



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tommy G. Thompson
Governor

Connie L. O'Connell
Commissioner

121 East Wilson Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: information@oci.state.wi.us
http://badger.state.wi.us/agencies/oci/oci_home.htm

Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

Heritage Mutual Insurance Company
P.O. Box 58
Sheboygan, WI 53082-0058

dated September 1998, and served upon the company on April 19, 1999, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this twenty-second day of September 1999.

Connie L. O'Connell
Commissioner of Insurance

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STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE

MARKET CONDUCT EXAMINATION

OF

HERITAGE MUTUAL INSURANCE COMPANY

SHEBOYGAN, WISCONSIN

SEPTEMBER 1998

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September 11, 1998

121 East Wilson Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: oclocl@mail.state.wi.us
http://badger.state.wi.us/agencies/oct/oct_home.htm

Honorable Connie L. O'Connell
Commissioner of Insurance
State of Wisconsin
121 East Wilson Street
Madison, WI 53702

Commissioner:

In accordance with your instructions, a limited market conduct examination has been made of the affairs of:

Heritage Mutual Insurance Company
2800 South Taylor Drive
Sheboygan, Wisconsin

The following report is respectfully submitted.

I. INTRODUCTION

Heritage Mutual Insurance Company (the company) is a property and casualty insurer licensed to transact business in the following states: Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Nevada, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Heritage Mutual Insurance Company incorporated in August 1925 and commenced business in Wisconsin in September 1925. As of December 31, 1997, Heritage Mutual Insurance Company reported direct premium writings in: Florida, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, West Virginia, and Wisconsin, and consisted of the following premiums and losses:

1997	Direct Premiums Written	Direct Losses Paid
Total Company	\$215,002,603	\$138,160,503
Wisconsin Business Only	\$153,744,776	\$92,469,593

During 1997, Heritage Mutual Insurance Company reported the following premiums and losses organized by line of business in Wisconsin:

1997	Direct Premiums Written	Direct Losses Paid
Fire & Allied Lines	\$1,180,451	\$652,251
Homeowners	\$16,035,017	\$11,884,413
Worker's Compensation	\$37,232,952	\$15,830,396
Private Passenger Auto Liability	\$35,029,337	\$22,727,863
Private Passenger Auto Physical Damage	\$22,729,599	\$16,895,509
All Others	\$41,537,420	\$24,479,161
Total	\$153,744,776	\$92,469,593

II. SUMMARY OF CONSUMER COMPLAINTS

The Office of the Commissioner of Insurance received 299 complaints against Heritage Mutual Insurance Company between January 1, 1996, and August 1, 1998. A complaint is defined as "a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent." The following chart categorizes the complaints received against the company by type of policy and complaint reason during 1997. There may be more than one type of coverage or reason for each complaint.

Coverage Type	Complaint Reason				
	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Automobile	11	4	26	4	0
Business Owners	2	2	3	0	0
Homeowner's	7	4	17	2	0
General Liability	0	1	0	1	0
Worker's Compensation	4	0	6	2	0
All Others	0	1	1	0	1
Total	24	12	53	9	1

The company appeared in the first publication of the above-average complaint list for homeowners and tenants insurance in 1997. This list is comprised of all companies with 10 or more complaints and that had a complaint ratio above the average. The Wisconsin average in 1997 was .16 complaints per \$100,000 of written premium for all homeowners and tenants insurance business in the state. The company's complaint ratio in 1997 was .24.

In previous years, the company appeared on the above-average complaint list for automobile insurance; however, it was not on the list in 1997. This list is comprised of all companies with 10 or more complaints and that had an above average complaint ratio. The average complaint ratio for automobile insurance in Wisconsin for 1997 was .07 complaints per \$100,000 of written premium. Since the company did not appear on the list, it had an average or below average complaint ratio in 1997.

III. PURPOSE AND SCOPE

The examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The company was examined in part because it had an above average complaint ratio for homeowner's insurance and to ensure that the company complied with the previous market conduct examination recommendations. The targeted examination focused on the period January 1, 1997, through August 1, 1998. It also included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination included, but was not limited to, a review of agent management, claims handling, marketing and sales, policy forms currently used by the company, policy rating, policyholder service and complaints, and underwriting. The claims portion of the examination consisted of a review of company procedures and files for personal automobile insurance and homeowners insurance. The underwriting portion of the examination consisted of a review of company procedures and files for personal automobile insurance, homeowners insurance, and worker's compensation insurance. To review the issues targeted in this examination, the examiners selected closed claims and underwriting files from the period of January 1, 1997, to August 1, 1998.

IV. PREVIOUS EXAMINATION RECOMMENDATIONS

The recommendations contained in the previous market conduct examination of the company as of December 31, 1994, and the company's actions therein follow:

1. It is recommended that the company revise its underwriting procedures to eliminate the use of age of the applicant as a guidelines for refusing to insure an automobile risk in order to comply with s. 632.35, Wis. Stat., and s. Ins 6.54 (3) (a) 4, Wis. Adm. Code.

Action: Compliance.

2. It is recommended that the company revise its cancellation, termination, and nonrenewal notices for worker's compensation insurance to consistently refer the policyholder to the Wisconsin Worker's Compensation Insurance Pool.

Action: Compliance.

3. It is recommended that the company revise its Worker's Compensation Issuing Instructions, [CL-313 (7-94)], to refer to the Wisconsin Law Endorsement form, WC 48 06 01 B, in order to comply with s. 102.31, Wis. Stat., and s. Ins 21.01 (6) (a), Wis. Adm. Code.

Action: Compliance.

4. It is recommended that the company revise its procedures for canceling worker's compensation insurance policies to provide the policyholder with at least 30 days' notice before the effective date of the cancellation in order to comply with s. Ins 21.01 (4) (b), Wis. Adm. Code.

Action: Substantial compliance. The examiners found three files, as noted in the underwriting review section, whereby the company did not comply with this recommendation.

5. It is recommended that the company accept only applications that are signed by its agents or in some other way accurately indicates the agent responsible for the submission of the application, in order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code.

Action: Substantial compliance. The examiners found one file whereby the company did not comply with this recommendation.

6. It is recommended that the company review its system for automobile insurance to provide for medical payments coverage limits of at least \$1,000 in order to comply with s. 632.32 (4) (b), Wis. Stat.

Action: Compliance.

7. It is recommended that the company document its files to show contact with its applicants when issuing policies other than as originally applied for by the policyholder.

Action: Noncompliance. The examiners found six files and procedural information, as noted in the underwriting review section, whereby the company did not comply with this recommendation.

8. It is recommended that, before, using the altering of driver's license violation to underwrite or rate a policy, the company investigate whether the violation is driving-related, in order to ensure compliance with s. Ins 6.54 (3) (a) 1, Wis. Adm. Code.

Action: Compliance.

V. FINDINGS

Agent Monitoring

Heritage Mutual Insurance Company markets its insurance products through an independent agency system. The examiners reviewed 25 agent appointments and terminations to determine whether the company's practices and procedures related to the appointment and termination of agents comply with Wisconsin insurance statutes and rules. The following exceptions were noted.

