORS 746, including a section entitled, Unfair Claim Settlement Practices (ORS 746.230) (*See Exhibit #2*). 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. It is important to note here that both SB 313 and SB 314 specifically propose to link the Unfair Claim Settlement Practices with the UTPA thereby creating both 1st and 3rd party “second lawsuits” for any perceived violation (SB 313 does it on page 2 line 19 and SB 314 on page 6 line 38). This is important to

note because Oregon's Unfair Claim Settlement Practices were taken in large part from the National Association of Insurance Commissioner's (NAIC) model act. In a footnote to the model act, the NAIC warns against precisely what is sought in SB 313 and SB 314:

“Section 1. Purpose

The purpose of this Act is to set forth standards for the investigation and disposition of claims arising under policies or certificates of insurance issued to residents of [insert state]. It is not intended to cover claims involving workers' compensation, fidelity, suretyship or boiler and machinery insurance. Nothing herein shall be construed to create or imply a private cause of action for violation of this Act.

Drafting Note: A jurisdiction choosing to provide for a private cause of action should consider a different statutory scheme. This Act is inherently inconsistent with a private cause of action. This is merely a clarification of original intent and not indicative of any change of position. The NAIC has promulgated the Unfair Property/Casualty Claims Settlement Practices and the Unfair Life, Accident and Health Claims Settlement Practices Model Regulations pursuant to this Act.” (<http://www.naic.org/store/frec/MDL-900.pdf>)

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, which 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 other words, under ORS 746.240, the insurance regulatory regime is so broad that the director of DCBS has the authority and discretion under current law to go after insurers or producers/agents for actions that are not even prohibited by law or rule.

In addition to the Insurance Code, the OID has vast rulemaking powers. **Exhibit #3** is a copy of the table of contents of the OID's rules, just to give you an idea of how expansive the regulation of insurance is in Oregon. The Insurance Code and related administrative rules grant the Director of DCBS the authority to issue fines, issue cease and desist orders, revoke producer/agent licenses, and revoke the licenses of an entire insurance company to do business in Oregon. (*See Exhibit #4* for actions OID took in 2014)

In the 2013 Regular Session, the legislature passed SB 414 granting the Insurance Commissioner the authority to order an insurer to pay restitution to a consumer (see Exhibit #5).

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, in addition to and beyond the regulatory protection outlined above, a consumer may file a civil action in court against an insurance company or producer/agent under the following actions (*See Exhibit #6* for more details on the actions listed below):

1. Breach of contract for policy benefits
2. Consequential damages for breach of contract
3. Emotional distress damages for breaches of contract that directly cause physical injury
4. Damages in excess of the state policy limit for failing to adequately defend the insured
5. Unrestricted damages for the tort of intentional infliction of emotional distress
6. Unrestricted damages for the tort of intentional interference with contractual relations
7. Unrestricted damages for the tort of fraudulent reductions or denials of benefits
8. Punitive damages where the misconduct of the insurer has been deliberate, intentional, wanton and willful
9. Assignability of claims against insurers
10. Attorneys fees for actions on the policy
11. Actions against the insurer to recover policy proceeds following entry of a judgment

In summary, the business of insurance is distinct and different than the general scope of the other industries that are in effect regulated by the UTPA. Consumers are protected by an entire agency dedicated solely to regulating insurance products, companies and agents. In addition there are many remedies available to consumers both through the insurance division and the restitution authority granted by SB 414 (2013 Regular Session) as well as through the courts. SB 313 and SB 314 seek to establish unnecessary additional and costly remedies that are "inherently inconsistent" with the intent and design of Oregon's Insurance regulatory system. For an in-depth analysis of the costs SB 313 and SB 314 would impose on the courts and the insurance buying public, please see testimony submitted by Robert (Bob) R. Nash of State Farm.

Chair Prozanski and members of the committee, on behalf of insurers, producers/agents and insurance policyholders, we ask you to oppose SB 313 and SB 314.

Sincerely,

John C. Powell

Department of Consumer & Business Services
Oregon Insurance Division – 5
 P. O. Box 14480
 350 Winter St. NE, Rm. 440
 Salem, Oregon 97309-0405
 Phone (503) 947-7983

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/serfffiling_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
 Non-owner
 Named driver exclusion (Requirements listed under limits.)

GENERAL REQUIREMENTS FOR ALL FILINGS

Review requirement	Reference	Description of review standards requirements	Check answer
Requirements	OAR 836-010-0011 As required on SERFF or our Web site	<p>Filing requirements are located on SERFF or on our Web site at: www.insurance.oregon.gov/docs/serfffiling_requirements.html. 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. The form number should appear exactly as shown on the PDF document. 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"> 1. The NAIC Transmittal form (for paper filings only not required for SERFF filings). 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? 3. Is a third party filers' letter of authorization attached if applicable? 4. The signed Certificate of Compliance, form 440-3894 is attached to the Supporting Documentation tab 	<p>Yes <input type="checkbox"/> <input type="checkbox"/></p> <p>N/A <input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p>

Review requirement	Reference	Description of review standards requirements	Check answer
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>	<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> <p><input type="checkbox"/> <input type="checkbox"/></p> <p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
	ORS 742.468	<p>Exemptions from these standards: (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>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
	ORS 742.003(1)	<p>Included in this filing for review:</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>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/></p>
Discrimination	ORS 106.300 thru ORS 106.340 Bulletin 2008-2 OAR 836-081-0010	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.	Yes <input type="checkbox"/>
Requirements	ORS 742.003	No policy has been issued or will be issued using the forms in this filing until the filing is approved.	Complied <input type="checkbox"/>

Other related forms		Description of review standards requirements	Check answer
Review requirement	Reference		
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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Requirements	ORS 742.447	Insurance Card - 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 http://www.oregon.gov/ODOT/DMV/driverid/insurance.shtml	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Requirements	ORS 746.290	Notice of Claim - 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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Uninsured/ underinsured motorist	ORS 742.502(2)(b) OAR 836-054-0000	Statement Electing Lower Limits - The company meets one of the following to satisfy the approval requirement: <u>Approval option 1</u> - The example statement obtained from OID 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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
		<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)	Yes <input type="checkbox"/> N/A <input type="checkbox"/>

Application form Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.562 ORS 742.564	Cancellation - 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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 746.265(2)(a)	Conviction for violations - The application asks for convictions of violations, not just violations. The application should not use non-specific terminology, such as: tickets, citations, occurrences, incidents, etc.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 746.661 ORS 746.662 ORS 746.663 OAR 836-080-0425 thru OAR 836-080-0440	Credit Scoring for Personal Lines - 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	Personal Auto Driving Record - 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. The application should not use non-specific terminology, such as: tickets, citations, occurrences, incidents, etc.	
	ORS 802.200(9) ORS 802.202 ORS 825.410	Commercial Auto/Garage Driving Record - 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)	Non-driving Offense Prohibited - The application does not ask for records of convictions or driver-license suspensions that are non-driving offenses.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.450(6), OAR 836-058-0010	Named Drivers Exclusion - 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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
Application, continued	ORS 742.013 ORS 742.456 ORS 742.458 ORS 742.562(1)(b) ORS 742.564 Bulletin INS 2010-3	<p>Fraud warning - 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>Warranties - 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>	
FORMS			
Legibility of forms	ORS 742.005(2)	<p>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.</p>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Policy documentation	ORS 742.023 ORS 742.450(1)	<p>Every policy shall contain the following:</p> <ul style="list-style-type: none"> • the name of the underwriting insurer. • the name and address of the named insured(s). • the coverage afforded by the policy. • the premium charged. • the policy period. • the limits of liability. 	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>Personal Vehicle Sharing Program: 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>Personal vehicle sharing means the use of a private passenger motor vehicle by persons other than the vehicle's registered owner, in connection with a personal vehicle sharing program. Personal vehicle sharing program 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>Coverage exclusions: 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 personal vehicle sharing program.</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 the insured's vehicle in a personal vehicle sharing program.</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	<u>Newly Acquired Vehicle</u> - 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.	Yes <input type="checkbox"/>
Policy documentation	ORS 806.080, ORS 806.270, ORS 806.075, ORS 742.450	<p><u>Minimum requirements</u> - 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><u>Delivery of policy to lien holder - Delivery of a duplicate policy to lien holder</u> - 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	<u>Physical damage only policies notice requirement</u> - 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	<u>Effective date and time</u> - 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
Access to courts	ORS 742.061	<p>Attorney fees - 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> <p>The policy includes a bankruptcy provision similar to that in ORS 742.031.</p>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Bankruptcy Cancellation & nonrenewal	ORS 742.031 ORS 742.562(1)	<p>Grounds for cancellation - The policy provides that notice of cancellation is limited to one or more of the following reasons:</p> <ul style="list-style-type: none"> (a) Nonpayment of premium. (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. (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. <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> <p>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.</p>	
	ORS 742.023(1)(e) & (f) ORS 742.564(1)	<p>The policy clearly defines the cancellation refund method.</p> <p>Notice - 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.</p> <p>Renewal and nonrenewal - 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.</p>	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.566(1) ORS 742.706 OAR 836-085-0025		

Review requirement	Reference	Description of review standards requirements	Check answer
Cancellation & nonrenewal	ORS 742.566	Termination - 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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Fees, service charges, taxes	ORS 742.568 ORS 742.708 OAR 836-085-0050	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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Excess coverage	ORS 731.808 OAR 836-071-0269 ORS 742.464	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"/>
Exclusions	OAR 836-058-0020 ORS 742.450(2)(a),(6) & (7)(a)(b) OAR 836-058-0010	Named Person Excluded from Excess Limits - 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) Named Driver Exclusions 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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.450 ORS 742.502 ORS 742.520 OAR 836-058-0010	The policy may exclude by name 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"> • A person may be excluded because of the driving record of the person. • A person may be excluded because the excluded person's risk category would cause premiums to create a financial hardship to the named insured. • A person may be excluded due to a suspended license as outlined in ORS 809.409 • A person may be excluded due to a medical suspension under ORS 809.419(3). 	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>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Limits	<p>ORS 742.450(2), (3) & (4) and ORS 806.070</p> <p>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)</p> <p>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>
Loss settlement	<p>ORS 742.450(8)</p> <p>ORS 746.280</p> <p>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>Designation of repair shop prohibited - Coverage is not dependent on a particular person or shop making the repairs.</p> <p>Proof of Loss Forms - 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
Premium payment refund, retention	ORS 742.023(1)(f)	Refunds - 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"/>
Motor vehicle liability			
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"/>
Personal injury protection (PIP)			
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
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"> (a) Intentionally caused self-injury. (b) Participated in any prearranged or organized racing or speed contest or practice or preparation for any such contest. (c) Willfully conceals or misrepresents any material fact in connection with a claim for PIP 	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Expenses	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>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Loss settlement	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"> (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"> (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; (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 (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). (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. 	
	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"> (a) Medical, dental, surgical, ambulance, prosthetic services incurred within 1 year of injury. (b) Loss of income for disability if injured party is usually engaged in remunerative occupation. (c) Incurred cost for essential services during disability if injured party is not employed. (d) Funeral expenses. (e) Child care. 	

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
Loss settlement, continued	ORS 742.542	<p>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.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Primary coverage	ORS 742.524(2)	<p>Allowable deductible - 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.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
	ORS 742.526(2)	<p>Benefit reduction - 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.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
	ORS 742.528	<p>Notice of denial of benefits -- 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).</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
	ORS 742.536(1)	<p>Required notice - 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.</p>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
	ORS 742.520(1)	<p>Persons insured - The motor vehicle liability policy provides personal injury protection benefits to the following:</p> <ul style="list-style-type: none"> (a) The person insured. (b) Members of that person's family and domestic partners residing in the same household. (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. (d) Passengers occupying the insured motor vehicle. (e) Pedestrians struck by the insured motor vehicle. 	<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
Primary coverage continued	ORS 742.526(1)	<p>Primary nature of benefits:</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	<p>Rights of insurer - 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>	
	ORS 742.538 OAR 836-080-0240(10)	<p>Recovery calculation:</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>
	ORS 742.536(2), (3)(a) & (b)	<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>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Requirements Not Part of a Listed Category	ORS 744.850 thru ORS 744.992 ORS 742.502, ORS 742.524 ORS 806.070 Division position [1992]	<p>APIP on Rental or Leased Vehicles - 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>	Appraisal to Determine Value of Motor Vehicles – 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)	Diminution of value 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"/>
Uninsured and underinsured motorist			
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)	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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
	ORS 742.504(8)	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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Excess coverage	ORS 742.504(9)(a) & (9)(b)	Vehicle not owned by insured - 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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
		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.	
	ORS 742.504(9)(c)	Public vehicle - 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.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>

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)	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.	
	ORS 742.504(4)(b)	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.	
	ORS 742.504(4)(c)	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.	

