

Crime law could affect insurance agents and companies

Little-known provisions of the federal Violent Crime Control and Law Enforcement Act of 1994 could have a big effect on the insurance industry.

The act is found in Title 18 of the United States Code, Sections 1033 and 1034. It includes criminal and civil enforcement provisions aimed directly at insurance fraud.

Among other provisions, the law prohibits an individual convicted of a felony involving dishonesty or breach of trust from engaging in the business of insurance or participating in insurance activities that affect interstate commerce.

It also prohibits a company or individual from willfully permitting anyone who has been convicted of such a felony to participate in the insurance business.

Both violations are felonies punishable by imprisonment of up to five years and fines of up to \$50,000 per occurrence.

The law, which went into effect in September 1994, doesn't have a grandfather clause and applies to all prospective employees and present employees of insurers.

A federal prosecutor or court ultimately will determine how to interpret the statute. However, a working group of the National Association of Insurance Commissioners (NAIC) concluded that definitions used in the statute could be broadly construed. For example, an "employee" could be any person working for an insurer, whether directly or indirectly. The definition of "business of insurance" appears to be extremely broad and inclusive of almost all insurance activities.

A "prohibited person" may apply to the appropriate state insurance commissioner for "written consent" to work in the insurance business. However, an individual may not work in insurance until written consent or clearance is granted.

Oregon already asks applicants for an agent's license if they have been indicted for or convicted of a felony or misdemeanor. All applications that indicate possible Title 18 felonies or misdemeanors involving theft or violence to others are reviewed by the manager of Agent Licensing. A follow-up questionnaire is sent to applicants if additional information is needed.

The Insurance Division also will review requests from prohibited persons for consent to work in the insurance industry.

"Pursuant to NAIC guidelines, we will review requests from resident agents and other employees living in Oregon, and will refer nonresident requests to the state of domicile," said Deputy Insurance Commissioner **Nancy Ellison**.

The NAIC guidelines suggest that insurers take steps to determine if any of their present or prospective employees have been convicted of felonies that involve dishonesty or breach of trust.



Oregon gains second-round accreditation from NAIC

Deputy Insurance Commissioner Nancy Ellison received Oregon's second-round accreditation certificate at the National Association of Insurance Commissioners (NAIC) winter national meeting in Orlando in December. Pictured with Ellison are Insurance Division employees (left to right): Lewis Littlehales, Russell Latham, Michael Lamb, Charles Nicoloff, and Neeraj Gupta, and outgoing NAIC President Glenn Pomeroy. Please see Page 3 for more on the accreditation process.

Oregon fines ABIG \$197,594 as result of multi-state exam

The Oregon Department of Consumer and Business Services has fined a Florida-based insurance group \$197,594 as a result of a multi-state market conduct examination.

Oregon is one of 39 states that have jointly signed a consent order to resolve possible insurance law violations by American Bankers Insurance Group, Inc. (ABIG). The consent order was announced Nov. 23 by Kentucky Insurance Commissioner George Nichols III, who spearheaded the market conduct examination.

"We are pleased to be part of this cooperative effort to protect consumers in Oregon and the 38 other participating states,"

INSURANCE DIVISION FOCUS

Experienced staff and team approach key to successful company regulation

Red flags went up immediately as the financial analyst examined the insurer's annual statement.

Some of the assets reported weren't admissible under insurance accounting rules.

The company's surplus was overstated. It was losing money.

The analyst reported the discrepancies to her supervisor, and within two days examiners from the Oregon Insurance Division were on the scene conducting a target exam of the company.

The case is a good example of the team approach utilized by the Company Regulation Section. It also illustrates the importance of moving quickly when solvency questions arise.

Insurance Division Deputy Administrator **Charles Nicoloff** is section manager. **Russell Latham** is chief analyst and **Neeraj Gupta** is chief examiner.

Four financial analysts review all quarterly and annual statements filed by the 50 Oregon domestic insurance companies. They do a detailed review of the balance sheet, income statement, analysis of surplus, and all support schedules included in statements filed on behalf of each domestic insurer. They also make sure each company complies with Oregon insurance law.