The examiners found that when an agency representing the company is purchased by another agency, the agency's business is transferred to the purchasing agency and to a producer within this agency. The company's system does not require that the newly assigned agent of record be a licensed agent listed with the company in accordance with s. 628.03, Wis. Stat., and s. Ins 6.57 (1), Wis. Adm. Code. In order to comply with s. 628.03, Wis. Stat., and s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company implement procedures to ensure that, when transferring a book of business from one agency to another, the newly assigned agent of record is a licensed agent listed with the company.

Claims

In settling claims under policies issued to insureds located in Wisconsin, Heritage Mutual Insurance Company primarily uses employee representatives located in the central office in Sheboygan, Wisconsin, and several remote claim offices located throughout the state.

The examiners reviewed 135 closed claim files (93 paid and denied claims and 42 subrogation files) for homeowners insurance and 143 closed claim files for personal passenger automobile insurance (99 paid and denied claims and 44 subrogation files). The company's claim practices and methods were also reviewed. The following exceptions were noted.

The examiners found three files in which the company did not mail a written claim denial after a verbal denial was given. The company's claims handling procedures require that a written claim denial letter follow up a verbal denial. In addition, pursuant s. Ins 6.11 (3) (a) 7, Wis. Adm. Code, insurers must not, as a business practice, fail to affirm or deny coverage of claims within a reasonable time. In order to ensure compliance with the company's claim handling

procedures and to avoid the unfair claim settlement practice described in s. Ins 6.11 (3) (a) 7, Wis. Adm. Code, it is recommended that the company remind claim handling personnel that a written claim denial letter follow up a verbal denial.

The examiners found one homeowners file where a portion of a claim was denied based on the Ordinance of Law exclusion contained in the policy, even though the policy was properly endorsed in accordance with s. Ins 4.01 (2) (h), Wis. Adm. Code, to delete this exclusion. Sections Ins 6.11, (3) (a) 6, and (b) 1, Wis. Adm. Code, provide that it is an unfair claim settlement practice to knowingly misrepresent to claimants pertinent facts or policy provisions relating to coverages involved. In order to ensure that claims are settled in accordance with the provisions of the policy and to avoid the unfair claims settlement practices described in ss. Ins 6.11, (3) (a) 6, and (b) 1, Wis. Adm. Code, it is recommended that the company review all pertinent policy provisions, including those contained in amendatory endorsements attached to the policy, prior to accepting or denying a claim.

The examiners found six files (5 personal passenger automobile and 1 homeowners) where the company received subrogation recoveries from the responsible third party; however, it did not repay the insured's deductible. In addition, the examiners found that when the company receives installment payments from the negligent party, it waits to reimburse its insured's deductible until it obtains the full amount of the insured deductible from the other party. If the installment payments from the responsible third party extend over a long period, there could be a considerable span of time, if ever, before the insured is made whole. According to the Wisconsin Supreme Court decision Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263, when collecting subrogation, the insured is to be made whole before the company has a right to retain amounts collected from subrogation. It is recommended that the company institute a procedure to ensure that the insured is made whole before it retains amounts collected from subrogation pursuant to Wisconsin Supreme Court decision Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263. It is further recommended that the company submit a plan to OCI detailing how it will promptly reimburse its insureds' deductibles when collecting installment payments from negligent parties in order to make its insureds whole and to

comply with the Wisconsin Supreme Court decision, Rimes v. State Farm Mutual Automobile Insurance Company, 195 Wis. 2d 263.

The examiners discovered that the company does not reduce its subrogation claims by the amount of negligence its insured contributed to the accident when pursuing subrogation against an uninsured motorist. This procedure is contrary to s. 895.045, Wis. Stat., which provides that damages shall be reduced in proportion to the amount of negligence attributable to the person recovering. In order to ensure compliance with s. 895.045, Wis. Stat., it is recommended that the company evaluate the negligence its insured contributes to an accident and appropriately reduce damages before demanding reimbursement from an uninsured motorist.

Marketing and Sales

All commercial and personal lines coverages are marketed via the independent agency system. The company's Sales Department is responsible for marketing the company to agents, educating agents, and monitoring agency growth and loss ratios. The company also publishes brochures for agents and consumers on many of the insurance products sold by the company. The company maintains a home page on the worldwide web designed to provide information to potential consumers and agents regarding the company and the products it offers. At this time, the company does not quote or sell insurance over the Internet.

The examiners reviewed company's home page, brochures published by the company, and general information related to the marketing and sales tactics of the company. No notable exceptions were found.

Policy Forms

Heritage Mutual Insurance Company provides insurance coverage to its policyholders using independently filed company coverage forms and endorsements. In addition, the company uses the standard National Council on Compensation Insurance worker's compensation and employer's liability coverage forms and endorsements that have been filed on the company's behalf by the Wisconsin Compensation Rating Bureau.

The examiners reviewed the personal lines coverage forms and endorsements currently used by the company in Wisconsin for automobile, motorcycle, recreational vehicles,

homeowner's and dwelling fire insurance. In addition, the examiners reviewed the coverage forms and endorsements currently used by the company for worker's compensation insurance in Wisconsin. The following exceptions were noted.

The "Other Insurance" provision in six forms [form numbers F-392A(3-97), F-904A(4-97), SF-824(12-96), SF-825(12-96), RR-168(4-97), and F285A(8-89)] used by the company provides more restrictive coverage than permitted by s. 6.76 (3) (j), Wis. Adm. Code. The "Other Insurance" provision in these policy forms provide that if two or more policies covering the same risk are in effect at the time of the loss, the company's policy is excess over the other policy. Pursuant to s. Ins 6.76 (3), Wis. Adm. Code, the clauses specified in this section shall be considered authorized clauses and appropriate liberalization of the prescribed language shall also be permitted. Section Ins 6.76 (3) (j), Wis. Adm. Code, provides that:

"Pro rata liability. This company shall not be liable for a greater portion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not."

Therefore, an "Other Insurance" provision may provide that the policy is pro rata if two or more policies covering the same risk are in effect at the time of the loss. The provision may also provide that it is primary if two or more policies covering the same risk are in effect at the time of the loss, as this is more liberal than the authorized clause. However, the provision may not provide that the policy is excess over the other policy if two or more policies covering the same risk are in effect at the time of the loss, as this would be more restrictive than the authorized clause. It is recommended that the company amend the "Other Insurance" provision in form numbers F-392A(3-97), F-904A(4-97), SF-824(12-96), SF-825(12-96), RR-168(4-97) and F285A(8-89) to comply with s. 6.76 (3), Wis. Adm. Code.

The Inland Marine Policy form, F-274(7-80), contains two provisions that do not comply with s. 628.46 (1), Wis. Stat. Provision #3, Claim settlement, under HOW WE SETTLE CLAIMS STATES, "We must give the insured notice of our intent to repair, replace or rebuild within sixty days after receipt of a duly executed Proof of Loss." Provision #6, Claim payment, under HOW WE SETTLE CLAIMS states, "We will pay an insured loss within sixty days after a satisfactory Proof of Loss is received and the amount of the claim has been established." Section

628.46 (1), Wis. Stat., states in part, "A claim shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of the loss." It is recommended that the company amend 60 days to 30 days in Provisions #3 and #6 in form F-274(7-80) in order to comply with s. 628.46 (1), Wis. Stat.

The motorcycle policy form [form number MC-5(6-97) WI] used by the company contains the following exclusion under Section I - Liability coverage:

"Bodily injury or property damage resulting from the ownership, maintenance or use of any motorcycle while it is being used in an auto business. However, this exclusion does not apply while you, your partner, or any employee of yours is using your insured motorcycle."