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>Minimum limits - 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>Larger limits - If uninsured motorist coverage larger than the amounts required by ORS 806.070 is offered:</p> <ul style="list-style-type: none"> 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. b) Underinsurance benefits shall be equal to uninsured-motorist-coverage benefits less the amount recovered from other automobile liability insurance policies. 	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> <ul style="list-style-type: none"> (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. (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. (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. (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. 	

Review requirement	Reference	Description of review standards requirements	Check answer or enter page & paragraph
Limits, continued	ORS 742.504(7)(a)	<p>Limits per accident - 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>	
	ORS 742.504(7)(b)	<p>Liability limits - 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>	
	ORS 742.504(7)(c) <i>Bergmann v. Hutton and Farmers Ins. Of Oregon, 337 Or 596(2004)</i>	<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>	
	ORS 742.504(7)(d)	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)(d)(C) or (D).	
	ORS 742.504(7)(e)	The amount payable is not reduced by the amount of liability proceeds offered, as described in ORS 742.504(4)(d)(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.	
Loss settlement	ORS 742.504(5)	<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>Recovery proceeds - 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
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>	<p>Yes <input type="checkbox"/> N/A <input type="checkbox"/></p>
Uninsured/underinsured motorist	ORS 742.504 ORS 742.510	<p>Uninsured Motorist policy territory is within the United States of America, its Territories or possessions or Canada.</p> <p>UM/UIM Property damage</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
Uninsured/ Underinsured Motorist	ORS 742.504 OAR 836-054-0000	<p><u>Selection Form – Election of Lower Limits for Uninsured Motorist Coverage</u></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]



Search

► [The Oregon Administrative Rules contain OARs filed through February 15, 2015](#) ◀

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

836-005-0105 Notice to Interested Persons of Rulemaking

836-005-0107 Model Rules of Procedure

836-005-0112 Persons Represented by Authorized Representative

836-005-0400 Annual Complaint Report

DIVISION 6

TAXATION

836-006-0010 Payment of Transition and Retaliatory Taxes

836-006-0021 Allocation of Consolidated Excise Tax for Purpose of Offsetting Retaliatory Taxes

DIVISION 7

ENFORCEMENT

836-007-0001 Actions by Director for Restitution or Other Equitable Relief

DIVISION 9

FEES AND CHARGES

836-009-0001 Purpose

836-009-0007 Fees

836-009-0008 Mailing List Fee

836-009-0011 Assessments Against Insurers

836-009-0015 Refunds

836-009-0020 Definitions

836-009-0025 Verified Assessment Reporting and Form

836-009-0030 One-Time Increase in Existing, Approved Premium Rates

836-009-0035 Inclusion of Assessment in Future Rate Filings

836-009-0040 Assessment Derived from Premiums Derived From Contracts not Subject to Rate Approval

DIVISION 10

GENERAL PROVISION

Rates and Forms

836-010-0000 Statutory Authority and Implementation

836-010-0011 Filing, Review of Rates and Forms

836-010-0013 Additional Filing Requirements for Transitional Health Benefit Plans

836-010-0021 Required Actuarial Data

Insurer Reporting or Response to Insurance Division

836-010-0051 Requirements for Electronic Reporting or Response

Authorization of Insurers and General Requirements

836-010-0130 Statutory Authority; Purpose; Applicability

836-010-0135 Definitions

836-010-0140 Title Plant Standards

836-010-0150 Marriage of Same-Gender Couple Validly Performed

DIVISION 11

ANNUAL STATEMENTS AND REPORTS BY INSURERS

Annual Statements

836-011-0000 Annual Statement Blank and Instructions

836-011-0015 Property and Casualty Actuarial Opinion of Reserves and Supporting Documentation

Health Insurer Segregation of Premium Accounting

836-011-0050 Requirements for Segregation of Premium Received for Coverage Not Eligible for Federal Subsidies

Annual Audited Financial Reports

836-011-0100 Authority; Purpose; Scope

836-011-0110 Definitions

836-011-0120 Filing and Extensions for Filing of Annual Audited Financial Reports

836-011-0130 Exemptions

836-011-0140 Contents of Annual Audited Financial Report

836-011-0150 Designation of Independent Certified Public Accountant

836-011-0160 Qualifications of Independent Certified Public Accountant

836-011-0170 Consolidated or Combined Audits

836-011-0180 Scope of Audit and Report of Independent Certified Public Accountant

836-011-0190 Notification of Adverse Financial Condition

836-011-0200 Report on Significant Deficiencies in Internal Controls

836-011-0210 Accountant's Letter of Qualifications

836-011-0220 Definition, Availability and Maintenance of Independent Certified Public Accountants Workpapers

836-011-0223 Requirements for Audit Committees

836-011-0225 Conduct of Insurer in Connection with the Preparation of Required Reports and Documents

836-011-0227 Management's Report of Internal Control over Financial Reporting

836-011-0230 Canadian and British Companies

836-011-0235 Effective Dates

Annual Financial Statement for Self-Insured Groups Established by Three or More Public Bodies

836-011-0250 Authority; Purpose; Scope

836-011-0253 Definitions

836-011-0255 Reserve Adequacy

836-011-0258 Unallocated Reserve Account

836-011-0260 Distribution of Annual Financial Statement

Risk-Based Capital Reporting

836-011-0300 Statutory Authority; Statutes Implemented

836-011-0305 Definitions

836-011-0310 RBC Reports

836-011-0320 Company Action Level Event

836-011-0330 Regulatory Action Level Event

836-011-0340 Authorized Control Level Event

836-011-0350 Mandatory Control Level Event

836-011-0360 Hearings

836-011-0380 Supplemental Provisions; Exemption

836-011-0390 Foreign Insurers

Disclosure of Material Transactions

836-011-0430 Scope and Authority

836-011-0440 Report

836-011-0450 Acquisitions and Dispositions of Assets

836-011-0460 Nonrenewals, Cancellations or Revisions of Ceded Reinsurance Agreements

Risk-Based Capital Reporting for Health Care Service Contractors

836-011-0500 Application; Statutory Authority; Statutes Implemented

836-011-0505 Definitions

836-011-0510 RBC Reports

836-011-0520 Regulatory Action Level Event

836-011-0525 Authorized Control Level Event

836-011-0530 Mandatory Control Level Event

836-011-0535 Hearings

836-011-0540 Supplemental Provisions; Rules; Exemption

836-011-0545 Foreign Health Care Service Contractors

836-011-0600 Report on Services Provided by Expanded Practice Dental Hygienists

DIVISION 12

CREDIT FOR REINSURANCE

836-012-0000 Authority

836-012-0011 Credit for Reinsurance -- Reinsurer Authorized in this State

836-012-0021 Credit for Reinsurance -- Accredited Reinsurers

836-012-0031 Credit for Reinsurance -- Reinsurer Domiciled and Licensed in Another State

836-012-0041 Credit for Reinsurance -- Reinsurers Maintaining Trust Funds

836-012-0051 Credit for Reinsurance Required by Law

836-012-0060 Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer

836-012-0070 Trust Agreements Qualified Under OAR 836-012-0060

836-012-0080 Letters of Credit Qualified Under OAR 836-012-0060

836-012-0090 Other Security

836-012-0100 Reinsurance Contract

836-012-0110 Contracts Affected

Life Reinsurance Agreements

836-012-0300 Authority; Statement of Purpose; Director's Authority

836-012-0310 Accounting Requirements

836-012-0320 Written Agreements

836-012-0331 Existing Agreements

DIVISION 13

ANNUAL STATEMENT; DIRECTOR'S AUTHORITY

Director's Authority to Take Corrective Action

836-013-0100 Authority

836-013-0110 Standards

836-013-0120 Director's Authority

DIVISION 14

ALTERNATIVE INSURANCE ORGANIZATIONS

Legal Expense Organizations

836-014-0001 Purpose, Authority and Effective Date

836-014-0005 Applicability and Scope

836-014-0010 Required Capitalization

836-014-0015 Annual Financial Statement

836-014-0020 Deposits

836-014-0025 Bond

836-014-0030 Sales Representatives

836-014-0035 Registration of Legal Expense Organization

836-014-0040 Amendments to Registration

836-014-0042 Renewal of Legal Expense Organization Registration

836-014-0045 Unfair Trade Practice

Multiple Employer Welfare Arrangements

836-014-0100 Actuarial Certification; Guidelines

Life Settlements

836-014-0200 Statutory Authority and Implementation

836-014-0205 Definitions

836-014-0210 License Fees

836-014-0220 Life Settlement Provider License Requirements

836-014-0226 Life Settlement Investment Agent Licensing Requirements

836-014-0230 Renewal Requirements

836-014-0240 Filing Requirements, Life Settlement Contracts and Disclosure Statement Forms; Promotional, Advertising and Marketing Materials

836-014-0250 Contents of Life Settlement Contracts

836-014-0260 Rights and Duties of Parties to Life Settlement Contract

836-014-0263 Request to Insurer for Verification of Coverage

836-014-0265 Response by Insurer

836-014-0270 Standards for Evaluation of Reasonable Payments; Definition of "Terminal Illness or Condition"

836-014-0280 Disclosure Required

836-014-0285 Disclosures to Insurer

836-014-0290 Contacts by Life Settlement Provider or Broker

836-014-0300 Advertising Standards

836-014-0310 Reporting Requirements

836-014-0320 Requirements for Brokers

836-014-0325 Disclosures Required by Life Insurers

836-014-0330 Unfair Trade Practices

836-014-0400 Market Assistance Plan

DIVISION 20

ADVERTISEMENTS OF HEALTH INSURANCE

836-020-0200 Purpose and Authority

836-020-0205 Applicability

836-020-0210 Definitions

836-020-0215 Method of Disclosure of Required Information

836-020-0220 Form and Content of Advertisements

836-020-0225 Advertisements of Benefits Payable, Losses Covered, or Premiums Payable

836-020-0230 Necessity for Disclosing Policy Provisions Relating to Renewal, Cancellation, and Termination

836-020-0235 Testimonials or Endorsements by Third Parties

836-020-0240 Use of Statistics

836-020-0245 Identification of Plan or Number of Policies

836-020-0250 Disparaging Comparisons and Statements

836-020-0255 Licensed Jurisdictions and Status of Insurer

836-020-0260 Identity of Insurer and Policy

836-020-0265 Group or Quasi-Group Implication

836-020-0270 Introductory, Initial, or Special Offers

836-020-0275 Statements About an Insurer

836-020-0280 Enforcement Procedures

836-020-0285 Prior Approval

836-020-0290 Severability

836-020-0295 Effective Date

Disclosure of Health Insurance Coverages

836-020-0300 Statutory Authority

836-020-0305 Disclosure; Application for Coverage

Use of Coordination of Benefits Provisions

836-020-0770 Authority, Purpose and Effective Date of OAR 836-020-0770 to 836-020-0806

836-020-0775 Definitions

836-020-0780 Use of Model COB Contract Provision

836-020-0785 Rules for Coordination of Benefits

836-020-0791 Procedure to be Followed by Secondary Plan to Calculate Benefits and Pay a Claim