If an analyst finds a problem, he or she confers with Latham, who determines if

management review is warranted. Latham, Gupta, Nicoloff, and Deputy Insurance Commissioner **Nancy Ellison** discuss any serious problems identified by the analysts, and the group decides if a target examination is appropriate. The exam can focus on a line item or the entire company.

Gupta said his staff of seven did three target exams in 1998, a higher number than usual. All involved health insurers.

Gupta's staff also does a thorough examination of each domestic insurer every three years. "We perform an extensive review of the source documents that were used to create their financial statements."

Both the analysts and examiners have excellent qualifications, with many holding CPA and CFE or AFE designations.

The quality of their work was recognized in December when the National Association of Insurance Commissioners (NAIC) awarded Oregon its second-round accreditation certificate. (Please see related story, Page 3).

Said Latham, "This was a very helpful exercise to have someone do a detailed review of what you're doing. It also was very satisfying to receive confirmation that you're doing what you're supposed to be doing."

The Company Regulation Section also collects insurance taxes, maintains information about companies, maintains securities, and handles liquidations.

Company Regulation has well-qualified employees

Financial analysts: Annette Boyce, Rick Frawley, Suk Ghosh, Greg Lathrop

Financial examiners: Dave Daulton, Tom Farrelly, Patrick Huth, Tim Hurley, Pat Neesham, Mike Phillips

Chief receiver: Jack Sanguin

Retaliatory tax auditor: Piper Jones

Security deposits: Diane Ruark

Surplus lines/risk retention: Sandy Dittrich

Support staff: Bonnie Abell, Marcia Jones, Linda Rothenberger

Licensees must notify division of changes

Moving?
After you notify the post office, don't forget to tell the Insurance Division.

ORS 744.028 requires licensees (agents, adjusters, consultants) to notify the Director no later than 30 days after a change in a business or residence address or telephone number.

The law also requires licensees to notify the Director no later than 30 days after opening or closing a business location, or changing, deleting or adding an assumed business name.

Contact Agent Licensing, (503) 947-7981, to request an Agent Address Change Form, or notify us by mail at Agent Licensing, Oregon Insurance Division, 350 Winter St. NE, Room 440-3, Salem, OR 97310. Be sure to include the date, your name and Oregon license number, your new business or residence address and phone number, and your signature.

PERSONNEL

- New Insurance Division employees:
- **Bonnie Abell**, office specialist 1, Company Regulation.
 - **Dianna White**, office specialist 2, Administrative Services.

- **Richard Zafuto**, compliance officer, Consumer Protection.
- EDITOR'S NOTE: Please see Page 6 for staff changes in the Investigations Unit.

KEY CONTACTS

<p>Administration Information (503) 947-7980 Fax (503) 378-4351 Web www.cbs.state.or.us/ins Administrator Nancy Ellison Deputy admin. Charles Nicoloff</p>	<p>Admin. Services & Operations Information (503) 947-7980 Manager Elaine Day</p> <p>Agent Licensing Information (503) 947-7981 Manager Margarita Nuñez</p> <p>Consumer Protection/Complaints Information (503) 947-7984 Manager Joel Ario</p>	<p>Rates & Forms</p> <ul style="list-style-type: none"> • Health Information (503) 947-7985 Asst. mgr. Maxi McKibben • Life/Property & Casualty Information (503) 947-7983 Asst. mgr. Donna Bleiler
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DEPUTY COMMISSIONER'S COLUMN

Oregon earns second-round accreditation from NAIC



Nancy Ellison

Financial regulation is one of the most important responsibilities of state insurance departments. Consumers deserve to know that their insurance company is solvent and can pay claims on time and in full.

Oregon's ongoing financial regulation efforts were recognized in December when we earned a second-round accreditation certificate from the National Association of Insurance Commissioners (NAIC).

The NAIC, the nation's oldest association of state government officials, comprises the chief insurance regulators from the 50 states, the District of Columbia, and four U.S. territories. Its accreditation program is designed to raise the level of financial regulation by state insurance departments. High standards are essential if we are to carry out our consumer protection responsibilities, maintain a stable insurance marketplace, and effectively collaborate with other state insurance regulators.