Section 632.32 (5) (b), Wis. Stat., provides that a policy issued to anyone other than a motor vehicle handler may limit coverage afforded to a motor vehicle handler to the limits required by the Wisconsin Financial Responsibility law and to instances when there is no other valid and collectible insurance. It is recommended that the company amend its motorcycle policy form [form number MC-5(6-97) WI] to comply with s. 632.32 (5) (b), Wis. Stat.

The company's worker's compensation insurance forms training manual indicates that the Labor Contractor Endorsement [form number WC 00 03 20 A (2-92)] and the Voluntary Compensation and Employer's Liability Coverage Endorsement [form number WC 00 03 11A(8-91)] are approved for use in Wisconsin. Section 631.20, (1), Wis. Stat., provides that no form may be used unless it has been filed and approved by the Commissioner. The Wisconsin Compensation Rating Bureau (WCRB) has not filed the Labor Contractor Endorsement and the Voluntary Compensation and Employer's Liability Coverage Endorsement or received approval to use these forms in Wisconsin. In order to ensure compliance with s. 631.20, (1), Wis. Stat., it is recommended that the company update its worker's compensation forms training manual to clearly indicate that the Labor Contractor Endorsement [form number WC 00 03 20 A (2-92)], and the Voluntary Compensation and Employer's Liability Coverage endorsement [form number WC 00 03 11A(8-91)] are not approved for use in Wisconsin.

The examiners found that the company currently accepts the ACORD worker's compensation application form number ACORD 130 (10/96). Section 631.20, (1), Wis. Stat.,

provides that no form may be used unless it has been filed with and approved by the Commissioner. Applications are considered to be forms and, therefore, subject to s. 631.20 (1), Wis. Stat. The WCRB has not filed the ACORD application form number ACORD 130 (10/96) or received approval for its use in Wisconsin. To ensure compliance with s. 631.20, (1), Wis. Stat., it is recommended that the company accept only those worker's compensation application forms that have been approved for use in Wisconsin.

Policy Rating

For its automobile insurance policies, the company has four programs that are separated by underwriting criteria involving driving experience and driving record. From lowest rates to highest rates, the programs are Perfecto, Carco, Thriftco and Ratco. In addition, the company offers a Road and Residence program. The Road and Residence program is a single policy that provides coverage for both automobile and homeowners exposures. This program uses the same underwriting criteria as the Carco program.

The examiners found that the company uses a complex rating algorithm that relies on numerous, commonly used factors. Evaluation of these factors was not included in the scope of this exam. The examiners chose to examine two of the factors that may involve the discretion of the underwriter and/or the agent when checking new business underwriting files.

Ninety-nine new business underwriting files were reviewed for compliance with the company's guidelines and the Wisconsin insurance laws. In addition, the examiners reviewed the rating manual and underwriting guidelines used by the company. The following exceptions were noted.

The examiners questioned the program placement for 32 automobile files. Of these 32 files, 22 of the files contained some irregularity in the program placement that may violate s. 628.34 (3) (a), Wis. Stat. The following table summarizes the irregularities found:

Number of Files Found	Description of Irregularity
11	Renewal policies where the renewal was not processed using the same underwriting guidelines as new business.
7	Underwriter judgement was used by the agent and underwriter to place the insured in a different program.
4	The applicant qualified for a better program than was requested on the application and the policy was issued for the program that was applied for.

The examiners found that the company does not have underwriting guidelines that govern renewal business and the new business underwriting guidelines are not applicable to renewal business. In addition, the examiners found that the company has no scheduled upgrades for insureds whose driving record has improved. It should be noted that the underwriter's judgment is generally used in the insured's favor. To ensure compliance with s. 628.34 (3), Wis. Stat., it is recommended that the company place all new business in the best program for which the applicant qualifies regardless of which program is indicated on the application. It is further recommended that the company develop written guidelines for program placement of renewal business and that these guidelines 1) include standards for keeping policies in their current program when they no longer qualify for that program and 2) that in all cases where a policy qualifies for a better program, the policy should be moved.

The examiners found that the company uses years of driving experience as one of the criteria for automobile program placement. The examiners found 28 files where the agent failed to include the number of years of driving experience on the application. It is recommended that the company require all applications to include the number of years of driving experience to ensure compliance with s. 628.34 (3), Wis. Stat., and the company's underwriting guidelines.

The examiners found that the underwriting guidelines contain a provision for rating a car owned by a clergyman as not being used for business or being driven to and from work. The singling out one occupation for consideration is unfairly discriminatory, violates s. 625.11, Wis. Stat., and s. Ins 6.54 (3), Wis. Adm. Code. In order to ensure compliance with s. 625.11, Wis. Stat., and s. Ins 6.54 (3), Wis. Adm. Code, it is recommended that the company give clergymen the same rating considerations as any other occupation group.

The examiners reviewed the homeowner's rating manual and underwriting guidelines and found that the company offers two programs for homeowners policies: Classic and Selecto.

In addition, the company offers a Road and Residence program, which is a single policy that provides coverage for both automobile and homeowner's exposures. To qualify for the lower rated program, the Selecto Program, an insured is required to meet several additional underwriting criteria. Individual files were not reviewed for compliance with the company guidelines. The following exceptions were noted.

The examiners found that for the Classic Program, five agent commission levels are available: 10%, 15%, 20%, 25%, and 30%. The commission level is directly reflected in the premium charged to the policyholder. Each agency selects its own commission level. Once a commission level is selected, it must be used for all policies sold through that agency. The offering policies at different premiums based solely on differences in commission violates ss. 628.34 (2) and (3) (a), Wis. Stat. In order to ensure compliance with ss. 628.34 (2) and (3) (a), Wis. Stat., it is recommended that the premium charged for policies issued through agencies with different commission agreements should not reflect those differences in commission.

Policyholder Service & Complaints

The company does not maintain a separate policyholder service department to handle complaints. All insurance department complaints are received and logged by a single person and then distributed to the appropriate department for handling. The complaint is then reviewed and responded to by the appropriate department and a copy of the response sent to the individual responsible for logging and distributing the insurance department complaints.

All complaints received that are not from the insurance department are forwarded directly to the appropriate department for handling. The company does not maintain a complaint log or other formal record of non-insurance department complaints. In addition, the company does not have written procedures for handling non-insurance department complaints. Each department is responsible for reviewing non-insurance department complaints and handling as deemed appropriate.

While the examiners did not find any unanswered non-insurance department complaints during their review, the lack of a complaint log and written procedures makes it difficult to track problems related to a particular agent, employe, or company procedure. It is

recommended that the company implement procedures related to the handling of non-insurance department complaints. It is further recommended that the company maintain a log of complaints received from sources other than the insurance department.

Underwriting

Heritage Mutual Insurance Company is a multi-line insurer providing a wide variety of personal and commercial lines insurance. The examiners reviewed 205 files (98 new business, 79 terminations, and 28 rejected risks) for personal passenger automobile insurance. The examiners also reviewed 256 files (95 new business, 100 terminations, and 61 rejected risks) for homeowner's insurance. The company's underwriting procedures were also reviewed. The following exceptions were noted:

The Personal Lines Underwriting Manual for homeowners coverage states that:

"Coverage for loss caused by vandalism or malicious mischief and breakage of glass is suspended if the dwelling has been vacant for more than 30 days prior to the loss."