836-020-0796 Notice to Covered Persons

836-020-0801 Miscellaneous Provisions

836-020-0806 Effective Date for Existing Contracts

DIVISION 24

DOMESTIC INSURERS; ORGANIZATION; CORPORATE PROCEDURES

Shares, Shareholders, and Members

836-024-0003 Statutory Authority; Purpose

- 836-024-0004** Application of OAR 836-024-0003 to 836-024-0055
- 836-024-0006** Definitions
- 836-024-0008** Solicitations to which OAR 836-024-0003 to 836-024-0055 Apply
- 836-024-0026** Information to Be Furnished to Security Holders
- 836-024-0031** Requirements as to Proxy
- 836-024-0033** Presentation of Information in Proxy Statement
- 836-024-0036** Material Required to Be Filed
- 836-024-0038** Mailing Communications for Security Holders
- 836-024-0039** Proposals of Security Holders
- 836-024-0041** False or Misleading Statements
- 836-024-0046** Prohibition of Certain Solicitations
- 836-024-0051** Special Provisions Applicable to Election Contests; Definition
- 836-024-0053** Filings Required in an Election Contest
- 836-024-0054** Counter Solicitations Prior to Furnishing Required Written Proxy Statement
- 836-024-0055** Filing Requirements for Preliminary Solicitation Material
- 836-024-0100** Statutory Authority; Purpose
- 836-024-0105** Definitions
- 836-024-0110** Securities "Held of Record" for Purpose of ORS 732.425
- 836-024-0115** Filing of Statements
- 836-024-0120** Ownership of More than 10 Percent of an Equity Security
 - 836-024-0125** Disclaimer of Beneficial Ownership
- 836-024-0130** Exemptions from ORS 732.430 and 732.435
- 836-024-0135** Exemptions from ORS 732.420 to 732.455 of Securities Purchased or Sold by Odd-lot Dealers
- 836-024-0140** Certain Transactions Subject to ORS 732.430
- 836-024-0145** Ownership of Securities Held in Trust
- 836-024-0150** Exemption for Small Transactions
- 836-024-0155** Exemption from ORS 732.435 That Need not be Reported Under ORS 732.430
- 836-024-0160** Exemption from ORS 732.435 of Certain Transactions Effected in Connection with a Distribution
- 836-024-0165** Exemption from ORS 732.435 of Acquisitions of Shares of Stock and Stock Options under Certain Stock Bonus, Stock Option or Similar Plans
- 836-024-0170** Exemption from ORS 732.435 of Certain Transactions in Which Securities are Received by Redeeming other Securities
- 836-024-0175** Exemption of long Term Profits Incident to Sales Within Six Months of the Exercise of an Option
- 836-024-0180** Exemption from ORS 732.435 of Certain Acquisitions and Dispositions of Securities Pursuant to Merger or Consolidation

836-024-0185 Exemption from ORS 732.435 of Transactions Involving the Deposit or Withdrawal of Equity Securities Under a Voting Trust or Deposit Agreement

836-024-0190 Exemption from ORS 732.435 of Certain Transactions Involving the Conversion of Equity Securities

836-024-0200 Exemption from ORS 732.435 of Certain Transactions Involving the Sale of Subscription Rights

836-024-0205 Exemption of Certain Securities from ORS 732.440

836-024-0210 Exemption from ORS 732.440 of Certain Transactions Effected in Connection with a Distribution

836-024-0215 Exemption from ORS 732.440 of Sales of Securities to be Acquired

836-024-0220 Arbitrage Transactions under ORS 732.450

DIVISION 27

DOMESTIC INSURERS; ORGANIZATION; CORPORATE PROCEDURES

Holding Company Systems

836-027-0001 Statutory Authority and Purpose of OAR 836-027-0005 to 836-027-0180

836-027-0005 Definitions

Registration

836-027-0010 Registration of Insurers -- Statement Filing

836-027-0012 Summary of Registration -- Statement Filing

836-027-0020 Alternative and Consolidated Registrations

836-027-0025 Disclaimers and Termination of Registration

Forms Generally

836-027-0030 Forms; General Requirements

836-027-0035 Forms; Incorporation by Reference, Summaries, and Omissions

836-027-0040 Forms; Information Unknown or Unavailable and Extension of Time to Furnish

836-027-0045 Forms; Additional Information and Exhibits

836-027-0050 Instructions; Amendments

Subsidiaries of Domestic Insurers

836-027-0070 Subsidiaries of Domestic Insurers

Acquisitions and Mergers

836-027-0100 Acquisition of Control -- Statement Filing

836-027-0110 Amendments to Form A

836-027-0120 Acquisition of Certain Persons Considered to Be Insurers

836-027-0125 Pre-Acquisition Notification

836-027-0130 Information to Be Included in Statement Required by ORS 732.517 to 732.592

836-027-0140 Enterprise Risk Report

Internal Transactions and Extraordinary Dividends

836-027-0160 Transactions Subject to Prior Notice -- Notice Filing

836-027-0170 Extraordinary Dividends and Other Distributions

836-027-0180 Adequacy of Surplus

Corporate Procedures Generally

836-027-0200 Custodial Arrangements

Securities Lending Transactions

836-027-0300 Statutory Authority; Purpose

836-027-0310 Definitions

836-027-0320 Authorization by Board of Directors

836-027-0330 Agreement with Borrower

836-027-0340 Agreement with Agent as Alternative to Written Agreement

836-027-0350 Limitation

836-027-0360 Type of Borrower, Investment of Collateral, Valuation and Reporting

DIVISION 28

PURCHASING GROUPS AND RISK RETENTION GROUPS

836-028-0005 Statutory Authority, Purpose

836-028-0008 Unfair Trade Practice

836-028-0010 Registration of Purchasing Groups: Forms

836-028-0013 Permitted Insurers

836-028-0016 Amendments to Registration by Purchasing Group

836-028-0020 Use of Insurance Producers by Purchasing Groups

836-028-0035 Registration of Foreign Risk Retention Groups; Forms

836-028-0040 Amendments to Registration by Foreign Retention Groups

836-028-0045 Financial Statement of Foreign Risk Retention Group; Audit

DIVISION 29

CAPTIVE INSURERS

836-029-0000 Authority

836-029-0005 Purpose and Scope

836-029-0010 Definitions

836-029-0015 Annual Reporting Requirements

836-029-0020 Risk Limitation

836-029-0025 Annual Audit

836-029-0030 Management's Report of Internal Control over Financial Reporting

836-029-0035 Communication of Internal Control Related Matters Noted in an Audit

836-029-0040 Designation of Service Providers

836-029-0045 Notification of Material Misstatement of Financial Condition

836-029-0050 Additional Deposit Requirement

836-029-0055 Availability and Maintenance of Working Papers of the Independent Certified Public Accountant

836-029-0060 Documentation Required to be Held in Oregon by Licensed Captives

836-029-0065 Reinsurance

-029-0070 Service Providers

836-029-0075 Directors

836-029-0080 Conflict of Interest

836-029-0085 Acquisition of Control of or Merger with Domestic Captive insurer

836-029-0090 Suspension or Revocation

836-029-0095 Standards

836-029-0100 Director's Authority

836-029-0105 Change of Information in Initial Application

836-029-0110 Application

836-029-0115 Fees

836-029-0120 Authorized Forms

DIVISION 31

ACCOUNTING AND INVESTMENTS (ORS CHAPTER 733); REHABILITATION AND LIQUIDATION OF INSURERS (ORS CHAPTER 734)

Minimum Reserve Standards for Individual and Group Health Insurance Contracts

836-031-0200 Scope, Authority; Statutes Implemented; Application

836-031-0210 Definitions, Application and Explanation of Technical Terms Used

836-031-0220 Principles Governing Reserves

836-031-0230 Claim Reserves

836-031-0240 Premium Reserves

836-031-0250 Contract Reserves

836-031-0260 Reinsurance

836-031-0270 Specific Standards for Morbidity

836-031-0280 Specific Standards for Interest

836-031-0290 Specific Standards for Mortality

836-031-0300 Reserves for Waiver of Premium

Accounting (ORS 733.010 to 733.230); Investments and Accounting Generally

836-031-0400 Allowed Assets

836-031-0410 Title Insurance Unearned Premium Reserve

Standard Valuation Law; Actuarial Opinions and Memoranda

836-031-0600 Purpose

836-031-0610 Authority

836-031-0620 Scope

836-031-0630 Definitions

836-031-0640 General Requirements

836-031-0670 Statement of Actuarial Opinion Based on an Asset Adequacy Analysis

836-031-0680 Description of Actuarial Memorandum Including an Asset Adequacy Analysis and
Regulatory Asset Adequacy Summary

836-031-0690 Additional Considerations for Analysis

Recognition of Preferred Mortality Table

836-031-0800 Purpose, authority

836-031-0805 Definitions

836-031-0810 2001 CSO Preferred Class Structure Table

836-031-0815 Conditions

836-031-0855 Recoupment of Assessments by Oregon Insurance Guaranty Association

DIVISION 33

INVESTMENTS (ORS 733.510 TO 733.780)

836-033-0105 Statutory Authority; Purpose

836-033-0110 "Amplly Secured Obligations" Defined

836-033-0120 Purpose and Authority; Definition

836-033-0130 Investments in Medium Grade and Lower Grade Obligations

DIVISION 42

RATES AND RATEMAKING

836-042-0001 Statutory Authority; Purpose and Effective Date

836-042-0005 Definitions

836-042-0015 Workers' Compensation Filings -- Procedural Rules for Insurers and Rating
Organizations

836-042-0020 Insurers Must Demonstrate Statistical Reporting Ability

836-042-0025 Workers' Compensation Filings Standards for Unfair Discrimination

836-042-0035 Workers' Compensation Policy Forms Filings by Insurers

836-042-0040 Statutory Authority; Purpose and Effective Date

836-042-0043 Definition

836-042-0045 Workers' Compensation Statistical Plan

836-042-0050 Statutory Authority; Purpose and Applicability

836-042-0055 Definitions

836-042-0060 Conditions for Division of Payroll of Individual Employees

Workers' Compensation Large Deductible Provisions

836-042-0070 Statutory Authority and Purpose

836-042-0075 Definitions

836-042-0080 Rate Filing Requirements and Standards

836-042-0085 Statistical Data Maintenance and Reporting Requirements

836-042-0090 Trade Practices Found Injurious to the Insurance-Buying Public

Workers' Compensation Large Risk Alternative Rating Plans

836-042-0100 Statutory Authority and Purpose

836-042-0105 Definitions

836-042-0110 Rate Filing Requirements

836-042-0115 Trade Practices Found Injurious to the Insurance Buying Public

836-042-0201 Statutory Authority; Purpose; Effective Date

836-042-0205 Definitions

836-042-0210 Rating Plans for Which Employers May be Combined; Retrospective Rating Deposit Required; When Group Rating May be Applied

Employer Rating Groups

836-042-0215 Consent to Group Rating Required Before Policy Issuance; Provision Required in Consent Form; Contents of Consent Form

836-042-0220 Filing Requirements and Procedural Rules

836-042-0225 Criteria for Grouping; Criteria for Substantially Similar Occupations Within Organization; Open Enrollment Required

836-042-0300 Statutory Authority; Purpose; Applicability; Effective Date

836-042-0302 Definitions

836-042-0304 Fictitious Arrangement Prohibited

836-042-0306 Premium Rates

836-042-0308 Statistics

836-042-0310 Producers

836-042-0312 Compulsory Participation Prohibited

836-042-0314 Tie-In Sales Prohibited

836-042-0316 Disclosure Required

836-042-0318 Underwriting Standards

836-042-0320 Cancellation and Non-Renewal

836-042-0322 Compulsory Facilities

836-042-0400 Statutory Authority; Purpose; Applicability; Effective Date

836-042-0405 Definitions

836-042-0410 Commercial Risks; Prohibition; Requirements; Filing

836-042-0415 Day Care Facilities; Prohibition; Requirements; Filing

836-042-0420 Anniversary Filings

836-042-0425 Statistics

836-042-0430 Disclosure Required for Day Care Facilities

Rates and Ratemaking

836-042-0501 Statutory Authority; Purpose; Applicability; Effective Date

836-042-0505 Definitions

836-042-0510 Rates, Rating Plans System -- Prior Review

836-042-0512 Specified Commercial Liability Markets

836-042-0515 Commercial Liability Filings -- Procedural Rules for Insurers and Rating Organizations