NAIC standards require the following of insurance departments :

- Adequate statutory and administrative authority to regulate an insurer's corporate and financial affairs
- The resources necessary to carry out that authority
- Organizational and personnel practices designed for effective regulation

A team of independent auditors assembled by the NAIC conducts a comprehensive on-site review of state insurance departments every five years to determine if they meet NAIC standards.

The accreditation program, which began in 1991, has helped reduce insurance company insolvencies. For example, there were more than 40 insolvencies nationwide in 1991 and only 13 in 1996.

Oregon was initially accredited in December of 1993. For our five-year review, an NAIC audit team spent the week of Oct. 19-23 in Salem conducting a top-to-bottom examination of our financial regulation program. Team members initially met with **Charles Nicoloff**, deputy administrator and Company Regulation Section manager; **Lewis Littlehales**, legislative coordinator; **Russell Latham**, chief analyst; and **Neeraj Gupta**, chief examiner.

The team then selected a sample of 12 companies and reviewed our analysts' files — some of them going back five years — and examination work papers for six companies. After reviewing the files and work papers, the team sat down with the analyst or examiner who did the work and asked questions about how the documents were prepared.

We received an average score of 4, which we were told was very good. The team also had five suggestions for improvements, which we will consider as we fine-tune our company regulatory program.

All in all, the accreditation process was very helpful and satisfying. I was confident going in that we would do well, largely because of the highly qualified and experienced staff in our Company Regulation Section.

While it was nice to receive our second-round accreditation certificate at the NAIC's winter meeting in Orlando in December, we're not planning to rest on our laurels. We will continue to protect Oregon consumers by closely monitoring the financial health of the insurers we regulate.

Nancy Ellison
Deputy Insurance Commissioner
Insurance Division Administrator

Insurance Division introduces four bills in 1999 Legislature

The Oregon Legislature convened for its biennial session Jan. 11.

Information about the session, including the schedule and status of bills, is available on the Legislature's Web site: www.leg.state.or.us.

Four legislative proposals have been introduced by the Insurance Division:

Health insurance, group coverage, associations, and multiple-employer groups

Clarifies how the Insurance Code, particularly recent health insurance reform legislation, applies to multiple-employer welfare arrangements and associations that are group policyholders.

Health insurance reform, clarification of existing law

Conforms recent health insurance reform legislation to federal law in such areas as applicability of pre-existing condition provisions, portability of coverage, and cancer coverage.

Confidentiality of business and other information in the division's possession

Ensures continued protection of sensitive information submitted by insurers in the course of examinations. Work papers and other materials collected during exams would remain confidential in the same manner that underlying documents

remain confidential at the conclusion of an investigation. Final examination reports summarizing exam findings would continue to be published.

Workers compensation insurance

Authorizes the Director of DCBS to license one or more workers' compensation rating organizations and requires the Director to designate one of them as the agent to which each workers' compensation rating organization reports its insurance statistics. Establishes the responsibilities of these rating organizations and requires the Director to establish the licensing process for them.

WORKERS' COMPENSATION

Oregon Drywall Systems, Inc. v. Nat'l Council on Comp. Ins. 153 Or App 662 (1998).

The employer, a drywall contractor, requested a hearing challenging the insurer's premium assessment on payments made to 18 individuals who the employer alleged were not "workers" under workers' compensation law. Noting that the employer had the burden of proof, the DCBS Director found that the employer had failed to present persuasive evidence that it did not control or have the right to control nine of the individuals. With respect to the other nine, the Director determined that the "right to control" test was not dispositive and concluded under the "relative nature of the work" test that those individuals were "workers."

In reaching that conclusion, the Director found that the employer provided the nine individuals with the work, told them what needed to be done, and monitored their progress. Additionally, the Director relied on the finding that their work for the employer was continuous and was the same work that was performed by the employer's own drywall crew. The Director also relied upon the finding that, because the employer negotiated the price of installation with the general contractor and paid the individuals only 11 to 18 cents per square foot or \$12 to \$15 per hour, the employer was in a better position to absorb the costs if an individual sustained a worker's compensation injury.

