



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Notice of Adoption and Filing of Examination Report

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

Society Insurance A Mutual Company
150 Camelot Drive
Fond Du Lac, WI 54936

dated November 6-15, 2002, and served upon the company on May 12, 2003, 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 18th day of September, 2003.

Jorge Gomez
Commissioner of Insurance

**STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE**

MARKET CONDUCT EXAMINATION

OF

**SOCIETY INSURANCE, A MUTUAL COMPANY
FOND DU LAC, WISCONSIN**

NOVEMBER 6-15, 2002

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November 15, 2002

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Honorable Jorge Gomez
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted November 6 to November 15, 2002 of:

SOCIETY INSURANCE, A MUTUAL COMPANY
Fond du Lac, Wisconsin

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

Society Insurance, A Mutual Company was organized in 1915 as the Wisconsin Brotherhood of Threshermen's Insurance Company. In 1946, the company changed its name to Threshermen's Mutual Insurance Company. On July 1, 1995, the company changed its name to Society Insurance, A Mutual Company. The home office is located in Fond du Lac, Wisconsin. Society Insurance, A Mutual Company, is a licensed fire and casualty company and is licensed in Illinois, Indiana, Iowa, and Wisconsin. The company is a Wisconsin domiciled company and sells its products through independent agents.

The majority of the premium written by the company in 2001 was workers' compensation and commercial multiperil. In 2001, the company ranked as the 7th largest Wisconsin writer of workers' compensation and 3rd largest writer of commercial multiperil. The majority of the premium written by the company in 2000 was also

workers' compensation and commercial multiperil. In 2000, the company ranked as the 10th largest Wisconsin writer of workers' compensation and 3rd largest writer of commercial multiperil.

The following table summarizes the total direct national premium written in 2001 and 2000 as compared to the total direct premium written in Wisconsin.

National Direct Premium Written to Wisconsin Direct Premium Written

Year	National Direct Premium Written	Wisconsin Direct Premium Written
2001	\$87,083,695	\$77,241,505
2000	\$69,384,691	\$64,591,604

The following tables summarize the premium earned and incurred losses in Wisconsin for 2001 and 2000 broken down by line of business.

Wisconsin Direct Premium and Loss Summary

2001	Direct Premium Earned	Direct Losses Incurred
Line of Business		
Fire & Allied Lines	\$207,698	\$248,583
Homeowners/Farmowners	\$2,933,136	\$4,593,668
Commercial Multiple Peril	\$22,344,826	\$16,475,536
Worker's Compensation	\$38,639,569	\$13,718,548
Private Passenger Auto	\$7,265,350	\$4,484,836
Commercial Auto	\$4,122,838	\$2,491,824
All Others	\$1,728,088	\$689,233
Total	\$77,241,505	\$42,702,228

2000	Direct Premium Earned	Direct Losses Incurred
Line of Business		
Fire & Allied Lines	\$210,265	\$111,658
Homeowners/Farmowners	\$2,883,595	\$2,716,006
Commercial Multiple Peril	\$17,852,651	\$7,549,609
Worker's Compensation	\$31,345,165	\$12,373,878
Private Passenger Auto	\$7,722,922	\$4,416,213
Commercial Auto	\$3,143,842	\$1,896,601
All Others	\$1,433,164	\$294,063
Total	\$64,591,604	\$29,358,028

The company recently withdrew from the personal lines market. Up to September 30, 2001, the company wrote both personal and commercial insurance lines. Effective September 30, 2001, the company stopped accepting new business for personal lines and effective January 1, 2002, commenced nonrenewing their personal lines policies.

The Office of the Commissioner of Insurance received 76 complaints against the company between January 1, 2001 through June 30, 2002. A complaint is defined, as a written communication received by the Commissioner's Office, that indicates dissatisfaction with an insurance company or agent. The company appears on the above-average complaint-to-premium ratio list for homeowners for the year 2001 (#2). The list is comprised of all companies with a premium volume of at least \$1 million, 10 or more complaints in 2001, and a complaint ratio above the average. The number of homeowner's complaint received in the year in relation to the premiums the company wrote in Wisconsin in the year measures the complaint ratio. The Wisconsin homeowner's average for 2001 is .15 complaints/\$100,000 of written premium for all homeowners and tenants business in the state. The company's ratio is .56. The company appears on the above-average complaint-to-premium ratio list for personal auto for the year 2000 (#9). The Wisconsin personal auto average for 2002 was .06. The company's ratio is .11.