Section Ins 6.76 (3) (3) 2, Wis. Adm. Code, provides that coverage may be suspended or restricted while a described building is vacant or unoccupied beyond a period of 60 consecutive days. It is recommended that the company amend the Personal Lines Underwriting Manual to clearly show that in Wisconsin, coverage for loss caused by vandalism or malicious mischief and breakage of glass is suspended if the dwelling has been vacant for more than 60 consecutive days prior to the loss.

The Cycle-Pak Plan in the Personal Lines – Wisconsin manual, letter Q. Eligibility, 1. b indicates an applicant under 21 years of age is not eligible for the plan unless there is a supporting policy in force with the company. Section 632.35, Wis. Stat., states, in part, that no insurer may cancel or refuse to issue or renew an automobile insurance policy wholly or partially because of any person's age. Also, s. Ins 6.54 (3) (a) 4, Wis. Adm. Code, states, in part, that no insurance company may refuse automobile insurance coverage to a class of risks solely on the basis of the applicant's age or to place the risk in a rating classification based on the applicant's age without credible information supporting such a classification. It is recommended that the company revise its Cycle-Pak Plan in the Personal Lines – Wisconsin manual to eliminate the use of age of the

applicant for refusing to insure or placing a risk in a separate rating classification in order to comply with s. 632.35, Wis. Stat., and s. Ins 6.54 (3) (a) 4, Wis. Adm. Code.

The examiners found one file where the company declined automobile coverage due to 'Drug Convictions' appearing on the motor vehicle record of a household member. The file was not documented to support whether these drug convictions were related to the use of a motor vehicle. Section Ins 6.54 (3) (a) 1, Wis. Adm. Code, provides that an insurer may not refuse, cancel, or deny coverage nor place a risk in a rating classification based solely on the applicant's or insured's past criminal record. By using "drug convictions" to deny coverage or rate a policy, the company might base an underwriting or rating decision on the applicant's or insured's criminal record, rather than on a factor that relates to the level of risk while driving. To ensure compliance with s. Ins 6.54 (3) (a) 1, Wis. Adm. Code, it is recommended that the company investigate whether drug convictions are driving-related before using such convictions to underwrite or rate a policy.

The examiners found six personal lines files where the policies were issued within the first 60 days from the effective date but on policy terms different than requested on the original application. The company's procedure is to notify the agent of the change; however, it relies on the agent to communicate the change and the reason for the change to the policyholder. Issuing a policy on terms other than requested on the original application, without notice to the policyholder, is misleading by omission and is considered an unfair marketing practice per s. 628.34, (1), Wis. Stat. It is recommended that the company provide notice directly to the policyholder when issuing a policy on different terms than applied for in the application in order to avoid unfair marketing practices defined by s. 628.34 (1), Wis. Stat.

The examiners found three files where the agent did not indicate 1) whether the policy was bound or 2) the desired policy term. To avoid coverage disputes, the agent should clearly indicate on the application the date and time of binding, if applicable, and/or the desired policy term. It is recommended that the company reinforce with its agents the importance of indicating the date and time of binding, if applicable, and/or the desired policy term when completing an application.

The examiners found one file where the application did not contain the agent's sub-producers code or the agent's name. As such, the company was not able to identify the individual agent submitting the application. In addition, the company's Personal Lines Underwriting Guides state that:

"Although the Sales Department accepts primary responsibility for making sure that producers are properly licensed with us, the Underwriting Department should verify that either an agent's signature or agency producer subcode is included on the application. A call to the agency would be sufficient documentation when there is no evidence of the same. The Underwriting Department should not return applications for agent's signatures, hassle agents about signature or spend a lot of time checking and policing whether or not producers are licensed.

In some cases, an underwriter may suspect that apps are being submitted by an unlicensed producer. When that is the case, the underwriter should refer that information to Sales."

Section Ins 6.57 (5), Wis. Adm. Code, provides that no insurer shall accept business directly from any intermediary unless that intermediary is a licensed agent listed with that company. In order to comply with s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company revise its procedures to require agents to identify themselves on an application via his or her sub-producer code and/or by clearly printing or typing his or her name on the application. It is further recommended that the company revise its procedures to ensure that applications are accepted only from properly licensed agents listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code.

The examiners found one file where the agent who solicited the business and signed the application was not listed with the company, in accordance with s. Ins 6.57 (1), Wis. Adm. Code. While the company recognized that the agent was not listed, the application was not rejected or returned to the agent. Rather, the application was accepted "as is" and the agent of record on the company's system was changed to show a listed agent. The company's procedures require that an application have a valid sub-producer code before a policy will be issued. If the application does not have a valid sub-producer code, the agency listed on the application is contacted and a valid agent sub-producer code is obtained before issuing the policy. Section Ins 6.57 (5), Wis. Adm. Code, provides that no insurer shall accept business directly from any

intermediary unless that intermediary is a licensed agent listed with that company. In order to comply with s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company revise its procedures to ensure that applications submitted to the company are not accepted until it is verified that the application is submitted by an agent listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code.

The standard nonrenewal notice used by the company when nonrenewing a policy because the agent/agency no longer represents the company states:

"If your agent cannot place you with another company or your desire to remain with Heritage, you may write directly to us to determine if you are eligible for continuing coverage."

Section 631.36 (6), Wis. Stat., provides that a notice of nonrenewal shall state with reasonable precision the facts on which the insurer's decision is based. If a policy is to be nonrenewed for reasons in addition to the agent/agency termination, the notice should give the additional reasons. Failure to include this information is misleading by omission and is considered an unfair marketing practice per s. 628.34, (1), Wis. Stat. In order to ensure compliance with ss. 628.34 (1), and 631.36 (4), Wis. Stat., it is recommended that the company remove the language "if you are eligible for continuing coverage" from the notice of nonrenewal used when nonrenewing a policy because the agent/agency no longer represents the company.

The examiners found five bound applications where the company did not issue the policy and failed to properly terminate the coverage in accordance with s. 631.36 (2), Wis. Stat. The Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575, held that an insurance company is required to provide the insured with proper notice of cancellation in both insurance binders and insurance contracts. It is recommended that the company provide at least a 10-day cancellation notice to the insured applicant when rejecting newly bound coverage in order to comply with s. 631.36 (2) (c), Wis. Stat., and the Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575.

The examiners found three files where the policy was cancelled for underwriting reasons after the policy had been in force for 60 days or more. Per s. 631.36 (2), Wis. Stat., a policy that has been in effect for 60 days or more or is a renewal can be cancelled by the insurer

prior to the expiration of the agreed term only for failure to pay a premium when due or on grounds stated in the policy which must be comprehended within one of the following classes:

1. Material misrepresentation;
2. Substantial change in the risk assumed, except to the extent that the insurer should reasonably foreseen the change or contemplate the risk in writing the contract; or
3. Substantial breach of contractual duties, conditions, or warranties.

While the decision to cancel each policy was made before the policy had been in force for 60 days or more, the notice was not mailed to policyholder until after the policy had been in force for 60 days or more. In order to comply with s. 631.36 (2), Wis. Stat., it is recommended that the company implement procedures to ensure that notices of termination for new policies being cancelled for underwriting reasons be mailed to the policyholder before the policy has been in effect for 60 days or more.