The Oregon Court of Appeals reversed the Director, holding instead that all 18 individuals were not "workers." The court concluded that the "right to control" test conclusively established that the employer did not have the right to control the means and manner of the work of the 18 individuals. Consequently, the court did not reach the "relative nature of the work" test. The court based its conclusion on its findings that the individuals:

- Could choose to accept or refuse the employer's work and their work
- Could be terminated mid-job for cause
- Set their own hours
- Submitted bids on the work and were paid upon completion of the job
- Used their own hand tools
- Could use their own methods in reaching the intended result
- Were subject to monitoring only as to

their progress and not as to the method of doing their work

EDITOR'S NOTE: Subsequent independent contractor cases issued by the court have not followed the same method of review nor have they reached a divergent conclusion. Instead those cases have cited *Oregon Drywall Systems, Inc.* for the proposition that it is the right to control, not actual control, that is dispositive. See *Coghill v. Natl. Council on Comp. Ins.*, 155 Or App 601 (1998); *Coghill v. Natl. Council on Comp. Ins.*, 155 Or 638 (1998). In these cases, the court, applying the "right to control" test and the "relative nature of the work" test, determined that DCBS could properly conclude, based on this record, that the employer failed to meet his burden of establishing that the installers were not "workers" as defined by workers' compensation law.

A.D. Timber Cutters, Inc.
(INS 97-09-042, Sept. 25, 1998)

During the audit period in question, the employer was engaged in the business of timber cutting. The employer had its own employees. In addition, it had independent contractor agreements with other experienced timber cutters to fall, cut and buck, or saw timber into lengths pursuant to its contracts with timber companies and mills.

The timber companies and mills provided detailed instructions on how to cut timber on their property. The instructions were provided in the form of cutting cards and specifications which were identified in the employer's contract with the timber companies and mills or were attached to the contracts.

The instructions detailed such matters as which trees to fall, how the trees were to be bucked, and the lengths and other specifications of each type of timber to be fallen and bucked. Other than those instructions, the employer's agreement with the timber cutters did not indicate that the employer had a right to control the timber cutters.

At the job site, the employer supervised its own employees but did not supervise the timber cutters, who were working nearby. The employer paid its employees on an hourly basis but split the profits from the contract with the timber cutters.

The insurer determined that the timber cutters were "workers" under workers' compensation law and assessed premium on payments made to them by the employer.

Please see WORKERS' COMP, Page 5

Agents can help clients preserve their workers' comp appeal rights

What should you do if a client calls you after receiving a workers' compensation insurance premium audit billing? Even though you may not have helped the client obtain the insurance, you can help preserve your client's legal right to an administrative hearing if you have the right information.

By law, all workers' compensation insurers must notify policyholders of a final premium audit billing. That billing is defined as the first document issued by the insurer to the employer after its audit that both contains the results of the audit and states the difference between the estimated premium reported for the entire policy period and the final premium calculated after the policy period ends as determined by the audit.

The policyholder has 60 days from receipt of such a billing to file an appeal with the Insurance Division.

The division's Hearings Unit recently conducted a show cause hearing concerning a workers' compensation premium audit case in which the policyholder failed to request a hearing within 60 days after receiving the final premium audit billing. At the hearing, the policyholder argued that all of the billings it received were void because they did not comply with OAR 836-043-0110.

That rule requires the insurer to designate the final premium audit billing and to include in the final premium audit billing certain information and a notice of the policyholder's right to appeal. However, in *Kilham Stationery v. Nat'l Council on Comp. Ins.*, 109 Or App 545 (1991), the Oregon Court of Appeals held that the fact that the billing is not designated as the final premium audit billing and does not contain a policyholder's right to appeal does not void the billing or excuse an untimely filing of the request for hearing.

If your client has received what appears to be a final audit billing and disagrees with it, call **Von Ledbetter** at the Hearings Unit, (503) 947-7268.