The following tables categorize the complaints received against the company by type of policy and complaint reason for the years 2001 and 2000. There may be more than one type of coverage and/or reason for each complaint. Most of the complaints in 2001, were in the category of claims with the majority of those involving commercial property and liability coverages followed closely by homeowner's/farmer's coverages. Again, in 2000, the majority of complaints were in

the category of claims and those complaints were closely split among the coverages of personal automobile, commercial property and liability, and homeowner's/farmer's.

2001					
Coverage Type	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto			9		
Commercial Vehicle					
Com Prop & Liability	1	1	23		
Home/Farmowners	2	2	17	3	
Commercial Liability		1	4		
Worker's Comp	1		6		
Fidelity & Surety					
All Others					
Total	4	4	59	3	

2000					
Coverage Type	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	4		9	1	
Commercial Vehicle					
Com Prop & Liability		3	9	1	
Home/Farmowners	2	1	7		
Commercial Liability			1		
Worker's Comp	2	4	2	4	
Fidelity & Surety					
All Others					
Total	8	8	28	6	

II. PURPOSE AND SCOPE

A targeted examination was conducted to determine compliance with the recommendations made in the previous market conduct examination dated July 26, 1995, and to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from January 1, 2001 through June 30, 2002. In addition, the examination 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 the personal passenger auto, homeowners, commercial multiperil, and worker's compensation lines of business for the areas of policyholder service and complaints, marketing, sales and advertising, company operations and management, producer licensing, underwriting and rating, claims, and policy forms and rates.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

III. PRIOR EXAMINATION RECOMMENDATIONS

The previous market conduct examination of the company, as adopted July 26, 1995, contained nine recommendations. The market conduct portion of the prior examination was conducted in conjunction with an examination by the Bureau of Financial Analysis and Examination of the Office of the Commissioner of Insurance. The market conduct portion of the prior examination consisted of a review of policy forms, homeowner's claims, and underwriting procedures for personal passenger automobile, homeowner's and worker's compensation insurance. Following are the recommendations and the examiners' findings regarding the company's compliance with each recommendation.

Forms

1. It is recommended that the company revise the personal umbrella policy to eliminate the intra-family exclusion for automobile liability coverage in order to comply with s. 632.32 (6) (b) 1, Wis. Stat.

Action: Compliance

Underwriting

2. It is recommended that the company not accept applications until such time as they are signed by a licensed intermediary listed with the company in order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code.

Action: Compliance

3. It is recommended that the company provide at least 10 days notice of a cancellation for new policies in force for less than 60 days that have not been previously renewed, as required by s. 631.36 (2) (c), Wis. Stat.

Action: Compliance

4. It is recommended that the company change the earned premium on all declined applications, regardless of whether or not a claim is filed, for the time that coverage was temporarily in force to ensure compliance with s. 628.34 (3) (a), Wis. Stat.

Action: Compliance

5. It is suggested that the company revise its worker's compensation underwriting procedures to require the applicant's signature and the date of the signing on all worker's compensation insurance applications.

Action: This suggestion is no longer applicable, since the company's procedures do not require that the applicant sign the worker's compensation application.

6. It is recommended that the company not accept applications (worker's compensation) until such time as the intermediary submitting the application is identified and it is determined that the intermediary is listed with the company as required by s. Ins 6.57 (5), Wis. Adm. Code.

Action: Compliance

7. It is recommended that the company revise the worker's compensation underwriting manual to eliminate the language that rescinds the binding of the contract if the companies do not receive the application within five days of the binding effective date in order to comply with the Wisconsin Court of Appeals decision, Terry v. Mongin Insurance Agency, 102 Wis. 2d 239.

Action: Compliance

8. It is recommended that the company install procedures that ensure proper notification of the cancellation of a bound worker's compensation insurance application is made to the applicant as required by s. Ins 21.01 (4), Wis. Adm. Code, and in accordance with the Wisconsin Court of Appeals decision, Terry v. Mongin Insurance Agency, 102 Wis. 2d 239.