The examiners found 13 applications that were not signed by the applicant. In addition, the examiners verified that the company does not require applications be signed by the applicant or that the agent of record maintain a signed paper copy of an electronically transmitted application. In order to ensure that the applicant provides the information contained on the application, applications should be signed by the applicant. In those instances where a paper application is not completed, other evidence that the applicant provided the application information should be collected. Failure to collect and maintain documentation supporting that the information contained in the application was provided by the applicant jeopardizes the company's ability to deny a claim or cancel or rescind a policy for material misrepresentations made by the applicant. While the insurance laws do not require an insurance company to collect and maintain such documentation, it may be in the company's best interest to institute a procedure that allows the company to document that the applicant provided the information contained in the application.

The company accepts applications and policy change requests in paper and electronic format. In addition, the company accepts policy change requests received over the telephone or through personal interviews. The company's record retention procedures provide that paper applications are retained for only one year after the information from the original document has been keyed in the company system. The company does not maintain a copy of the

original source document after the original document is purged. The company's record retention procedures also provide that endorsement request received via paper or electronic mail are purged immediately after the information from the original document has been keyed into the company's system. The company does not retain a copy of the original source document after it is keyed into the company system. The only information retained by the company after an original source document is purged is the electronic data keyed into the company's system from the original source document. In addition, the company does not require their agents to retain a copy of the original source document.

Section Ins 6.80 (4) (b), Wis. Adm. Code, provides that:

"Records of insurance company operations and other financial records reasonably related to insurance operations for the preceding 3 years shall be maintained and be available to the commissioner."

Section Ins 6.80 (4) (c), Wis. Adm. Code, provides that:

"Records maintained under par. (b) may be in written form or in any other form capable of being converted to written form within a reasonable period of time."

In addition, s. Ins 6.80 (4) (c) 1, Wis. Adm. Code, provides that

"Original documents, such as claim files, invoices, cancelled checks, underwriting information and other similar materials may be maintained on microfilm or microfiche so long as the records thus maintained are readily available to the commissioner and can be reproduced in hard copy."

The retention of only the electronic data keyed into the company system from the original source document does not meet the record retention requirements of s. Ins 6.80 (4), Wis. Adm. Code. It is recommended that the company revise its record retention procedures to comply with s. 6.80 (4), Wis. Adm. Code.

Question number eight of the Underwriting interrogatories asked the company to describe the steps involved in the company's processing of new business. As a part of the response to this question, the company advised that:

"If the underwriter decides to reject a bound application, he may either waive the binder or charge for the time insured."

Further inquiry into this matter with the company revealed that a binder would be waived and no charge made only if the company did not incur the costs of issuing a policy. The company advised that a policy would not be issued only when the information provided on the application itself clearly indicated that the risk did not meet the company's underwriting guidelines. If the application, on its face, appeared to meet the underwriting guidelines, a policy is issued and further underwriting of the risk is done.

Section 628.34 (3) (a), Wis. Stat., provides that no insurer may unfairly discriminate among policyholders by charging different premiums or by offering different terms of coverage except on the basis of classifications related to the nature and the degree of the risk covered or the expenses involved. During the review of company's underwriting and procedural manuals, the examiners did not find a written procedure related to the waiver of a binder and the circumstances under which an underwriter may waive the binder charge for the time coverage was provided. Without a written procedure describing the circumstances in which an underwriter may waive a binder or charge for the time insured, the company may inadvertently unfairly discriminate among policyholders by charging different premiums or by offering different terms of coverage except on the basis of classifications related to the nature and the degree of the risk covered or the expenses involved. To avoid the unfair marketing practices described in s. 628.34 (3) (a), Wis. Stat., it is recommended that the company revise its underwriting and or procedural manuals to reflect its actual procedures related to the circumstances under which an underwriter should waive the binder or charge for the time coverage was provided.

The Wisconsin Personal Lines Manual provides that refunds of less than \$5.00 will not be made. Section 628.34 (3) (a), Wis. Stat., provides that no insurer may unfairly discriminate among policyholders by charging different premiums or by offering different terms of coverage except on the basis of classification related to the nature and the degree of the risk covered. To ensure compliance with s. 628.34 (3) (a), Wis. Stat., it is recommended that the company revise its Wisconsin Personal Lines Manual to allow for refunds of less than \$5.00 when the company receives a request from the policyholder for the refund.

The Wisconsin Personal Lines Manual provides that agents may bind additional cars on existing policies for up to 30 days. Pursuant to the Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575, a binder does not expire on its own terms. A binder is issued in place of a policy and notice of cancellation must be sent to the insured to terminate coverage. If an agent binds coverage for an additional car, the coverage is bound until proper notice of termination is provided pursuant to s. 631.36, Wis. Stat. It is recommended that the company eliminate the agent binding restriction of 30 days for additional cars on existing policies from the Wisconsin Personal Lines Manual to ensure compliance with the Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575, and s. 631.36, Wis. Stat.

The examiners reviewed 130 files (50 new business, 35 terminations, and 45 rejected risks) for worker's compensation insurance. The company's underwriting procedures for worker's compensation and other commercial lines insurance were also reviewed. The following exceptions were noted.

The Wisconsin Commercial Lines Manual indicates that the National Council on Compensation Insurance (NCCI) sets the Expense Constant for worker's compensation insurance. In Wisconsin, all rates, rating plans, and classifications are determined and submitted to the Commissioner for approval by the Wisconsin Compensation Rating Bureau (WCRB), not the NCCI. To avoid confusion regarding which entity is the proper rate service organization in Wisconsin for worker's compensation insurance, it is recommended that the company revise its Wisconsin Commercial Lines Manual to clearly show that the Wisconsin Compensation Rating Bureau sets the Expense Constant.

The Commercial Lines - Underwriting Guides state that:

"A request may be received to transfer an insured's business to another Heritage agency when his present agency is being terminated. Accounts of this nature should be underwritten as new business."

Section 631.36 (6), Wis. Stat., provides that a notice of nonrenewal shall state with reasonable precision the facts on which the insurer's decision is based. If a policy is to be

nonrenewed for reasons in addition to the agent/agency termination, the nonrenewal notice should so state. Failure to include this information is misleading by omission and is considered an unfair marketing practice per s. 628.34, (1), Wis. Stat. In order to ensure compliance with ss. 628.34 (1), and 631.36 (4), Wis. Stat., it is recommended that the company eliminate the language in the Commercial Lines - Underwriting Guide requiring that accounts be underwritten as new business when the company receives a request to transfer the insured's business to another agent when the present agent is being terminated.

The Wisconsin Commercial Lines Manual provides that:

"The general contractor shall be responsible to employees of a subcontractor, unless such subcontractor carries Worker's Compensation insurance. A Certificate of Insurance must be furnished by the subcontractor to the general or principal contractors to be available at the time of audit. If no Certificate of Insurance is available, the company auditor will include a premium based upon:

- a) A statement of wages earned by employees of such subcontractor; or, if this is not available
- b) The full amount of the contract."