Visit our Web site at:
www.cbs.state.or.us/ins
Oregon Insurance Division

Honesty really is the best policy on applications

By Mitchel Curzon

The purpose of the Oregon Insurance Code and related administrative rules is to protect the insurance-buying public. One way these laws help protect Oregonians is by making sure insurance intermediaries such as agents, consultants, and adjusters meet certain minimum licensing requirements. Failure to comply with these requirements can be like hitting a “pothole” on your road to a successful career as an insurance intermediary.

One pothole to avoid involves ORS 744.013(2)(b), which prohibits an insurance intermediary from making a false or misleading statement on an application for an initial agent license or a renewal.

The application asks for information to help the Insurance Division evaluate the applicant’s fitness for a license. Several questions ask if the applicant has had any prior administrative, civil, criminal, or bankruptcy problems. Although prior problems won’t automatically preclude an applicant from getting a license, we need to know what happened to determine if the applicant may repeat prior misconduct and thereby pose an economic danger to consumers, other intermediaries or insurers.

To renew a resident agent license, the applicant must list specific information about continuing education courses taken during the past year or two. Since June 1, 1997, agents have had to include with their renewals the originals or copies of continuing education course certificates. This information helps the division ensure that agents maintain their knowledge of the ever-changing insurance industry.

Failure to completely and correctly answer questions or to provide requested information seriously hampers the division’s ability to protect the insurance-buying public.

Another pothole involves ORS 746.100, which prohibits an agent from making a false or misleading statement on an application for insurance.

An insurance agent is an intermediary between the insurer and the applicant. The agent generally represents the insurer in the course of selling insurance, although in some cases the agent may represent the applicant or even both the insurer and applicant. Although the applicant usually provides the information required on the application, the agent often asks questions and records the answers. The agent functions as a

“fiduciary,” one in a position of trust for and on behalf of the insurer or applicant. Thus, both the applicant and the insurer depend on the agent to completely and correctly record the information. Failure to do so can cause an applicant to be unnecessarily declined or canceled, uninsured for a period of time, suffer inconvenience, and even pay higher premiums. Such misconduct by the agent can also result in a call from the agent’s errors and omissions insurance agent or insurer.

During the last eight months, the Insurance Division has initiated administrative action against 20 agents for misconduct. Half of these agents misrepresented some information in connection with an insurance transaction or on an application for a new license or a renewal. In five of these cases, we have revoked — or propose to revoke — the agent’s insurance agent license. In the other five, we have assessed a significant civil penalty against the agent.

In one case, an agent misrepresented on a life insurance application that she saw the applicant on the date the application was signed. The applicant was in another state at the time and the agent did not see the applicant at any time. The agent spoke only with the applicant’s

daughter, who had signed her father’s signature on the application. We fined the agent \$1,000.

In another case, an agent misrepresented on two life insurance applications that the insureds signed the applications in other states when in fact they were signed in Oregon. We revoked the agent’s license and assessed a \$2,500 fine for this and other violations.

In a third case, an agent misrepresented on his resident agent license application that he had not been convicted of any crime when in fact he had a misdemeanor conviction just 20 months earlier. The Insurance Division discovered the conviction after issuing the license, which was later revoked.

We encourage intermediaries to always tell the truth. If you are unsure about how to answer a particular question on an application for a license, call the Insurance Division for assistance. If you are unsure about how to answer a question on an application for insurance, call the insurer.

Mitchel Curzon is an administrative law specialist for the Oregon Insurance Division.

POTHOLES ON THE ROAD TO SUCCESS

WORKERS’ COMP

continued from Page 4

At hearing, the insurer argued that the employer controlled and had a strong interest in controlling the means and manner of how the timber cutters fell and bucked

the trees because it required them to do so according to the specifications set forth in the cutting cards and in the employer’s contract with the timber companies and mills.

The DCBS Director applied the judicially created “right to control” test and the “relative nature of the work” test and determined that the timber cutters were not

“workers.” Citing *Bob Wilkes Falling Inc. v. NCCI*, 129 Or App 220 (1994), the Director specifically held that the customers’ instructions set forth in the cutting cards and in the employer’s contract defined the result desired by the employer and its customers and not the means and manner of the timber cutters’ work.