Action: Compliance

9. It is further recommended that the company install procedures that ensure proper notification of a bound worker's compensation insurance application is made to the Wisconsin Compensation Rating Bureau as required by s. 626.35 (1), Wis. Stat.

Action: Compliance

IV. CURRENT EXAMINATION FINDINGS

Policy Forms & Rates

The examiners reviewed the company's forms and endorsements for commercial multiperil/umbrella (117 forms), personal umbrella (9 forms), and worker's compensation forms (39 forms). All other forms and endorsements used by the company are filed on behalf of the company by Insurance Services Office (ISO) and have been previously reviewed. Rate filings made by the company were reviewed, and no exceptions were noted.

The examiners found that form EPL-1 (01-00), Employment Practices Liability, the Subrogation condition, and form EPLI-8 (1-00), Employment Practices Liability - Garage, the Transfer of Rights of Recovery Against Others to Us condition, do not comply with the Wisconsin Supreme Court decision of Rimes vs. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263. The insurer has the right to subrogation but only after the insured has been made whole and is fully compensated for damages. The examiners also found that in these same two forms, the Legal Action Against Us conditions do not comply with ss. 632.24 and 803.04, Wis. Stat. Direct action against the insurer can be made irrespective of whether or not the liability is established by a judgment or trial. An insurer can be joined in a court action against the insured.

- 1. Recommendation:** It is recommended that the company amend forms EPL-1 (01-00), Employment Practices Liability, and EPLI-8 (1-00), Employment Practices Liability - Garage, in order to comply with the Supreme Court decision of Rimes vs. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263, and ss. 632.24 and 803.04, Wis. Stat.

The examiners found that form UXL-2 (7-95), Commercial Umbrella Policy, Exclusion 14, does not comply with s. 632.32 (6) (b) (1), Wis. Stat. Intrafamily liability may not be excluded under auto liability coverage.

2. **Recommendation:** It is recommended that the company amend form UXL-2 (7-95), Commercial Umbrella Policy, Exclusion 14, in order to comply with s. 632.32 (6) (b) (1), Wis. Stat.

Marketing, Sales and Advertising

Insurance is marketed and sold through contracted independent insurance agents. The company recently withdrew from the personal lines insurance market. Effective September 30, 2001, the company ceased accepting new personal lines business and effective January 1, 2002, started nonrenewing their personal lines policies.

The company's website is www.societyinsurance.com. The Internet is used exclusively to support the company's website. The website includes information regarding the company's products, services, agent locators, company insurance careers, agent services, and a company email address. The email address provides direct email to the company. The agent services link is user ID and password protected. A person may not obtain a quote or buy insurance on line. There is no link for reporting a claim.

The examiners reviewed the company's website, marketing brochures and sales material including bulletins and newsletters. No exceptions noted.

Company Operations/Management

The examiners reviewed the company's operations/management plans and procedures including the company's policy and procedures regarding privacy of consumer information.

The examiners found that the company does not provide its agents with any formal or informal training regarding its privacy policies and procedures. In addition, its agent contracts do not address the privacy laws or the company's specific policies and procedures on privacy.

3. **Recommendation:** It is recommended that the company add language to any new agent contracts it executes and any changes made to existing contracts that includes a provision stating the obligation of the agent in situations where the agent utilizes the company's policyholder non-public financial information that is beyond the scope of the company's privacy policy and s. Ins. 25.55 and 25.60, Wis. Adm. Code. It is also recommended that the company notify its existing agents in writing about the obligation of the agent in situations where the agent utilizes the company's policyholder nonpublic information beyond the scope of the company's privacy policy and s. Ins. 25.55 and 25.60, Wis. Adm. Code.

The examiners found that the company does not provide its employees with training on its privacy policies and procedures. The company provides its employees with an electronic mail message which includes as an attachment its privacy policies and procedures. The company does not take steps to ensure that employees read and understand the information provided in the electronic mail message. The examiners also found that the company did not have a written policy and procedure outlining the expectations of its employees with regard to the privacy of personal and financial health information and the consequences of employee noncompliance with the policy.

4. **Recommendation:** It is recommended that the company develop and implement a program whereby its employees are educated on their responsibilities with respect to its privacy policies and procedures to ensure compliance with ch. Ins 25, Wis. Adm. Code.