Section 102.80, Wis. Stat., creating the Uninsured Employers Fund (Fund) became effective July 1, 1996. With the implementation of this law, the operation of the "contractor over provision" (s. 102.06, Wis. Stat.) was suspended for injuries occurring on or after July 1, 1996, and will remain suspended as long as the Fund is accepting new claims. The suspension of s. 102.06, Wis. Stat., means that insurers will no longer be responsible for claims of injured employees of uninsured subcontractors and no premium charge should be made on the worker's compensation insurance policy of the general or principal contractor for employees of uninsured subcontractors. Section 626.25 (1), Wis. Stat., provides that no insurer may use a rate, rating plan, or classification, nor an expense loading not approved by the Commissioner. In order to comply with s. 626.25 (1), Wis. Stat., it is recommended that the company revise its Wisconsin Commercial Lines Manual to eliminate premium charges made to the worker's compensation insurance policy of the general or principal contractor for employees of uninsured subcontractors.

The examiners found one commercial application that did not indicate the name or sub-producer code of the agent submitting the application. A cover memo, signed by an individual

who is not a licensed agent listed with the company, requesting a quote accompanied the application. Section Ins 6.57 (5), Wis. Adm. Code, provides that no insurer shall accept business directly from any intermediary unless that intermediary is a licensed agent listed with that company. In order to comply with s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company implement procedures to ensure that applications or requests for quotations submitted to the company are not accepted until it is verified that the application or quotation request is submitted by a licensed agent listed with the company.

The examiners found eight worker's compensation files where the offer to renew the policy was made less than 30 days prior to the policy renewal dates. The company did not send a notice of termination for nonpayment of premium to the policyholders after the renewal premium was not received. The company's system indicates that the policies were terminated at the renewal dates for nonpayment of the renewal premium. Pursuant to s. Ins 21.01 (6), Wis. Adm. Code, in order for a policy to terminate at the renewal date for failure to timely pay a renewal premium, a notice must be given, not more than 75 days nor less than 30 days prior to the due date of the premium, which clearly states the effect of nonpayment of premium. To ensure compliance with s. Ins 21.01 (6), Wis. Adm. Code, and to effectively terminate coverage at renewal, it is recommended that the company offer to renew policies at least 30 days prior to the due date of the premium. It is further recommended that if the offer of renewal is not provided at least 30 days prior to the due date and the premium is not paid timely, the company provide proper notice of termination for nonpayment of premium pursuant to s. Ins 21.01 (4), Wis. Adm. Code.

The examiners found three files where the company provided less than 30 days' notice of the cancellation of worker's compensation policies for nonpayment of premium. Section Ins 21.01 (4) (b), Wis. Adm. Code, requires insurers to provide at least 30 days' notice of cancellation of worker's compensation insurance policies for nonpayment of premium. In addition, s. 102.31 (2) (a), Wis. Stat., provides that no cancellation or termination of a worker's compensation policy by an insurer for any reason other than nonrenewal is effective until 30 days after the insurer has given written notice of the cancellation or termination to the insured

employer. It is recommended that the company provide at least 30 days' notice of cancellation for nonpayment of worker's compensation insurance policies in order to comply with s. 102.31 (2) (a), Wis. Stat., and s. Ins 21.01 (4) (b), Wis. Adm. Code.

The examiners found two worker's compensation files where the termination date on the notice of nonrenewal sent to the policyholder did not coincide with expiration date of the policy. The failure to include the proper effective date of a nonrenewal is misleading as it contains false information and may be considered an unfair marketing practice per s. 628.34, (1), Wis. Stat. In order to avoid confusion, effectively nonrenewal worker's compensation insurance policies and ensure compliance with s. 628.34 (1), Wis. Stat., it is recommended that the company implement procedures to ensure that the correct termination date is used on notices of nonrenewal.

The examiners found that the company charges a service fee on worker's compensation insurance policies on installment billing plans. Section 626.25 (1), Wis. Stat., provides that no insurer may use a rate, rating, plan or classification, nor an expense loading not approved by the Commissioner. The Wisconsin Compensation Rating Bureau has not filed for or received approval for the use of service charges or fees related to installment billing plans. In order to comply with s. 626.25 (1), Wis. Stat., it is recommended that the company discontinue charging service fees for installment billing plans on worker's compensation insurance policies.

The examiners found four files where the agent completed an ACORD Insurance Binder for worker's compensation coverage using an expiration date other than the anticipated expiration date of the policy. The Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575, held that an insurance company is required to provide the insured with proper notice of cancellation in both insurance binders and insurance contracts. Therefore, a binder does not expire on its own terms and is subject to the same terms and conditions of the policy ordinarily used by the company. Since a binder is issued as evidence of temporary coverage provided under the same provisions, including the term of coverage, the use of an expiration date other than the anticipated expiration date of the policy is a misrepresentation as it contains false information and may be considered an unfair marketing practice per s. 628.34, (1), Wis. Stat. It is recommended that the company advise all agents on the proper method of

completing the expiration date of insurance binders, to ensure compliance with the Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575, and s. 628.34 (1), Wis. Stat.

The examiners found that the standard quotation summary used in conjunction with worker's compensation insurance quotations during the majority of the period covered by the examination does not clearly indicate that the estimated dividend appearing on the quotation is not guaranteed and must be declared by the company's board of directors. Section 628.34 (1), Wis. Stat., provides that no person may make or cause to be made any communication related to an insurance contract that contains false or misleading information, including information misleading because of incompleteness. Failure to advise prospective insureds that the estimated dividend appearing on the quotation is not guaranteed and must be declared by the company's board of directors could be an unfair marketing practice as defined by s. 628.34 (1), Wis. Stat., due to incompleteness. It should be noted that prior to the start of the examination, the company revised the standard quotation summary used in conjunction with worker's compensation insurance quotations to indicate that the estimated dividend appearing on the quotation is not guaranteed and must be declared by the company's board of directors. In order to ensure compliance with s. 628.34 (1), Wis. Stat., it is recommended that the company remind its agents to use caution when including an estimated dividend in the quotation process for worker's compensation insurance. It is further recommended that the reminder advise its agents that any proposal should clearly indicate that dividends cannot be guaranteed and must be declared by the company's board of directors.

The company's Commercial Lines - Underwriting Guide provides that in addition to voluntary and physical audits, a third audit option (Dummy Audit) is available for very small worker's compensation risks. With a Dummy Audit, the audit is waived and neither a voluntary or physical audit is done. The company advised the examiners that an audit is waived only when it is impossible or highly unlikely that the actual payrolls of a policyholder will generate a premium that exceeds the minimum premium. Section 626.25, Wis. Stat., provides that no insurer may use a rate or rating plan that has not been approved by the Commissioner. The rating plan approved by

the Commissioner is contained in the National Council on Compensation Insurance (NCCI) Basic Manual for Worker's Compensation and Employer's Liability Insurance (Basic Manual), including the Wisconsin state specific exception pages. The Final Earned Premium Determination Rule (Rule XV) of the Basic Manual provides that the final earned premium for a worker's compensation insurance policy shall be determined on actual, instead of estimated, payroll or other premium basis and in accordance with the rules and rates of the Basic Manual. There is no Wisconsin exception to this rule. To ensure compliance with s. 626.25, Wis. Stat., and Rule XV of the National Council on Compensation Insurance Basic Manual for Worker's Compensation and Employer's Liability Insurance, it is recommended that the company revise its Commercial Lines - Underwriting Guide to eliminate the section that allows audits to be waived on Wisconsin worker's compensation insurance policies.