ADMINISTRATIVE ACTIONS

The Insurance Division took the following actions against agents and companies:

Robert E. Bauman

Sheridan, OR

Violation: Misappropriated premiums

Penalty: License revoked; \$1,640 fine

Date of order: Sept. 10, 1998

John A. Briece and Financial Techniques International, Inc.

Troutdale, OR

Violation: Made misrepresentations on policy applications; used dishonest or fraudulent practices.

Penalty: Licenses revoked; \$2,500 fine

Date of order: Sept. 29, 1998

Michael J. Evinger

Chehalis, WA

Violation: Made false or misleading statements about the financial condition of two insurance companies.

Penalty: \$1,000 fine

Date of order: Dec. 23, 1998

Raymond N. Gillespie and Ore Cal Insurance

Albuquerque, NM

Violation: Misappropriated premiums

Penalty: Licenses revoked

Date of order: Oct. 15, 1998

Paul B. Joiner

Eugene, OR

Violation: Misappropriated premiums. Made misrepresentations to policyholders. Transacted insurance without a license. Transacted insurance without an appointment.

Penalty: License revoked; \$500 fine

Date of order: Dec. 1, 1998

Titus T. Lipping and ABC Insurance Services

North Bend, OR

Violation: Misappropriated, converted to his own use, or illegally withheld money belonging to an insurer received as payment for insurance.

Penalty: Licenses revoked; \$8,000 fine

Date of order: July 16, 1998

PFL Life Insurance Co.

Cedar Rapids, IA

Violation: Unintentionally failed to respond promptly to an inquiry from the Director.

Penalty: \$2,000 fine

Date of order: Aug. 27, 1998

Polaris Insurance Co. Ltd.

San Jose, Costa Rica

Violation: Transacted insurance in Oregon without an Oregon certificate of authority.

Penalty: Cease and desist order

Date of order: July 21, 1998

Johnnie Lee Scott, Richard K. Scott, New Life Insurance Agency and New Life Agency, Inc.

Medford, OR

Violation: Misappropriated premiums. Made misrepresentations on applications and to applicants. Used unapproved forms.

Penalty: Licenses revoked. Johnnie Lee Scott and Richard K. Scott were each assessed a fine of \$2,500.

Date of order: Aug. 12, 1998

Johnnie Lee Scott

Medford, OR

Violation: Misappropriated premiums

Penalty: \$1,000 fine in addition to penalties and sanctions that were assessed Aug. 12, 1998.

Date of order: Oct. 14, 1998

Donald R. Tierney

Tigard, OR

Violation: Misappropriated premiums

Penalty: License revoked

Date of order: Sept. 24, 1998

James V. Williams

Corvallis, OR

Violation: Misappropriated premiums. Transacted insurance after appointment had been terminated. Failed to respond to inquiries from the Director.

Penalty: License revoked; \$4,500 fine

Date of order: Dec. 23, 1998

Investigations Unit has five new members

The Investigations Unit has an almost entirely new look, with five of the six members joining the unit since October.

Cindy Jones, formerly a compliance officer in the Consumer Assistance Unit, became Investigations Unit manager Oct. 19. She has 22 years of experience as an agent and underwriter.

New investigators:

- **Bill Karalekas**, who will serve as chief investigator. Karalekas was formerly an investigator in the Oregon Division of Finance and Corporate Securities.
- **Ruth Johnson**, formerly continuing education coordinator in the Agent Licensing Unit.
- **David Faulkner**, formerly a claims investigator with Liberty Mutual Group and Liberty Northwest, and a private insurance investigator.

Cindy Winters is the unit's new support staff person, and the sixth member, administrative law specialist **Mitchel Curzon**, has been with the unit about 14 years.

Insurers fined for failing to follow filing rules

Eleven insurers were fined a total of \$20,000 for not complying with filing requirements for their 1997 annual statements and supplemental forms. The companies filed late or provided an incorrect or unreadable bar code.

Oregon is one of only a few state insurance departments to use a bar-coding system to log-in annual reports.

PXRE Reinsurance Co., Edison, NJ, was fined \$5,000.