The examiners found that the company delivered to its customers the initial notice required under s. Ins 25.30 (1), Wis. Adm. Code, at the time of policy issue, and the annual notice required under s. Ins 25.13 (1) (a), Wis. Adm. Code, along with the annual policy renewal.

The examiners found that the company does not have a written policy and procedure for providing customer access to personal medical information in the company's possession, as required by s. 610.70 (3), Wis. Stat., or for handling customer

requests to correct, amend, or delete recorded personal medical information in the company's possession, as required by s. 610.70 (4), Wis. Stat.

5. **Recommendation:** It is recommended that the company develop and implement a written policy and procedure for providing customer access to personal medical information in the company's possession and for handling customer requests to correct, amend, or delete recorded personal medical information in the company's possession, as required by s. 610.70 (3) and (4), Wis. Stat., respectively.

Policyholder Service & Complaints

The examiners reviewed the company's procedures regarding policyholder service and complaints. The company has no written procedures for handling complaints. Complaints referred to the company by the Office of the Commissioner of Insurance are considered complaints and referred to the Vice President and COO. The Vice President and COO logs in the complaint, determines the nature of the complaint and refers it to the appropriate department for handling. The department head refers it to the appropriate person to research and to respond. Copies of the response are directed to the department head and the Vice President & COO. The company receives information regarding other customer concerns from their independent agents, customer surveys, and directly from the customer. Company personnel are instructed to address the customer's concerns as promptly and thoroughly as possible. Any customers wishing to voice their concerns to someone at the management level will be put in touch with that person.

6. **Recommendation:** It is recommended that the company put in writing its present procedures for handling OCI complaints in order to make reports available to the Commissioner under s. 601.42 (1g), Wis. Stat.

Underwriting & Rating

Society Insurance, A Mutual Company, during the period of review wrote both commercial and personal lines business. However, effective September 30, 2001, the

company withdrew from the personal lines insurance business. The examiners reviewed 100 homeowner's terminated underwriting files, 99 personal auto terminated underwriting files, 35 homeowner's new business underwriting files, 50 personal auto new business underwriting files, and 40 new business worker's compensation underwriting files. The examiners also reviewed the company's underwriting manuals and procedures.

The initial underwriting files provided by the company were not representative of the files requested by the examiners. The new business worker's compensation files included files written by agents other than Wisconsin agents. Additionally, some files for new business auto policies initially did not include the policy application or included only the first page of the application. The company provided complete files after the examiners' needs were explained.

The examiners found that the company's personal lines auto underwriting/rating manual for the Standard Auto Program and the AutoSure Program underwrites and rates on violations of Altering Driver License (ADL) and Loaning of License (LOL). Although these violations appear on the motor vehicle driving record these violations are non-driving related. The examiners also found that the company's personal lines auto underwriting/rating manual for the Standard Auto Program, the AutoSure Program, and the Society Rewards Program underwrites and rates on Juvenile Alcohol (JA). The Juvenile Alcohol violation is required to be placed on the driving record and may or may not involve the use of a motor vehicle. By using these violations to underwrite and rate an auto policy, the company may be basing its decision on the applicant's or insured's criminal record rather than driving record. 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 an applicant's or insured's past criminal record.

7. **Recommendation:** It is recommended that the company does not underwrite or rate on convictions of Altering a Driver's License (ADL) and Loaning of License (LOL) and it is recommended that the company prior to underwriting or rating for a Juvenile Alcohol (JA) violation investigate whether the Juvenile Alcohol (JA) violation is related to driving in order to ensure compliance with s. Ins 6.54 (3) (a) 1, Wis. Adm. Code.

The examiners found that the Rating Procedures of the agents manual for the AutoSure Program automatically classify a clergyman's vehicle as 'pleasure use only' whether or not that is the accurate and actual vehicle use. 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. Not accurately classifying the risk results in unfair discrimination among policyholders by charging different premiums for the same class of business.

8. **Recommendation:** It is recommended that the company accurately rate the use of a clergyman's vehicle in order to ensure compliance with s. 628.34 (3), Wis. Stat.