836-042-0520 Supporting Data

DIVISION 43

WORKERS' COMPENSATION INSURANCE RATING SYSTEM AND AUDIT PROCEDURES

836-043-0001 Statutory Authority; Purpose; Applicability

836-043-0005 Definitions for the Workers' Compensation Insurance Plan

836-043-0009 Participation by Insurers and Insurance Producers

836-043-0017 Plan Administrator

836-043-0021 Servicing Carriers

836-043-0024 Right to Apply

836-043-0028 Application by Electronic Transmission or Telephone

836-043-0032 Nonelectronic Application

836-043-0034 Surety Bonds

836-043-0041 Application Review

836-043-0044 Binding Coverage

836-043-0046 Rates and Forms, Policy Term, Additional Coverages and Other Provisions

836-043-0048 Additional States' Coverage

836-043-0050 Interstate Assignments

836-043-0053 Premium Obligations

836-043-0056 Insurer Cancellation and Nonrenewal of Workers' Compensation Insurance Policies or Surety Bonds

836-043-0060 Assignment Formula

836-043-0062 Issuance and Continuation of Policy

836-043-0064 Renewal, Nonrenewal

836-043-0066 Reassignment

836-043-0068 Cancellation

836-043-0071 Dispute Resolution Procedures

836-043-0072 Voluntary Coverage

836-043-0076 Takeout Credit

836-043-0079 Notification of Outstanding Premium

836-043-0082 Policyholder Services

836-043-0087 Producer Changes and Compensation

836-043-0089 Confidentiality of Information

836-043-0091 Self-Funded Plan

Rating and Rating Organization Workers' Compensation Premium Audit Program System

836-043-0101 Statutory Authority; Purpose; Applicability

836-043-0105 Definitions

836-043-0110 Insurer Premium Audit Program

836-043-0115 Insurer Audit Procedure Guide

836-043-0120 Minimum Standards of Employer Education Program

Test Audit Program

836-043-0125 Purpose

836-043-0130 Selection of Risks for Test Audit

836-043-0135 Test Audits

836-043-0145 Disposition of Test Audits

836-043-0150 Summary of Test Audit Results

836-043-0155 Test Audit Standards

836-043-0165 Monitoring Audits Program System

836-043-0170 Premium Audit Hearings

Rating and Rating Organization Workers' Compensation Insurance Classification Notice

836-043-0175 Statutory Authority; Purpose; Applicability

836-043-0180 Definitions

836-043-0185 Insurer Classification Notice

**Rates and Rating Organizations Workers' Compensation Rating System
Review and Advisory Committee**

836-043-0200 Statutory Authority; Purpose; Applicability

836-043-0210 Definitions

836-043-0220 Committee Participation

836-043-0230 Committee Operating Rules

836-043-0240 Committee Activities

Rating and Rating Organizations

836-043-0300 Qualifications for Workers' Compensation Rating Organizations

836-043-0310 Exchange of Data Among Workers' Compensation Rating Organizations

836-043-0320 Competitive Selection Process; Designation of a Workers' Compensation Statistical Agent

DIVISION 50

GENERAL PROVISIONS

Assumption Reinsurance

836-050-0000 Purpose, Statutory Authority and Implementation

836-050-0010 Notice of Transfer

836-050-0020 Notice of Rejection

836-050-0105 Statutory Authority; Purpose; Applicability

836-050-0110 Uniform Claim Forms

836-050-0115 Permitted Modifications to Uniform Forms

Notice of Advance Payment for Death or Personal Injury or Destruction of Property on Running of Period of Limitation

836-050-0150 Advance Payments

Life and Health Insurance Benefit Provisions Relating to HIV Infection

836-050-0200 Purpose, Scope and Definitions

836-050-0205 Authority

836-050-0207 Unfair Trade Practices

836-050-0210 General Exclusions

836-050-0215 Pre-Existing Condition Exclusions; Health Insurance

Application Questions and Underwriting Practice Relating to HIV Infection

836-050-0230 Purpose, Scope and Definitions

836-050-0235 Rulemaking Authority

836-050-0237 Unfair Trade Practices

836-050-0240 General Principles

836-050-0245 Medical and Lifestyle Application Questions and Underwriting Standards

836-050-0250 Testing for HIV Infection

836-050-0255 Inquiries Regarding Past Test Results

Group Policyholders

836-050-0275 Credit Unions as Association; Group Life Insurance

836-050-0280 Credit Unions as Association; Group Health Insurance

Emergency Authority

836-050-0300 Purpose, Authority, Application

836-050-0305 Criteria for orders

DIVISION 51

LIFE, INDIVIDUAL AND GROUP; ANNUITIES

Life Disclosure Requirements

836-051-0005 Statutory Authority; Purpose; Applicability

836-051-0010 Definitions

836-051-0015 Disclosure Requirements

836-051-0020 General Requirements

Disclosure for Small Face Amount Life Insurance Policies

836-051-0030 Purpose and Applicability

836-051-0032 Definition

836-051-0034 Exemptions

836-051-0036 Disclosure Requirements

836-051-0038 Insurer Duties

836-051-0040 Trade Practice Regulation

Mortality Tables Authorized for Use in Determining Non-Forfeiture and Reserve Values

836-051-0101 Statutory Authority; Purpose; Applicability; and Effective Date

836-051-0106 Life Insurance Valuation and Nonforfeiture Standards

836-051-0110 Life Insurance Nonforfeiture Standards for Men and Women

836-051-0115 Smoker/Nonsmoker Mortality Tables

Annuity Mortality Tables

836-051-0200 Authority; Effective Date

836-051-0210 Purpose

836-051-0220 Definitions

836-051-0230 Individual Annuity or Pure Endowment Contracts

836-051-0235 Application of the 2012 IAR Mortality Table

836-051-0240 Group Annuity or Pure Endowment Contracts

836-051-0250 Application of the 1994 GAR Table

Accelerated Benefits Provision for Life Products

836-051-0300 Statutory Authority; Effective Date; Applicability

836-051-0310 Acknowledgement of Concurrence for Payout from Assignee or Beneficiary

836-051-0320 Payment Options; Filing of Claims; Remaining Benefits

836-051-0330 Disclosure

836-051-0340 Exercise of the Accelerated Benefit

836-051-0350 Waiver of Premiums

836-051-0360 Discrimination

836-051-0370 Minimum Benefit Standards

836-051-0380 Actuarial Disclosure and Reserves

Life Insurance Illustrations

836-051-0500 Purpose; Authority

836-051-0510 Applicability and Scope

836-051-0520 Definitions

836-051-0530 Policies to Be Illustrated

836-051-0540 General Rules and Prohibitions

836-051-0550 Standards for Basic Illustrations

- 836-051-0560** Standards for Supplemental Illustrations
- 836-051-0570** Delivery of Illustration and Record Retention
- 836-051-0580** Annual Report; Notice to Policy Owners
- 836-051-0590** Annual Certifications
- 836-051-0600** Trade Practice Regulation

Authorization, Genetic Testing

- 836-051-0700** Authorization, Genetic Testing

Preneed Life Insurance Minimum Standards for Determining Reserve Liability and Nonforfeiture Value

- 836-051-0750** Purpose; Authority; Applicability; and Effective Date
- 836-051-0755** Definitions
- 836-051-0760** Minimum Valuation Mortality Standards
- 836-051-0765** Minimum Valuation Interest Rate Standards
- 836-051-0770** Minimum Valuation Method Standards
- 836-051-0775** Transition Rules
- 836-051-0900** Purpose; Authority
- 836-051-0905** Applicability and Scope
- 836-051-0910** Definitions
- 836-051-0915** Standards for the Disclosure Document and Buyer's Guide
- 836-051-0920** Report to Contract Owners
- 836-051-0925** Trade Practice Regulation

DIVISION 52

INSURANCE POLICIES

Medicare Supplement Insurance

- 836-052-0103** Purpose
- 836-052-0107** Authority
- 836-052-0114** Applicability and Scope
- 836-052-0119** Definitions
- 836-052-0124** Policy Definitions and Terms
- 836-052-0129** Policy Provisions
- 836-052-0132** Benefit Standards for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery with an Effective Date of Coverage on or After June 1, 2010
- 836-052-0133** Benefit Standards for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After July 1, 1992 and with an Effective Date of Coverage Prior to June 1, 2010
- 836-052-0134** Minimum Benefit Standards for Policies or Certificates Issued for Delivery Prior to July 1, 1992
- 836-052-0136** Standard Medicare Supplement Benefit Plans for 1990 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery on or After July 1, 1992 and with

an Effective Date of Coverage Prior to June 1, 2010

836-052-0138 Open Enrollment

836-052-0139 Medicare Select Policies and Certificates

836-052-0140 Standards for Claims Payment

836-052-0141 Standard Medicare Supplement Benefit Plans for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates with an Effective Date of Coverage on or After June 1, 2010

836-052-0142 Guaranteed Issue for Eligible Persons

836-052-0143 Annual Opportunity to Select Another Medicare Supplement Policy or Certificate

836-052-0145 Loss Ratio Standards and Refund or Credit of Premium

836-052-0151 Filing and Approval of Policies and Certificates and Premium Rates

836-052-0156 Permitted Compensation Arrangements

836-052-0160 Required Disclosure Provisions

836-052-0165 Requirements for Application Forms, Replacement Coverage

836-052-0170 Filing Requirements for Advertising

836-052-0175 Standards for Marketing

836-052-0180 Appropriateness of Recommended Purchase and Excessive Insurance

836-052-0185 Reporting of Multiple Policies

836-052-0190 Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods and Probationary Periods in Replacement Policies and Certificates

836-052-0192 Prohibition Against Use of Genetic Information and Requests for Genetic Testing

836-052-0194 Separability

Long Term Care Insurance General Terms

836-052-0500 Statutory Authority; Applicability

836-052-0508 Definitions

Long Term Care Insurance Policy Terms

836-052-0516 Policy Definitions

836-052-0526 Policy Practices and Provisions

836-052-0531 Long Term Care Insurance Partnership Program

836-052-0536 Unintentional Lapse

836-052-0546 Required Policy Provisions

836-052-0556 Required Disclosure of Rating Practices to Consumers

Long Term Care Insurance Practices

836-052-0566 Initial Rate Filing Requirements

836-052-0576 Prohibition Against Post-Claims Underwriting, Applications

Long Term Care Insurance Benefits and Service Standards

836-052-0586 Minimum Standards for Home Health and Community Care Benefits in Long-Term Care Insurance Policies

- 836-052-0596** Standards for Covered Services
- 836-052-0606** Use and Definition of "Home" or Similar Wording
- 836-052-0616** Requirement to Offer Inflation Protection
- 836-052-0626** Requirements for Application Forms and Replacement Coverage
- 836-052-0636** Reporting Requirements
- 836-052-0639** Training for Insurance Producers
- 836-052-0646** Benefits Provided Through Advancement of Life Insurance Proceeds
- 836-052-0656** Reserve Standards

Long Term Care Insurance Loss Ratio, Rate Filings

- 836-052-0666** Loss Ratio
- 836-052-0676** Premium Rate Schedule Increases
- 836-052-0686** Filing Requirements for Out-of-State Group Policies

Long Term Care Insurance Sales

- 836-052-0696** Filing Requirements for Advertising
- 836-052-0706** Standards for Marketing
- 836-052-0716** Disclosure Statement
- 836-052-0726** Suitability
- 836-052-0736** Prohibition Against Preexisting Conditions, Waiting Periods and Probationary Periods in Replacement Policies and Certificates
- 836-052-0738** Availability of New Services or Providers
- 836-052-0740** Right to Reduce Coverage and Lower Premiums