The following insurers were each fined \$1,500:

- ACA Financial Guaranty Corporation
New York, NY 10006
- Alexander Hamilton Life Insurance Co.
Greensboro, NC 27420
- Anthem Life Insurance Co.
Piscataway, NJ 08855
- Chrysler Insurance Co.
Southfield, MI 48086
- Intercargo Insurance Co.
Schaumburg, IL 60173
- Jefferson-Pilot Life Insurance Co.
Greensboro, NC 27420
- National Catholic Society of Foresters
Mt. Prospect, IL 60056
- Nichido Fire and Marine Ins. Co., Ltd.
New York, NY 10270
- Technology Insurance Co., Inc.
Nashua, NH 03063
- United Insurance Co. of America
Chicago, IL 60601

ADMINISTRATIVE RULES AND BULLETINS

Division bulletins and administrative rules recently adopted by the Oregon Insurance Division are summarized below. To request a copy of a rule or bulletin, please call **Sue Munson**, administrative rules coordinator, (503) 947-7272, or write to: Administrative Rules Coordinator, Oregon Insurance Division, 350 Winter St. NE, Salem, OR 97310-0765. Be sure to include the rule ID number or bulletin INS number with your request. There is no charge.

Administrative rules

ID 11-1998 — Amends OAR 836-010-0000, -0011, -0021. Permanently adopts temporary amendments to rules governing filing and review of insurance rates and forms, adding certification forms for new health insurance coverages. Adopts temporary amendments, adding specific provisions relating to health insurance premium rates.

Adopted: July 30, 1998
Effective: Aug. 10, 1998

ID 12-1998 — Amends OAR 836-042-0050, -0055; 836-043-0115, -0130. Adopts amendments to a rule governing division of payroll for workers' compensation insurance. Amends premium audit rules to allow insurers to design their own audit review programs. Deletes the requirement that an insurer must physically audit a policy developing \$6,000 or more in earned premium.

Adopted: Sept. 9, 1998
Effective: Sept. 14, 1998

ID 13-1998 — Amends OAR 836-043-0170. Amends rules governing filing of employer petitions for hearing on workers' compensation insurance premium audit billings. One amendment shortens time for filing petition describing audit issues to the 60th day after the employer requests a hearing. Also authorizes hearing documents, other than requests for hearing, to be filed by mail or delivery, and authorizes facsimile transmission.

Adopted: Sept. 8, 1998
Effective: Sept. 23, 1998

ID 14-1998 — Adopts 836-005-0500, -0510, -0520, -0530, -0540, -0550, -0560. Establishes confidentiality of communications in mediation conducted by the Insurance Division in connection with workers' compensation insurance premium audit disputes and exempts communications from disclosure in subsequent judicial or

administrative proceedings. Temporary rules are adopted on permanent basis.

Adopted: Sept. 9, 1998
Effective: Nov. 7, 1998

ID 15-1998 — Adopts 836-006-0021. Permanently adopts rules establishing the procedure for determining the portion of corporate excise tax allocable to a domestic insurer that is member of foreign reciprocal or interinsurance exchange filing a consolidated excise tax return.

Adopted: Sept. 23, 1998
Effective: Sept. 25, 1998

ID 16-1998 — Amends OAR 836-011-0000. Amends rules adopting annual statement blanks and instructions developed by the NAIC in order to require insurers to use those blanks and instructions adopted for reporting year 1998.

Adopted: Nov. 7, 1998
Effective: Nov. 10, 1998

ID 17-1998 — Adopts OAR 836-053-1170. Specifies two preventive measures, one specific chronic condition, and one specific acute condition, upon which insurers offering managed health insurance are required to file information annually, with respect to their health promotion and disease prevention activities.

Adopted: Nov. 12, 1998
Effective: Nov. 16, 1998

ID 18-1998 — Adopts OAR 836-027-0200. Authorizes domestic insurers to hold securities through custodial arrangements located outside the state if the arrangements conform to requirements of the rule for safeguarding the assets and facilitating the Director's examination of insurers using such arrangements.

Adopted: Nov. 17, 1998
Effective: Nov. 24, 1998

ID 19-1998 — Adopts OAR 836-071-0247; amends OAR 836-071-0240, -0242. Establishes deadlines relating to registration and conduct of courses for agents' continuing education. The deadline for filing an application for a new course is 60 days before the first course meeting in order for registration to be approved before the meeting. For retroactive approval (approval after the course meeting, application may be made after the 60th day but before the 10th day preceding the meeting).