The company's commercial lines manual indicates that no special notice is required when renewing an umbrella policy with altered terms. Section 631.36 (5), Wis. Adm. Code, provides that if an insurer offers to renew a policy but on less favorable terms or at higher premiums, the new terms take effect on the renewal date if the insurer sent by 1st class mail or delivered to the policyholder notice of the new terms or premiums at least 60 days prior to the renewal date. In order to comply with s. 631.36 (5), Wis. Stat., it is recommended that the company revise its commercial lines underwriting manual to provide for at least 60 days' notice of renewal on altered terms for umbrella policies.

As part of the examination, the examiners visited the office of an agency that represents the company. The purpose of the visit was to discuss and view underwriting transactions between an agency and the company. During the visit, agency personnel demonstrated the process followed by the agency in submitting new business applications to the company. Information regarding the process used by the agency to service existing business placed with the company was also provided.

The following is a summary of the application process used by the agency. The agent takes information from a prospective insured and completes a paper or electronic application. The agent then obtains the applicant's signature on the application. If an electronic application

was completed, the agent prints a copy of the electronic application for the applicant to sign. A customer service representative for the agency accumulates the applications and prepares them for batch transmission to the company on a daily basis. It is estimated that 80% of the electronic applications taken by the agency are transmitted to the company within 24 hours. A paper copy of the application is retained in the agency files along with other documentation, such as policy declaration pages and policy change requests.

In addition to viewing and discussing the electronic exchange of information from the agent's point of view, the examiners discussed the agency's binding authority with the company, the agency's use of the world wide web to advertise, the agency's record retention procedures, and communication between the agency and the company. No notable exceptions were found during the agency visit.

VI. CONCLUSION

A total of 41 recommendations were made relating to the need for the Heritage Mutual Insurance Company to modify certain aspects of the company business related to agent management, claims, policy forms, policy rating, policyholder service and complaints, and underwriting.

The company must ensure that its subrogation claim procedures comply with the insurance laws and court decisions. Termination of policies should also be done in accordance with s. 631.36, Wis. Stat., and s. Ins 21.01, Wis. Adm. Code. Applications should only be accepted from listed agents pursuant to s. Ins 6.57 (5), Wis. Adm. Code.

Other aspects of the company's forms, underwriting, and claims practices were noted in the report. The market conduct recommendations are intended to bring the company's practices into compliance with statutory standards of policyholder treatment.

VII. SUMMARY OF RECOMMENDATIONS

1. Page 6 - Agency Monitoring - In order to comply with s. 628.03, Wis. Stat., and s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company implement procedures to ensure that when transferring a book of business from one agency to another, that the newly assigned agent of record is a licensed agent listed with the company.
2. Page 6 - Claims - In order to ensure compliance with the company's claim handling procedures and to avoid the unfair claim settlement practice described in s. Ins 6.11 (3) (a) 7, Wis. Adm. Code, it is recommended that the company remind claim handling personnel that a written claim denial letter follow up a verbal denial.
3. Page 7 - Claims - In order to ensure that claims are settled in accordance with the provisions of the policy and to avoid the unfair claims settlement practices described in ss. Ins 6.11, (3) (a) 6, and (b) 1, Wis. Adm. Code, it is recommended that the company review its claim handling processes to assure that all pertinent policy provisions, including those contained in amendatory endorsements attached to the policy, prior to accepting or denying a claim.
4. Page 7 - Claims - It is recommended that the company institute a procedure to ensure that the insured is made whole before it retains amounts collected from subrogation pursuant to Wisconsin Supreme Court decision Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263. It is further recommended that the company submit a plan to OCI detailing how it will promptly reimburse its insureds' deductibles when collecting installment payments from negligent parties in order to make its insureds whole and to comply with the Wisconsin Supreme Court decision, Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263.
5. Page 8 - Claims - In order to ensure compliance with s. 895.045, Wis. Stat., it is recommended that the company evaluate the negligence its insured contributes to an accident and appropriately reduce damages before demanding reimbursement from an uninsured motorist.
6. Page 9 - Policy Forms - It is recommended that the company amend the "Other Insurance" provision in form numbers F-392A(3-97), F-904A(4-97), SF-824(12-96), SF-825(12-96), RR-168(4-97), and F285A(8-89) to comply with s. 6.76 (3), Wis. Adm. Code.
7. Page 10 - Policy Forms - It is recommended that the company amend 60 days to 30 days in Provisions #3 and #6 in form F-274 (7-80) in order to comply with s. 628.46 (1), Wis. Stat.
8. Page 10 - Policy Forms - It is recommended that the company amend its motorcycle policy form [form number MC-5(6-97) WI] to comply with s. 632.32 (5) (b), Wis. Stat.

9. Page 10 - Policy Forms - In order to ensure compliance with s. 631.20, (1), Wis. Stat., it is recommended that the company update its worker's compensation forms training manual to clearly indicate that the Labor Contractor Endorsement [form number WC 00 03 20 A (2-92)] and the Voluntary Compensation and Employer's Liability Coverage Endorsement [form number WC 00 03 11A(8-91)] are not approved for use in Wisconsin.
10. Page 11 - Policy Forms - To ensure compliance with s. 631.20, (1), Wis. Stat., it is recommended that the company accept only those worker's compensation application forms that have been approved for use in Wisconsin.
11. Page 12 - Policy Rating - To ensure compliance with s. 628.34 (3), Wis. Stat., it is recommended that the company place all new business in the best program for which the applicant qualifies regardless of which program is indicated on the application. It is further recommended that the company develop written guidelines for program placement of renewal business and that these guidelines 1) include standards for keeping policies in their current program when they no longer qualify for that program and 2) that in all cases where a policy qualifies for a better program, the policy should be moved.
12. Page 12 - Policy Rating - It is recommended that the company require all applications to include the number of years of driving experience to ensure compliance with s. 628.34 (3), Wis. Stat., and the company's underwriting guidelines.
13. Page 12 - Policy Rating - In order to ensure compliance with s. 625.11, Wis. Stat., and s. Ins 6.54 (3), Wis. Adm. Code, it is recommended that the company give clergymen the same rating considerations as any other occupation group.
14. Page 13 - Policy Rating - In order to ensure compliance with ss. 628.34 (2) and (3) (a), Wis. Stat., it is recommended that the premium charged for policies issued through agencies with different commission agreements should not reflect those differences in commission.
15. Page 13 - Policyholder Service & Complaints - It is recommended that the company implement procedures for handling and documenting responses to complaints received from sources other than the insurance department. It is further recommended that the company maintain a log of complaints received from sources other than the insurance department.
16. Page 14 - Underwriting - It is recommended that the company amend the Personal Lines Underwriting Manual to clearly show that in Wisconsin, coverage for loss caused by vandalism or malicious mischief and breakage of glass is suspended if the dwelling has been vacant for more than 60 consecutive days prior to the loss.
17. Page 14 - Underwriting - It is recommended that the company revise its Cycle-Pak Plan in the Personal Lines – Wisconsin manual to eliminate the use of age of the applicant for refusing to insure or placing a risk in a separate rating classification in order to comply with s. 632.35, Wis. Stat., and s. Ins 6.54 (3) (a) 4, Wis. Adm. Code.
18. Page 15 - Underwriting - To ensure compliance with s. Ins 6.54 (3) (a) 1, Wis. Adm. Code, it is recommended that the company investigate whether drug convictions are driving-related before using such convictions to underwrite or rate a policy.