Nonforfeiture Benefit; Benefit Triggers

- 836-052-0746** Nonforfeiture Benefit Requirement
- 836-052-0756** Standards for Benefit Triggers
- 836-052-0766** Additional Standards for Benefit Triggers for Qualified Long-Term Care Insurance Contracts
- 836-052-0768** Appealing An Insurer's Determination That The Benefit Trigger Is Not Met
- 836-052-0770** Prompt Payment of Clean Claims

Long Term Care Insurance Outline of Coverage and Shopper's Guide

- 836-052-0776** Standard Format Outline of Coverage
- 836-052-0786** Requirement to Deliver Shopper's Guide
- 836-052-0790** Disclosure of Benefits Paid

Long Term Care Insurance Outline of Coverage and Shopper's Guide

- 836-052-0776** Standard Format Outline of Coverage
- 836-052-0786** Requirement to Deliver Shopper's Guide
- 836-052-0790** Disclosure of Benefits Paid

Notice of Termination of Group Health Insurance

836-052-0800 Purpose; Applicability

836-052-0810 Replacement Upon Termination

836-052-0840 Termination of Coverage

836-052-0850 Multiple Employer Trusts

836-052-0860 Form of Notice to Group Policyholder

Mandated Benefits

836-052-1000 Prosthetic and Orthotic Devices

DIVISION 53

HEALTH BENEFIT PLANS

836-053-0000 Applicability of January 1, 2014 Amendments to OAR Chapter 836, Division 53

836-053-0001 Modification of Health Benefit Plan Not Subject to Level of Coverage Requirements

836-053-0002 Modification of a Health Benefit Plan Subject to Levels of Coverage Requirements

836-053-0003 Prohibition of Exclusion Period for Pregnancy

836-053-0005 Prescription Drug Identification Cards

836-053-0007 Approval and Certification of Associations, Trusts, Discretionary Groups and Multiple Employer Welfare Arrangements

836-053-0008 Essential Health Benefits

836-053-0009 Oregon Standard Bronze and Silver Health Benefit Plans

836-053-0010 Purpose; Statutory Authority; Enforcement

836-053-0021 Plans Offered to Oregon Small Employers

836-053-0030 Marketing of a Health Benefit Plan to Small Employers

836-053-0050 Trade Practices Relating to Small Employer Health Benefit Plans

836-053-0063 Rating for Nongrandfathered Small Group Plans

836-053-0065 Rating for Grandfathered Small Group Plans

836-053-0066 Rating for Transitional Health Benefit Plans

836-053-0070 Multiple Employer Welfare Arrangements

Work Related Injuries or Disease

836-053-0100 Work Related Injuries or Disease

836-053-0105 Coordination of Payment for Interim Medical Services

Group Health Benefit Plans

836-053-0211 Underwriting, Enrollment and Benefit Design Requirements Applicable to A Group Health Benefit Plan Including A Small Group Health Benefit Plan

836-053-0221 Participation, Contribution, and Eligibility Requirements for Group Health Benefit Plans Including Small Group Health Benefit Plans

836-053-0230 Underwriting

Individual Health Benefit Plans

836-053-0410 Purpose; Statutory Authority; Enforcement

836-053-0415 Cancellation of an Individual Health Benefit Plan Coverage

836-053-0431 Underwriting, Enrollment and Benefit Design

836-053-0465 Rating for Individual Health Benefit Plans

836-053-0472 Statutory Authority and Implementation

836-053-0473 Required Materials for Rate Filing for Individual or Small Employer Health Benefit Plans

836-053-0475 Approval, Disapproval or Modification of Premium Rates for Individual or Small Employer Health Benefit Plan

836-053-0510 Evaluating the Health Status of an Applicant for Individual Health Benefit Plan Coverage

836-053-0825 Rescission of a Group Health Benefit Plan

836-053-0830 Rescission of an Individual Health Benefit Plan or Individual Health Insurance Policy

836-053-0835 Rescission of an Individual's Coverage under a Group Health Benefit Plan or Group Health Insurance Policy

State Continuation of Health Insurance

836-053-0851 Purpose; Authority; Applicability and Enforcement

836-053-0857 Definitions

836-053-0863 Notifications

Quality Assessment and Improvement

836-053-0900 Purpose; Statutory Authority

836-053-0910 Rate Filing

836-053-1000 Statutory Authority and Implementation

836-053-1010 Insurer Policies

836-053-1020 Drug Formularies

836-053-1030 Written Information to Enrollees

836-053-1033 Cultural and Linguistic Appropriateness

836-053-1035 Summary of Benefits and Explanation of Coverage

836-053-1060 Definitions

836-053-1070 Reporting of Grievances; Format and Contents

836-053-1080 Tracking Grievances

836-053-1090 Assistance in Filing Grievances

836-053-1100 Internal Appeals Process

836-053-1110 Notice of Complaint Filing with Director

836-053-1130 Annual Summary, Utilization Review

836-053-1140 Appeal and Utilization Review Determinations

836-053-1170 Annual Summary, Quality Assessment Activities

836-053-1180 Format and Instructions for Report Required by ORS 743.818

836-053-1190 Annual Summary, Uniform Indicators of Network Adequacy

836-053-1200 Prior Authorization Requirements

External Review

836-053-1300 Purpose and Scope; Application

836-053-1305 Definitions; Authority to Act for Enrollee

836-053-1310 Contracting Requirements

836-053-1315 Performance Criteria

836-053-1317 Professional Qualifications

836-053-1320 Conflict of Interest

836-053-1325 Procedures for Conducting External Reviews

836-053-1330 Criteria and Considerations for External Review Determinations

836-053-1335 Procedures for Complaint Investigation

836-053-1337 Preliminary Review by Insurer

836-053-1340 Timelines and Notice for Dispute That is Not Expedited

836-053-1342 Timelines and Notice for Expedited Decision-Making

836-053-1345 Quality Assurance Mechanisms

836-053-1350 Ongoing Requirements for External Review Organizations

836-053-1355 Synopses

836-053-1360 External Review Reporting

836-053-1365 Fees for External Reviews

Annual Reporting Requirements

836-053-1400 Format and Instructions for Report Required by ORS 743.748

836-053-1404 Definitions; Noncontracting Providers; Co-morbidity Disorders

836-053-1405 General Requirements for Coverage of Mental or Nervous Conditions and Chemical Dependency

836-053-1406 Definitions

Cost Estimates

836-053-1410 Procedures

836-053-1415 Instructions

DIVISION 54

INSURANCE POLICIES

Property and Casualty Product Liability

Motor Vehicle Liability Insurance

836-054-0000 Election of Lower Limits for Uninsured Motorist Coverage

Workers' Compensation Large Deductible Provisions

836-054-0201 Statutory Authority and Purpose

836-054-0205 Definitions

836-054-0210 Required Content of Large Deductible Provisions

Mortgage Insurance

836-054-0300 Loan to Value

DIVISION 58

MOTOR VEHICLE LIABILITY INSURANCE

836-058-0010 Permitted Reasons to Exclude Named Person

836-058-0020 Exclusion from Excess Coverage

DIVISION 60

INSURANCE POLICIES (ORS CHAPTER 743)

Credit Life and Credit Health Insurance

836-060-0000 Statutory Authority; Purpose; Effective Date

836-060-0005 Definitions

836-060-0011 Rights and Treatment of Debtors

836-060-0016 Policy Forms and Related Material

836-060-0021 Determination of Reasonableness of Benefits in Relation to Premium Charge

836-060-0026 Credit Life Insurance Rates

836-060-0027 Credit Life Reserves

836-060-0031 Credit Health Insurance Rates

836-060-0036 Refund Formulas

836-060-0041 Experience Reports

836-060-0043 Use of Rates -- Direct Business Only

836-060-0046 Supervision of Credit Insurance Operations

836-060-0055 Prohibited Transactions

836-060-0060 Disclosure

DIVISION 62

**VENDOR'S SINGLE INTEREST POLICIES AND MOTOR VEHICLE
PHYSICAL DAMAGE ONLY POLICIES**

836-062-0001 Statutory Authority; Effective Date

836-062-0005 Motor Vehicle Physical Damage Only Policies; Required Notice

836-062-0010 Vendor Single Interest Policies; Required Notice

DIVISION 71

INSURANCE LICENSING

Insurance Producers, Adjusters and Insurance Consultants

836-071-0101 Adjuster and Insurance Consultant License Application; Required Information

836-071-0105 Additional Application Information

836-071-0108 Limited Class Insurance Licenses

836-071-0110 Fingerprints

- 836-071-0112** Social Security Numbers; Insurance Producer Applications
- 836-071-0113** Crop Insurance
- 836-071-0115** Satisfaction of Qualifications for Classes of Insurance
- 836-071-0117** Managing General Agents; Amount of Claims Adjustment or Payment for Purposes of
tutory Definition
- 836-071-0118** Requirements That Must Be Completed Prior to Submitting Licensing Application to
Director
- 836-071-0120** Examination Procedure
- 836-071-0125** Period for Completion of License Application
- 836-071-0127** Examination Scores
- 836-071-0130** Adjuster or Insurance Consultant License Renewal
- 836-071-0135** Renewal of Expired Adjuster or Insurance Consultant License
- 836-071-0140** License Amendment
- 836-071-0145** Amended License Issuance
- 836-071-0146** Individual Insurance Producer License Expiration Date
- 836-071-0148** Extended License Expiration Date, Agents Called into Active Military Duty
- 836-071-0150** Errors and Omissions Insurance; Insurance Consultants; Managing General Agents
- 836-071-0160** Errors and Omissions Insurance; Reinsurance Intermediary Managers

Training and Examinations

- 836-071-0180** Insurance Producer Pre-Examination Requirements
- 836-071-0185** Qualification of Agents Selling Variable Life Insurance, Including Annuities
- 836-071-0190** Registration of a School
- 836-071-0195** Revocation of Registration of a School; Reinstatement

Continuing Education

- 836-071-0210** Statutory Authority; Purpose
- 836-071-0215** Continuing Education Requirements for Insurance Producers; Hours; Credit for
Experience and Coursework
- 836-071-0220** Continuing Education; Documentation
- 836-071-0225** Continuing Education; Standard for Granting Credit Hours
- 836-071-0230** Continuing Education; Course Qualification Guidelines
- 836-071-0235** Provider Registration
- 836-071-0240** Course Registration
- 836-071-0242** Provider Trade Practices
- 836-071-0245** Revocation of Provider Registration
- 836-071-0247** Requirements for Granting Credit; Attendance Records
- 836-071-0250** Credit for Unregistered Courses

Fees and Disclosure; Incidental Charges

836-071-0260 Fees Charged by Insurance Producers

836-071-0263 Fees Charged by Insurance Consultants or Insurance Producers

836-071-0267 Incidental Charges for Customer Services; Personal, Commercial Lines

Insurance Producer Service Fees

836-071-0269 Purpose and Authority

836-071-0272 Scope of OAR 836-071-0269 to 836-071-0277; Definitions

836-071-0274 Service Fees Prohibited on Personal Lines

836-071-0277 Service Fees Allowed on Commercial Lines; Conditions

Regulation Generally

836-071-0280 Permitted and Prohibited Activities of Insurance Personnel Exempt from Insurance Producer License Requirement

836-071-0285 Agent Review of Applications

836-071-0287 Transaction of Group Life, Health Insurance by Insurance Producer without Appointment

836-071-0291 Certificate of Deposit in Lieu of Trust Account

836-071-0295 Transaction of Insurance by Individual Insurance Producer for Appointed Firm or Corporate Insurance Producer

836-071-0297 Permitted Transaction of Insurance by Unappointed Insurance Producer

836-071-0300 Requirement of Contract with or Employment of Licensee

836-071-0310 Referral Fee from Oregon Medical Insurance Pool

836-071-0315 Managing General Agents; Dollar Amounts Governing Settlement Authority Procedures Under Contract with Insurer