Adopted: Nov. 13, 1998
Effective: Dec. 2, 1998

ID 20-1998 — Amends OAR 836-080-0205, -0210, -0240. Establishes new standards and methods for adjusting and settling a claim of total loss of an automobile under a motor vehicle liability insurance policy.

Adopted: Nov. 25, 1998
Effective: Dec. 2, 1998

ID 21-98 (temporary) — Adopts OAR 836-052-0142; amends OAR 836-052-0119, -0136, -0138, -0160. Temporarily adopts rulemaking to incorporate the latest changes in federal law and NAIC model regulation.

Adopted: Dec. 3, 1998
Effective: Jan. 1 through June 25, 1999

Bulletins

INS 98-2 — July 1, 1998

Clarifies the coverage and administrative requirements that apply to self-insured health benefit plans sponsored by cities, counties, school districts, and special districts in Oregon. Outlines new requirements for such plans established under Senate Bill 867 (1997) and codified as ORS 731.036.

INS 98-3 — July 13, 1998

Clarifies filing requirements for health insurance policy forms under ORS 742.003.

INS 98-4 — September 1998

Affirms the Department of Consumer & Business Services' continuing reliance on manuals and other publications published by the National Association of Insurance Commissioners (NAIC).

INS 98-5 — Nov. 20, 1998

Provides guidelines for acceptable fraud warning statements on insurance applications, claim forms, and claim payments.

INS 98-6 — Dec. 1, 1998

Provides instructions for the annual reporting of grievances, in accordance with Senate Bill 21 (1997), by health insurers, health care service contractors, self-insured MEWAs, and self-insured public entities.

Visit our Web site at:
www.cbs.state.or.us/ins
Oregon Insurance Division

ABIG: Fine could reach \$15 million nationwide

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said **Nancy Ellison**, Oregon deputy insurance commissioner and administrator of the Insurance Division. "Companies must comply with the laws of the states in which they do business."

Five ABIG subsidiaries are licensed in Oregon to sell life, health, property, and casualty insurance.

Ellison noted that Oregon had fined an ABIG subsidiary \$20,000 in a separate action in December 1997 for selling a policy that violated state law.

Nationwide, ABIG could face up to \$15 million in monetary sanctions as a result of the multi-state agreement. The group must pay \$12 million immediately and the remaining \$3 million if it fails to abide by provisions of the consent order, which includes a detailed compliance plan cover-

ing such areas as licensing of agents, handling of claims, and advertising.

In addition to the monetary sanctions, ABIG agreed to pay restitution to any policyholders who have been charged excess premiums, have had refunds improperly withheld, or have been denied appropriate claims payments.

The compliance plan requires ABIG to provide monthly reports to the states on the progress of the plan. An on-site market conduct examination team, made up of representatives from a number of states participating in the action, will be initiated in November 1999. At that time, if the group fails to meet any of the requirements of the individual states, it will be in violation of the agreement and the remaining \$3 million will be forfeited.

ON THE WEB

Here are some of the new items at www.cbs.state.or.us/ins, the Oregon Insurance Division's Web site:

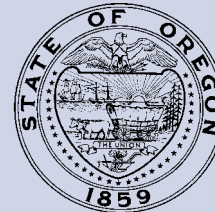
- **Insurance Company Search Page.** Search for an insurance company authorized to do business in Oregon by name, number or insurer authorization class. You can also download this file, which is updated weekly.

- **Bulletins.** Policy and procedure bulletins issued by the Insurance Division.
- **Publications.** Insurance Division publications available on the Internet or by mail. Also, information on how to order publications.
- **Certification Statements.** Forms used in the filing and review of insurance rates and forms (see Administrative Rules and Bulletins, ID 11-1998, Page 7).

The *Oregon Insurance Regulator* is a publication of the Insurance Division of the Department of Consumer & Business Services, 350 Winter St. NE, Room 440, Salem, OR 97310.

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