19. Page 15 - Underwriting - It is recommended that the company provide notice directly to the policyholder when issuing a policy on different terms than applied for in the application in order to avoid the unfair marketing practices described in s. 628.34 (1), Wis. Stat.
20. Page 15 - Underwriting - It is recommended that the company reinforce with its agents the importance of indicating the date and time of binding, if applicable, and/or the desired policy term when completing an application.
21. Page 16 - Underwriting - In order to comply with s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company revise its procedures to require agents to identify themselves on an application via his or her sub-producer code and/or by clearly printing or typing his or her name on the application. It is further recommended that the company revise its procedures to ensure that applications are accepted only from properly licensed agents listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code.
22. Page 17 - Underwriting - In order to comply with s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company revise its procedures to ensure that applications submitted to the company are not accepted until it is verified that the application is submitted by an agent listed with the company, in accordance with s. Ins 6.57 (1), Wis. Adm. Code.
23. Page 17 - Underwriting - In order to ensure compliance with ss. 628.34 (1), and 631.36 (4), Wis. Stat., it is recommended that the company remove the language "if you are eligible for continuing coverage" from the notice of nonrenewal used when nonrenewing a policy because the agent/agency no longer represents the company.
24. Page 17 - Underwriting - It is recommended that the company provide at least a 10-day cancellation notice to the insured applicant when rejecting newly bound coverage in order to comply with s. 631.36 (2) (c), Wis. Stat., and the Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575.
25. Page 18 - Underwriting - In order to comply with s. 631.36 (2), Wis. Stat., it is recommended that the company implement procedures to ensure that notices of termination for new policies being cancelled for underwriting reasons be mailed to the policyholder before the policy has been in effect for 60 days or more.
26. Page 19 - Underwriting - It is recommended that the company revise its record retention procedures to comply with s. Ins 6.80 (4), Wis. Adm. Code.
27. Page 20 - Underwriting - To avoid the unfair marketing practices described in s. 628.34 (3) (a), Wis. Stat., it is recommended that the company revise its underwriting and or procedural manuals to reflect its actual procedures related to the circumstances under which an underwriter should waive the binder or charge for the time coverage was provided.
28. Page 20 - Underwriting - To ensure compliance with s. 628.34 (3) (a), Wis. Stat., it is recommended that the company revise its Wisconsin Personal Lines Manual to allow for refunds of less than \$5.00 when the company receives a request from the policyholder for the refund.

29. Page 21 - Underwriting - It is recommended that the company eliminate the agent binding restriction of 30 days for additional cars on existing policies from the Wisconsin Personal Lines Manual to ensure compliance with the Wisconsin Supreme Court decision Terry v. Mongin Insurance Agency, 105 Wis. 2d 575, and s. 631.36, Wis. Stat.
30. Page 21 - Underwriting - To avoid confusion regarding which entity is the proper rate service organization in Wisconsin for worker's compensation insurance, it is recommended that the company revise its Wisconsin Commercial Lines Manual to clearly show that the Wisconsin Compensation Rating Bureau sets the Expense Constant.
31. Page 22 - Underwriting - In order to ensure compliance with ss. 628.34 (1), and 631.36 (4), Wis. Stat., it is recommended that the company eliminate the language in the Commercial Lines - Underwriting Guide requiring that accounts be underwritten as new business when the company receives a request to transfer the insured's business to another agent when the present agent is being terminated.
32. Page 22 - Underwriting - In order to comply with s. 626.25 (1), Wis. Stat., it is recommended that the company revise its Wisconsin Commercial Lines Manual to eliminate premium charges made to the worker's compensation insurance policy of the general or principal contractor for employes of uninsured subcontractors.
33. Page 23 - Underwriting - In order to comply with s. Ins 6.57 (5), Wis. Adm. Code, it is recommended that the company implement procedures to ensure that applications or requests for quotations submitted to the company are not accepted until it is verified that the application or quotation request is submitted by a licensed agent listed with the company.
34. Page 23 - Underwriting - To ensure compliance with s. Ins 21.01 (6), Wis. Adm. Code, and to effectively terminate coverage at renewal, it is recommended that the company offer to renew policies at least 30 days prior to the due date of the premium. It is further recommended that if the offer of renewal is not provided at least 30 days prior to the due date and the premium is not paid timely, the company provide proper notice of termination for nonpayment of premium pursuant to s. Ins 21.01 (4), Wis. Adm. Code.
35. Page 24 - Underwriting - It is recommended that the company provide at least 30 days' notice of cancellation for nonpayment of premium for worker's compensation insurance in order to comply with s. 102.31 (2) (a), Wis. Stat., and s. Ins 21.01 (4) (b), Wis. Adm. Code.
36. Page 24 - Underwriting - In order to avoid confusion, effectively nonrenewal worker's compensation insurance policies and ensure compliance with s. 628.34 (1), Wis. Stat., it is recommended that the company implement procedures to ensure that the correct termination date is used on notices of nonrenewal.
37. Page 24 - Underwriting - In order to comply with s. 626.25 (1), Wis. Stat., it is recommended that the company discontinue charging service fees for installment billing plans on worker's compensation insurance policies.

38. Page 24 - Underwriting - It is recommended that the company advise all agents on the proper method of completing the expiration date of insurance binders, to ensure compliance with the Wisconsin Supreme Court decision, Terry v. Mongin Insurance Agency, 105 Wis. 2d 575, and s. 628.34 (1), Wis. Stat.
39. Page 25 - Underwriting - In order to ensure compliance with s. 628.34 (1), Wis. Stat., it is recommended that the company remind its agents to use caution when including an estimated dividend in the quotation process for worker's compensation insurance. It is further recommended that the reminder advise its agents that any proposal should clearly indicate that dividends cannot be guaranteed and must be declared by the company's board of directors.
40. Page 26 - Underwriting - To ensure compliance with s. 626.25, Wis. Stat., and Rule XV of the National Council on Compensation Insurance Basic Manual for Worker's Compensation and Employer's Liability Insurance, it is recommended that the company revise its Commercial Lines - Underwriting Guide to eliminate the section that allows audits to be waived on Wisconsin worker's compensation insurance policies.
41. Page 26 - Underwriting - In order to comply with s. 631.36 (5), Wis. Stat., it is recommended that the company revise its commercial lines underwriting manual to provide for at least 60 days' notice of renewal on altered terms for umbrella policies.

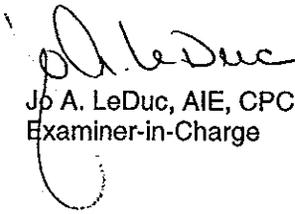
VIII. ACKNOWLEDGMENT

The cooperation extended during the course of the examination by the officers and employees of the company is acknowledged.

In addition to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination and the preparation of this report.

Name	Title
Philip B. Kress	Section Chief, Property and Casualty Section
Jane Kovacik, CPCU	Senior Insurance Examiner
Rhonda Peterson, CPCU, HIA	Senior Insurance Examiner
Gary Morris	Insurance Examiner
Laura Iliff	Actuary

Respectfully submitted,



Jp A. LeDuc, AIE, CPCU, API
Examiner-in-Charge