836-071-0320 Managing General Agents; Designation of Associations of Actuaries

836-071-0321 Terms for OAR 836-071-0323 to 836-071-0346

836-071-0323 License Applicants and Licensees with Prior Convictions

836-071-0326 Application by Person under OAR 836-071-0323

836-071-0328 Unlicensed Individuals with Prior Convictions Who are Engaged or Participate in Business of Insurance

836-071-0331 Director's Procedures, Application for Consent

836-071-0336 Factors to be Considered by the Director

836-071-0341 Issuance of Written Consent

836-071-0346 Denial of Consent

836-071-0351 Subsequent Conviction of Person Previously Granted Written Consent

Limited License, Rental Companies

836-071-0355 Limited License Application, Rental Companies; Required Information

836-071-0360 License Renewal

836-071-0370 List of Employees Selling Coverage; Continuing Education

836-071-0380 Course of Training for Training Program and for Continuing Education

836-071-0390 Statewide Filing Officer

836-071-0400 Applicable Insurance Code Statutes

Self-Service Storage Limited License

836-071-0405 Statutory Purpose and Authority

836-071-0410 Limited License Application, Self-Service Storage Facility; Required Information

836-071-0415 Materials and Requirements of Application

836-071-0420 Requirements for Limited Licensee, List of Employees Selling Coverage; Training Program

836-071-0425 Limited License Renewal

836-071-0430 Remission to Insurer; Funds Held in Trust; Compensation

Surplus Lines

836-071-0500 Nonresident Licensing and Placement Requirements

836-071-0501 Allocation of Coverage Totals on Multi-state Policies

836-071-0550 Statutory Purpose and Authority

836-071-0560 Limited License Application, Portable Electronics Insurance Coverage; Required Information

836-071-0565 Limited License Renewal

836-071-0570 List of Employees Selling Coverage; Training Program

DIVISION 72

LICENSING GENERALLY

Criminal Records Check

836-072-0001 Applicability of and authority for OAR 836-072-0001 to 836-072-0045

836-072-0005 Definitions

836-072-0010 Criminal Records Check Process

836-072-0015 Fitness Determination

836-072-0020 Crimes Relevant to a Fitness Determination

836-072-0025 Incomplete Fitness Determination

836-072-0030 Notice to Applicant of Fitness Determination

836-072-0035 Appealing a Fitness Determination

836-072-0040 Recordkeeping and Confidentiality

836-072-0045 Authorized Designees

DIVISION 74

INSURANCE DIVISION TRUST ACCOUNTS

836-074-0005 Statutory Authority; Effective Date

836-074-0010 Definitions

836-074-0015 Director's Enforcement Authority

836-074-0017 Exemptions

- 836-074-0020 Premium Funds Trust Account
- 836-074-0025 Deposit and Payment of Funds
- 836-074-0030 Advancing Return Premiums
- 836-074-0035 Other Permissible Funds
- 836-074-0040 Interest on Trust Funds
- 836-074-0045 Accounting Records; Inspection
- 836-074-0047 Examinations and Audits
- 836-074-0048 Other Trust Account Requirements
- 836-074-0050 Single Account for Affiliated Persons

DIVISION 75

THIRD PARTY ADMINISTRATORS

- 836-075-0000 Third Party Administrators; License Application; Required Information
- 836-075-0010 Completion of Application
- 836-075-0020 Amendment of License Application Information
- 836-075-0030 Third Party Administrator License Renewal
- 836-075-0040 Annual Report Requirements
- 836-075-0045 Format and Instructions for Report Required by ORS 743.818
- 836-075-0050 Exemptions from Third Party Administrator License Requirements
- 836-075-0060 ERISA Exemption Registration
- 836-075-0070 Errors and Omissions Insurance; Third Party Administrators

DIVISION 80

TRADE PRACTICES

Replacement of Life Insurance and Annuities

- 836-080-0001 Statutory Authority; Purpose; Applicability
- 836-080-0005 Definitions
- 836-080-0014 Duties of Agent
- 836-080-0022 Duties of Insurers that Use Agents Insurance Producers
- 836-080-0029 Duties of Replacing Insurers that Use Agents
- 836-080-0034 Duties of the Existing Insurer
- 836-080-0039 Duties of Insurers with Respect to Direct Response Solicitations
- 836-080-0043 Violations and Penalties

Unfair Discrimination Based on Sex, Sexual Orientation or Marital Status

- 836-080-0050 Authority; Purpose and Scope
- 836-080-0055 Unfair Discrimination Identified

Payment of Health Insurance Claims (Sampling Method)

- 836-080-0080 Definition, Claims Handling Services; Claims Procedures and Information

836-080-0085 Annual Report; Sampling

Suitability

836-080-0090 Suitability in the Sale of Life Insurance

General (ORS 746.005 to 746.270)

836-080-0105 Statutory Authority; Purpose; Effective Date

836-080-0110 Applicability

836-080-0115 Definitions

836-080-0120 Statement as to Participation Required Upon Request Before Delivery of Policy; Provision Required in Participating Policy; Contents of Provision

836-080-0125 Prohibited Representations Regarding Participation Rights

836-080-0130 Dividend Statement Permitted; Required to Be Written; Prohibited and Permitted Advice

836-080-0135 Dividend Rights Accrue Upon Declaration of Dividends; Contents of Dividend Declaration Resolution

836-080-0140 Unfair Discrimination in Allocation of Dividends Prohibited; Criteria for Allocation; Prima Facie Evidence of Unfair Discrimination

836-080-0145 Unfair Forfeiture of Dividend for Failure to Renew Prohibited

836-080-0150 Policyholder Dividend Rights of Group Members and Dividend Group Policyholders; Reduction or Denial without Prior Advice Prohibited; "Dividend Group" Defined; Standards for Dividend Groups

836-080-0155 False or Deceptive Publications by Insurer Prohibited

836-080-0160 Use of Special Certifications and Professional Designations by Insurance Producers

Sales of Individual Annuities

836-080-0165 Notice of Insurance Division Assistance

Suitability in Annuity Transactions

836-080-0170 Statutory Authority; Purpose

836-080-0172 Applicability

836-080-0175 Exemptions

836-080-0178 Definitions

836-080-0180 Duties of Insurers and of Insurance Producers

836-080-0183 Insurance Producer Training

836-080-0185 Compliance Mitigation; Penalties

836-080-0188 Recordkeeping

836-080-0190 Annuity Sales; Disclosure Not a Defense

836-080-0193 Effective Date and Operative Date

836-080-0200 Electronic Payment of Claims

836-080-0205 Statutory Authority; Purpose; Applicability

836-080-0210 Definitions

836-080-0215 Claim Files

- 836-080-0220** Misrepresentation and Other Prohibited Claim Practices
- 836-080-0225** Required Claim Communication Practices
- 836-080-0230** Standard for Prompt Claim Investigation
- 836-080-0235** Standards for Prompt and Fair Settlements -- Generally
- 836-080-0240** Standards for Prompt and Fair Settlements -- Automobile Insurance
- 836-080-0250** Workers' Compensation Insurance Unfair Claim Settlement Practices Standards
- 836-080-0305** Statutory Authority; Purpose; Applicability
- 836-080-0310** Definitions
- 836-080-0315** Providing Things of Value to Intermediaries Generally Prohibited
- 836-080-0320** Miscellaneous Things of Value
- 836-080-0325** Business Development Activities
- 836-080-0335** Gifts
- 836-080-0337** Real Property Information
- 836-080-0340** Assistance in Qualifying a Subdivisions
- 836-080-0345** Automatic Change in Monetary Limits
- 836-080-0355** Title Insurer Responsible for Violations by Agent
- 836-080-0360** Use by Title Company of an Intermediary's Office
- 836-080-0365** Filing Escrow Rates Required
- 836-080-0370** Instruction of Title Company Employees About Rules Required

Use of Insurance Scores and Credit History

- 836-080-0425** Applicability; Definitions
- 836-080-0430** Disclosure of Use of Credit History or Insurance Scores
- 836-080-0435** Policies Governing Credit Histories and Insurance Scores
- 836-080-0436** Absence of or Inability to Determine Credit History; Relation to Risk to Insurer
- 836-080-0438** Definition of Adverse Underwriting Decision; Notice
- 836-080-0440** Unfair Insurance Trade Practice

Privacy of Personal Information (ORS 746.600 to 746.690)

- 836-080-0501** Authority; Rule of Construction; Applicability
- 836-080-0506** Definitions and Examples
- 836-080-0511** Application of Notice Requirements
- 836-080-0516** Initial Notice to Consumers
- 836-080-0519** Information To Be Included In Privacy Notices
- 836-080-0523** Annual Notice
- 836-080-0526** Information to be Included in Annual Notice
- 836-080-0531** Revised Privacy Notices
- 836-080-0536** Delivery

836-080-0541 Opt In Notice; Form of Opt Out Notice to Consumers and Opt Out Methods for Purpose of ORS 746.665(1)(k)

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

836-085-0015 Longterm Cancellation

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

Practices Injurious to Public or Free Competition

836-085-0201 Statutory Authority; Purpose; Applicability

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

836-085-0217 Employer Failure to Cooperate; Appeal

836-085-0225 Unfair Trade Practices

836-085-0230 Penalties for Late Submission of Rating Data

DIVISION 100

HEALTH INSURANCE REFORM

Administrative Streamlining and Simplification

836-100-0100 Authority; Purpose; Scope

836-100-0105 Definitions

836-100-0110 Adoption of Standards

836-100-0115 Waiver

836-100-0120 Review and Update of Standards

DIVISION 200

DEPARTMENT REGULATORY PROGRAMS

Service Contracts

836-200-0000 Statutory Authority; Registration; Fees; Expiration; Renewal

836-200-0010 Assessments

836-200-0020 Filing Procedures

836-200-0030 Form 10K and Other Financial Stability Filings

836-200-0040 Reimbursement Insurance Policy

836-200-0050 Registration Requirements Not Exclusive

836-200-0055 Annual Report

836-200-0060 Service on Registrant

836-200-0100 Notice, Collision Damage Waivers

Vehicle Protection Product Warranties

836-200-0105 Statutory Authority; Registration; Fees; Expiration; Renewal

836-200-0110 Registration Procedures

836-200-0120 Warranty

836-200-0130 Reimbursement Insurance Policy

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

Pharmacy Benefit Managers

836-200-0401 Statement of Purpose; Authority; Applicability

836-200-0406 Application Requirements for Pharmacy Benefit Manager

836-200-0411 Renewal of Pharmacy Benefit Registration

836-200-0416 Registration Requirements Not Exclusive

836-200-0421 Service on Registrant


Notes

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](#)



Administrative Orders - 2014 Enforcement Orders Company - Marketplace Violations

 Sign up for E-mail updates
Orders require Adobe Acrobat® Reader,
available free.

Search Marketplace
Orders

Aviva Life and Annuity Company et al

Violation: A multistate examination of company practices to ensure that life insurance, annuities and other products are timely paid to beneficiaries.

Penalty: \$4 million to participating states (about \$35,000 to Oregon) and initiated reforms to ensure thorough searches for beneficiaries.

Date of Order: 01/09/2014

Final

Regulatory Settlement Agreement

Lenovo (United States) Inc.

Morrisville, North Carolina

Violation: Sold service contracts in Oregon as an obligor without being registered.

Penalty: \$70,000

Date of Order: 09/12/2014

Final

Midland National Life Insurance Company, et al

Violation: A multistate examination of company practices to ensure that life insurance, annuities and other products are timely paid to beneficiaries.

Penalty: \$3.3 million to participating states (about \$14,200 to Oregon) and initiated reforms to ensure thorough searches for beneficiaries.

Date of Order: 01/09/2014

Final

Regulatory Settlement Agreement

Time Insurance Company

Milwaukee, Wisconsin

Violation: Failed to make a decision on internal appeals within 30 days.

Penalty: \$40,000

Date of Order: 08/07/2014

Final

OREGON.GOV

State Directories
Agencies A to Z
Oregon Administrative Rules
Oregon Revised Statutes
About Oregon.gov

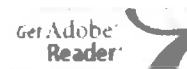


WEB SITE LINKS

Text Only Site
Accessibility
Oregon.gov
File Formats
Privacy Policy
Site Map
Web Site Feedback

PDF FILE ACCESSIBILITY

**Adobe Reader is required to view PDF files.
Click the "Get Adobe Reader" image to get a
free download of the reader from Adobe.**





Administrative Orders - 2014 Enforcement Orders - Company Financial

 [Sign up for E-mail updates](#)

Orders require [Adobe Acrobat® Reader](#), available free.

Suspension

American Medical and Life Insurance Company

New York, New York

Date of Order: 03/19/2014

[Order](#)

Freestone Insurance Company

Wilmington, Delaware

Date of Order: 05/02/2014

[Order](#)

Indemnity Insurance Corporation of DC, Risk Retention Group

Georgetown, Delaware

Date of Order: 01/06/2014

[Order](#)

Red Rock Insurance Company

Oklahoma City, Oklahoma

Date of Order: 08/21/2014

[Order](#)

Other

QBE Insurance Corporation

New York, New York

Violation: Failed to timely increase special workers' compensation deposit

Penalty: \$700

Date of Order: 06/05/2014

[Order](#)

OREGON.GOV

State Directories
Agencies A to Z
Oregon Administrative Rules
Oregon Revised Statutes
About Oregon.gov



WEB SITE LINKS

Text Only Site
Accessibility
Oregon.gov
File Formats
Privacy Policy
Site Map
Web Site Feedback

PDF FILE ACCESSIBILITY

**Adobe Reader is required to view PDF files.
Click the "Get Adobe Reader" image to get a
free download of the reader from Adobe.**





Administrative Orders - 2014 Company - filing violations

Orders require Adobe Acrobat© Reader, available free.

Allied World Insurance Company

New York, New York

violation: Filed Special Oregon Schedule P late

penalty: \$100

date of order: 05/09/2014

Final

American Safety Casualty Insurance Company

Atlanta, Georgia

violation: Filed Special Oregon Schedule P late

penalty: \$100

date of order: 05/09/2014

Final

Centre Insurance Company

New York, New York

violation: Filed Special Oregon Schedule P late

penalty: \$100

date of order: 05/09/2014

Final

Freestone Insurance Company

Dallas, Texas

violation: Filed Special Oregon Schedule P late

penalty: \$200

date of order: 05/09/2014

Final

GuideOne Elite Insurance Company

West Des Moines, Iowa

violation: Filed Special Oregon Schedule P late

penalty: \$100

date of order: 05/09/2014

Final

GuideOne Mutual Insurance Company

West Des Moines, Iowa

violation: Filed Special Oregon Schedule P late

penalty: \$100

date of order: 05/09/2014

Final

The Hanover Insurance Company

Worcester, Massachusetts

violation: Filed Special Oregon Schedule P late

penalty: \$100

date of order: 05/09/2014

Final

Hyundai Marine & Fire Insurance Co. Ltd.

Englewood Cliffs, New Jersey

violation: Filed Special Oregon Schedule P late

penalty: \$100

date of order: 05/09/2014

Final

Mountain Valley Indemnity Company

New York, New York

violation: Filed Special Oregon Schedule P late

penalty: \$400

date of order: 05/09/2014

Final

OREGON.GOV

- State Directories
- Agencies A to Z
- Oregon Administrative Rules
- Oregon Revised Statutes
- About Oregon.gov



WEB SITE LINKS

- Text Only Site
- Accessibility
- Oregon.gov
- File Formats
- Privacy Policy
- Site Map
- Web Site Feedback

PDF FILE ACCESSIBILITY

Adobe Reader is required to view PDF files. Click the "Get Adobe Reader" image to get a free download of the reader from Adobe.





Administrative Orders - 2014 Enforcement Orders - Producer Actions

 [Sign up for E-mail updates](#)

Orders require [Adobe Acrobat® Reader](#), available free.

[Search Producer Actions](#)

Adams, Douglas B. and Adams International Marketing, Inc.

Salem, Oregon

Violation: Agent failed to report to the director a criminal prosecution, was convicted of fraud and theft in Arizona, and engaged in dishonest business practice; agency failed to report the violation of agent to the state or take correction action

Penalty: Expired Oregon resident individual insurance producer license revoked; expired Oregon resident business entity insurance producer license revoked

Date of Order: 12/05/2014

Final

Anderson, Joshua W

North Bend, Oregon

Violation: Failed to report a criminal prosecution; convicted of a felony involving dishonesty or breach of trust;

Penalty: Oregon resident individual insurance producer license revoked

Date of Order: 05/08/2014

Final

AQA Insurance Inc.

Portland, Oregon

Violation: Failed to pay civil penalty by due date.

Penalty: \$2,000

Date of Order: 04/24/2014

Final

Baker, James A

Gresham, Oregon

Violation: Failed to respond to DCBS director's inquiry
Penalty: Resident individual insurance producer license revoked
Date of Order: 03/11/2014
Final

Brown, Michael J

Port Townsend, Washington

Violation: Failed to notify DCBS director that Washington revoked his resident individual insurance producer license; failed to respond to DCBS director inquiry.

Penalty: Oregon nonresident individual insurance producer license revoked

Date of Order: 05/07/2014

Final

Bruhn, Lyman J

Vancouver, Washington

Violation: Failed to report to the DCBS director administrative actions taken against him by the U.S. Securities and Exchange Commission and the Washington Department of Financial Institutions

Penalty: Expired nonresident individual insurance producer license revoked

Date of Order: 03/11/2014

Final

Burrows, Philip E

Eustis, Florida

Violation: Failed to respond to DCBS director's inquiry

Penalty: Expired nonresident individual insurance producer license revoked

Date of Order: 03/11/2014

Final

Butler, James E

Eugene, Oregon

Violation: Sought resident insurance producer license; previous license revoked 10/30/2012.

Penalty: Probationary license issued for two years

Date of Order: 04/03/2014

Final

Collup, Michelle

Encinitas, California

Violation: Failed to comply with director's order; failed to promptly and truthfully respond to a proper inquiry by the director.

Penalty: Oregon nonresident individual insurance producer license

revoked.

Date of Order: 09/12/2014

Final

Proposed

Curtis, Michelle K

West Linn, Oregon

Violation: Submitted five applications for auto insurance in which she knowingly inflated the purchase price or value of the vehicles

Penalty: Oregon resident individual insurance producer license revoked

Date of Order: 12/05/2014

Final

Garcia, Jesus Abel II

Salem, Oregon

Violation: Convicted of theft charges in Marion County; failed to report the prosecution to the DCBS director; failed to respond to DCBS director's inquiry about a complaint

Penalty: Expired resident individual insurance producer license revoked

Date of Order: 03/11/2014

Final

Jaskic, Indira and Jaskic Insurance LLC

Portland, Oregon

Violation: Allowed employee to sell insurance without a license; took payment for insurance but did not purchase policy; issued false insurance cards; withheld insurance premium; used insurance premium to pay for personal and business expenses; failed to deposit insurance premium into a trust account; commingled non-premium with premium in a trust account; transacted insurance without a license; failed to respond to director's inquiry; failed to notify director of using an assumed business name and a change of business address; did not properly label trust account checks.

Penalty: Oregon resident individual producer license and Oregon resident business entity insurance producer license revoked.

Date of Order: 09/03/2014

Final

Jones, Joseph H

Gresham, Oregon

Violation: Collected insurance premiums but kept most of the money, rather than sending it to insurers; engaged in various dishonest practices such as received premium but failed to inform insurer; issued false insurance cards; intentionally recorded incorrect

telephone numbers of insureds; intentionally caused insurer to pay him a commission he was not entitled to; and failed to deposit premiums into a trust account.

Penalty: Resident individual insurance producer license revoked

Date of Order: 04/03/2014

Final

Jones, Michelle J

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 April 11, 2014, to May 6, 2014

Date of Order: 04/11/2014

Final

License reinstatement order

Maxey, Nicole R

Milwaukie, Oregon

Violation: Applied for and received unemployment benefits from Oregon Employment Department that she was not entitled to; failed to notify director that Oregon Employment Department took administrative action against her; failed to notify the director of a change of business address.

Penalty: Oregon resident individual producer license revoked

Date of Order: 08/07/2014

Final

Orth, Tyler J

Troutdale, Oregon

Violation: Failed to respond to director's inquiry

Penalty: Oregon resident individual insurance producer license revoked.

Date of Order: 09/24/2014

Final

Peterson, Robert J

Portland, Oregon

Violation: Failed to notify director of change in business address; failed to respond to director's inquiry.

Penalty: Expired Oregon resident individual insurance producer license revoked.

Date of Order: 11/10/2014

Final

Pham, Eric P

Salem, Oregon

Violation: Convicted of a felony in Benton County; provided incorrect information on insurance license application.

Penalty: Refused Oregon resident individual insurance producer license.

Date of Order: 11/10/2014

Final

Pribil, John W

Miami, Florida

Violation: Deliberately provided incorrect Social Security number on prospective broker application; had insurance producer license revoked or suspended in 17 other states; failed to notify the director of administrative actions in other states; failed to respond to director's inquiry.

Penalty: Oregon nonresident individual insurance producer license revoked.

Date of Order: 12/18/2014

Final

Tran, Donny

Tualatin, Oregon

Violation: Used a dishonest practice in business by signing or directing someone else to sign an insured's name on a form to change the insured's agent of record; failed to notify the DCBS director of a change of business address and telephone number; and failed to respond to the DCBS director's inquiry

Penalty: \$2,100

Date of Order: 03/11/2014

Final

Vue, Pa H

Boring, Oregon

Violation: Convicted in Multnomah County of aggravated theft, identity theft, and aggravated identity theft; failed to notify director of convictions

Penalty: Oregon resident individual insurance producer license revoked

Date of Order: 11/24/2014

Final

Proposed

Warren, Michael A

Portland, 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 Nov. 10, 2014, to March 4, 2015.

Date of Order: 11/10/2014

Final

License reinstatement order

Wolf, Dale D

Salem, Oregon

Violation: Applied insurance premium payments to the insurance to another person without the knowledge or consent of the person who made the payment; failed to notify director he had closed his insurance business; failed to respond to director's inquiry.

Penalty: Expired Oregon resident individual producer license revoked

Date of Order: 06/05/2014

Final

OREGON.GOV

- State Directories
- Agencies A to Z
- Oregon Administrative Rules
- Oregon Revised Statutes
- About Oregon.gov



WEB SITE LINKS

- Text Only Site
- Accessibility
- Oregon.gov
- File Formats
- Privacy Policy
- Site Map
- Web Site Feedback

PDF FILE ACCESSIBILITY

Adobe Reader is required to view PDF files. Click the "Get Adobe Reader" image to get a free download of the reader from Adobe.



731.256 Enforcement generally; restitution. (1) The Director of the Department of Consumer and Business Services may institute actions or other lawful proceedings that the director deems necessary to enforce a provision of the Insurance Code or any order or action the director makes or takes in pursuance of law.

(2) As part of or in addition to any action or proceeding the director institutes against an insurer under subsection (1) of this section, the director may:

(a) Seek restitution on a consumer's behalf for actual damages the consumer suffers as a result of the insurer's violation of a provision of the Insurance Code or applicable federal law or the insurer's breach of an insurance contract or policy the insurer has with the consumer; and

(b) Seek other equitable relief the director deems appropriate under the circumstances.

(3) If the director has reason to believe that a person has violated a provision of the Insurance Code or another law that applies to insurance operations, and if the violation is subject to criminal prosecution and in the opinion of the director criminal prosecution is warranted, the director shall give the information about the violation to the Attorney General or district attorney that has jurisdiction over the violation. The Attorney General or district attorney promptly shall institute an action or a proceeding against the person as the information requires or justifies.

(4) An action or proceeding that the director institutes under subsection (1) of this section is an exercise of the director's regulatory authority and, except as otherwise provided in subsection (3) of this section, does not create a cause of action for any other person. [1967 c.359 §57; 2013 c.618 §1]



► [The Oregon Administrative Rules contain OARs filed through February 15, 2015](#) ◀

QUESTIONS ABOUT THE CONTENT OR MEANING OF THIS AGENCY'S RULES?
[CLICK HERE TO ACCESS RULES COORDINATOR CONTACT INFORMATION](#)

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES,
INSURANCE DIVISION**

**DIVISION 7
ENFORCEMENT**

836-007-0001

Actions by Director for Restitution or Other Equitable Relief

(1) As used in this rule:

- (a) "Actual damages" means reasonably foreseeable losses.
- (b) "Consumer" means an insured under a policy that is the subject of the enforcement action.
- (c) "Equitable relief" means injunctive relief, specific performance of a contract provision or specific performance of a provision of the Insurance Code or rules implementing the Insurance Code or applicable federal law.

(2) The Director of the Department of Consumer and Business Services:

May seek restitution of actual damages or other equitable relief on a consumer's behalf only when the director takes an action against an insurer under ORS 731.256(1).

(b) Will not seek relief under subsection (a) of this section for any consumer who is entitled to a remedy under ORS Chapter 656; and

(c) May reduce actual damages upon a showing that the consumer has failed to reasonably mitigate damages.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 731.256

Hist.: ID 8-2013(Temp), f. & cert. ef. 12-31-13 thru 6-20-14; ID 10-2014, f. & cert. ef. 6-20-14

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

**Enrolled
Senate Bill 414**

Sponsored by Senator SHIELDS (at the request of Loreta Boskovic) (Pre-session filed.)

CHAPTER

AN ACT

Relating to administration of the Insurance Code; creating new provisions; amending ORS 731.256; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 731.256 is amended to read:

731.256. (1) The Director of the Department of Consumer and Business Services may institute *[such]* actions or other lawful proceedings *[as]* **that the director *[may deem]* deems necessary *[for the enforcement of any]* to enforce a provision of the Insurance Code or any order or action *[made or taken by the director]* the director makes or takes in pursuance of law.**

(2) As part of or in addition to any action or proceeding the director institutes against an insurer under subsection (1) of this section, the director may:

(a) Seek restitution on a consumer's behalf for actual damages the consumer suffers as a result of the insurer's violation of a provision of the Insurance Code or applicable federal law or the insurer's breach of an insurance contract or policy the insurer has with the consumer; and

(b) Seek other equitable relief the director deems appropriate under the circumstances.

[(2)] **(3) If the director has reason to believe that *[any]* a person has violated *[any]* a provision of the Insurance Code or *[other]* another law *[applicable]* that applies to insurance operations, *[for which]* and if the violation is subject to criminal prosecution *[is provided]* and in the opinion of the director *[would be in order]* criminal prosecution is warranted, the director shall give the information *[relative thereto]* about the violation to the Attorney General or district attorney *[having]* that has jurisdiction *[of any such]* over the violation. The Attorney General or district attorney promptly shall institute *[such]* an action or *[proceedings]* a proceeding against *[such]* the person as the information requires or justifies.**

(4) An action or proceeding that the director institutes under subsection (1) of this section is an exercise of the director's regulatory authority and, except as otherwise provided in subsection (3) of this section, does not create a cause of action for any other person.

SECTION 2. (1) The amendments to ORS 731.256 by section 1 of this 2013 Act become operative January 1, 2014.

(2) The Director of the Department of Consumer and Business Services may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the director to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the director by the amendments to ORS 731.256 by section 1 of this 2013 Act.

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by Senate June 19, 2013

.....
Robert Taylor, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 28, 2013

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

.....
Kate Brown, Secretary of State

CAUSES OF ACTION AND REMEDIES AVAILABLE AGAINST INSURERS UNDER OREGON LAW

This working paper discusses causes of action and remedies currently available under Oregon law to members of the public in actions against insurers.

SUMMARY

Consumers and insurance policy holders in Oregon currently have a great number of remedies available to them to enforce contracts of insurance, redress wrongful insurer conduct, and punish insurers who are guilty of deliberate or intentional misconduct. This is an overview of remedies that are discussed in further detail in the body of this working paper:

1. Breach of contract for policy benefits;
2. Consequential damages for breach of contract;
3. Emotional distress damages for breaches of contract that directly cause physical injury;
4. Damages in excess of the stated policy limit for failing to adequately defend the insured;
5. Unrestricted damages for the tort of intentional infliction of emotional distress;
6. Unrestricted damages for the tort of intentional interference with contractual relations;
7. Unrestricted damages for the tort of fraudulent reductions or denials of benefits;

8. Punitive damages where the misconduct of the insurer has been deliberate, intentional, wanton and willful;
9. Assignability of claims against insurers;
10. Attorneys fees for actions on the policy;
11. Actions against the insurer to recover policy proceeds following entry of a judgment.

These remedies are discussed in more detail below.

1. BREACH OF CONTRACT

a. First-Party Insurance

Oregon has recognized that breach of contract claim exists against an insurer who fails to perform duties under a policy. In addition to recovery of the policy benefits, Oregon has recognized the general rule in contract actions that consequential damages which were foreseeable at the inception of the contract are recoverable as damages. Commentators have noted as one example the business owner who sustains lost profits after a wrongful denial of coverage. OSB Insurance CLE Sec. 10.31.

Emotional distress damages are generally not available for breach of an insurance contract. *Allstate Ins. Co. v. Breedan*, 410 Fed Appx 6, 10 (9th Cir 2010). Damages for emotional distress are recoverable in a breach of contract action when the breach actually causes physical harm and resulting distress, for example, when a health insurer wrongfully fails to authorize surgery for a medical condition resulting in physical harm. "Ordinarily, emotional distress caused by pecuniary loss resulting from a breach of contract is not recoverable. When, however, the emotional distress is caused by physical harm that results from the breach of contract, the case is different." *McKenzie v. Pacific*

Health & Life Ins. Co., 118 Or App 377, 381 (1993); *Restatement 2d Contracts* §353 (1979).

There is no entitlement to noneconomic damages from the insurer absent direct physical injury caused by the breach. *Farris v. U.S. Fid. And Guar. Co.*, 284 Or 453 (1979). Likewise, punitive damages are not available for a simple breach of contract. *Id.*

2. BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING AND THE TORT OF THIRD PARTY BAD FAITH

The covenant of “good faith and fair dealing” is implied in every contract. The covenant governs the performance of every contract so that the objectively reasonable expectations of the parties may be fulfilled. Oregon courts have held that a party can breach the covenant of good faith and fair dealing without breaching an express term of the contract. *McKenzie, Supra*. If a “special relationship” exists between the contracting parties it will give rise to a duty independent of the terms of the agreement. A breach of the special relationship will expose the defendant to tort liability as opposed to simply contract damages. *Georgetown Realty v. The Home Ins. Co.*, 313 Or 97 (1992).

To allege a tort claim against an insurer, the insured must prove: (1) “that the defendant’s conduct violated some standard of care that is not part of the defendant’s explicit or implied contractual obligations” and (2) “that the independent standard of care stems from a particular special relationship between the parties.” *Strader v. Grange Mut. Ins. Co.*, 179 Or App 329 (2002).

A “special relationship” has been held to exist in the insured’s execution in its duty to defend. When a liability insurer undertakes to defend its insured, the insured relinquishes control of the litigation to the insurer, and generally loses the right to negotiate a settlement. In addition, when the settlement value of the case approaches

policy limits, the insurer may be tempted to gamble, while the insured becomes more anxious to settle. Because of this potential conflict, and in light of the insurer's control of the action, the insurer has been held to a high standard of good faith and fair dealing. This relationship, gives rise to tort liability on the part of the insurer if it fails to use such care as would have been exercised by an ordinarily prudent insurer with no policy limit applicable to the claim. *Santilli v. State Farm*, 278 Or 53 (1977). An insurer may be liable for an excess verdict if it fails to negotiate reasonably or acts negligently in the defense of the insured. *Goddard v. Farmers Ins. Co.*, 173 Or App 633, 637 (2001). If the insurer's conduct is not only negligent, but rises to a level supporting punitive damages, then such damages are recoverable. *Georgetown Realty v. The Home Ins. Co.*, 313 Or 97 (1992).

3. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

The claim of intentional infliction of emotional distress is available in the first party insurance context. Although a claim for intentional infliction will generally not arise when the situation involves no more than a legitimate disagreement about coverage, it can spring from a situation involving an insurer's overbearing conduct. *Green v. State Farm*, 667 F2d 22 (9th Cir 1982). In *Green*, the insured, who suffered a fire loss, claimed that the insurer, although having a reasonable basis to deny the claim, acted in an unreasonable and outrageous manner in the investigation and adjustment of the loss, including trying to have the insured indicted for arson when he pressed his claim. The trial court awarded compensatory and punitive damages, and the judgment was affirmed on appeal. *Green* demonstrates that the actions of the insurer might give rise to a tort

even when the insurer has a legitimate basis to deny the claim, however, the conduct must be an extreme departure from societal norms.

4. INTENTIONAL INTERFERENCE WITH ECONOMIC RELATIONS

The claim of intentional interference with economic relations was recognized as potentially applicable to the denial of a first-party claim in *Employers' Fire Ins. V. Love It Ice Cream*, 64 Or App 784 (1983). In that case, the court held that the plaintiff had pleaded a sufficient claim for intentional interference based on allegations that the company had wrongfully denied its fire-loss claim and delayed payment, intending to prevent the insured from resuming its business, thus potentially decreasing the possible amounts owed under the policy.

5. FRAUD

It is generally accepted that an action for fraud will be available to an insured if benefits are denied or reduced due to the fraudulent conduct of an insurer. *Foltz v. State Farm*, 326 Or 294, 952 P2d 1012 (1998). In *Foltz*, the insured claimed that her benefits had been denied and reduced because of the alleged fraudulent use of an outside medical review service. On questions certified to the Oregon Supreme Court by the U.S. District Court, the Oregon court stated that such a cause of action would be available as long as an arbitration proceeding had determined that she was owed further benefits.

6. ATTORNEYS FEES

In a direct action against an insurer the insured can recover attorney fees. The recovery of attorney fees is mandatory. The court must award reasonable attorney fees if settlement is not made within six months of filing the proof of loss, an action is brought on the policy, and the plaintiff's recovery exceeds the amount of the tender made by the

defendant in that action. ORS 742.061; *Foles v. U. S. Fidelity & Guaranty*, 259 OR 337 (1971).

ORS 20.075, which lists the factors that courts must consider when an award of attorney fees is discretionary with the court, does not apply to fee awards under ORS 742.061 because awards under the latter statute are mandatory. *Peterson v. Farmers Ins. Co.*, 162 Or App 562 (1999).

In filed actions for Personal Injury Protection (PIP) benefits, a plaintiff who prevails is entitled to recovery of attorney fees. *Grisby v. Progressive Ins. Co.*, 343 Or 394 (2007).

7. ACTIONS ON JUDGMENTS AGAINST TORTFEASORS

If a party injured by accident obtains a final judgment against an insured tortfeasor and if the judgment is not satisfied within 30 days after it is rendered or if the tortfeasor is bankrupt or insolvent, then the party may recover the amount of the judgment from the insurer, subject to the policy limits. ORS 742.031 The judgment debtor is also entitled to attorney fees under ORS 742.031. *N.W. Marine Iron v. Western Casualty*, 45 Or App 269, 271-272 (1980).

8. ASSIGNMENTS OF CAUSES OF ACTION AGAINST INSURERS

A judgment creditor can obtain an assignment from the insured against whom a judgment in excess of the insured's policy limits has been recovered. The judgment creditor may then bring a law action for a failure to settle within the policy limits, and, if the judgment creditor prevails he is also entitled to attorney fees. *Groce v. Fidelity General Insurance*, 252 Or 296 (1969).

A policy provision prohibiting assignment does not preclude the assignment of a cause of action for failure to settle the claim in good faith. *Groce v. Fidelity General Insurance*, 252 Or 296, 306 (1969). ORS 17.100.