The examiners found 15 new business auto policy underwriting files that did not contain an application. These auto policies were issued through the company's Society Rewards Program. This program was active for approximately one year and ended on August 31, 2001. The program was a direct marketing program where mailers were sent to pre-qualified individuals and if interested the prospect could complete their quote through the company's web site or by using the materials in the mailer. The company would do a follow-up contact through a call center. The call center agents captured prospect data in the program software by asking scripted questions. There were no paper applications, per se. The company provided the examiners with a printout of the scripted questions used by the call center. The company provided the examiners with a printout of data in the quote tables (a data dump) for each of the 15 files. The company did not provide documentation as to what questions were asked and

what answers were given from the scripted questions by each prospect. Per ss. 631.20 (1), and 600.03 (21), Wis. Stat., applications must be filed and approved by the commissioner prior to their use. Per s. Ins 6.80 (4), Wis. Adm. Code, the company is required to maintain underwriting information for the preceding three years and to be available to the commissioner.

9. **Recommendation:** It is recommended that the company prior to using scripted questions to capture underwriting information from a prospect rather than a paper application, file and gain approval by the commissioner for its scripted questionnaire in order to comply with s. 631.20 (1), Wis. Stat.
10. **Recommendation:** It is recommended that the company record and document all oral questions and answers provided by the applicant from a company scripted application questionnaire, retain that documentation for at least three years, and be able to make such documentation available to the commissioner in order to comply with s. Ins 6.80 (4), Wis. Adm. Code.

The examiners found two auto applications and four homeowner's applications, where the time of binding showed 12:01 a.m. on the same date the application was signed by the applicant and agent. Applications that indicate a time of binding of 12:01 a.m. on the same date of signing by the agent and applicant, may be providing coverage for losses that happened between 12:01 a.m. and the time the application was actually signed. The examiners found three auto applications and seven homeowner's applications that did not indicate whether or not the policy was or was not bound. The application should accurately reflect the date as well as the time coverage was bound.

11. **Recommendation:** It is recommended that the company provide training to its agents on properly completing applications with the date and time of binding to accurately reflect the actual time of binding and to complete the application to indicate whether or not the coverage is bound in order to avoid potential coverage disputes and to ensure compliance with s. 628.34 (1), Wis. Stat.

The examiners found that the company accepts the ACORD worker's compensation application form, ACORD 130 (11/81); a Threshermen's Mutual Insurance Company worker's compensation application, form G-117D(1-95); and a computer worker's compensation application (no form number) generated by the company's rating software. The Wisconsin Compensation Rating Bureau has not filed these application forms or received approval for their use in Wisconsin. Per s. 631.20 (1), Wis. Stat., no policy form may be used unless it has been filed with and approved by the commissioner. Per s. 600.03 (21), Wis. Stat., an application is a form.

- 12. Recommendation:** It is recommended that the company accept only those worker's compensation application forms that have been approved for use in Wisconsin in order to comply with s. 631.20 (1), Wis. Stat.

The examiners found two personal auto policy cancellation notices where the due date and the cancellation date are not the same. The notice states:

"Payment of the full or budget amount due must reach our home office not later than the due date to avoid cancellation of the policy on that date".'

The company's system program incorrectly labeled the effective date as the cancellation date. Per s. 628.34 (1), Wis. Stat., this is a misrepresentation and would cause confusion to the policyholder.

- 13. Recommendation:** It is recommended that the company modify its computer system that issues policy cancellation notices to correctly identify the cancellation date stated in the notice as the effective date in order to avoid confusion to the policyholder and noncompliance with s. 628.34 (1), Wis. Stat.

The examiners found seven files when reviewing homeowner's underwriting files where the agent completed and submitted homeowner application form HOM-APP (6-88). The commissioner has not approved application form HOM-APP (6-88). Section 631.20 (1), Wis. Stat., in part, provides that no form may be used unless it has been filed with and approved by the commissioner.

- 14. Recommendation:** It is recommended that the company file with the commissioner and gain approval of policy application forms that it uses and accepts from agents in order to comply with s. 631.20 (1), Wis. Stat.

The examiners found that when the company nonrenews a policy (including worker's compensation policies) because the agency no longer represents the company, the nonrenewal notice to the policyholder states:

Under Wisconsin Law, however, you have the right to have your policy renewed by this company, provided we receive from you a written request to do so prior to the expiration date and the risk to be covered by the renewed policy meets our normal underwriting criteria.'

Section 631.36 (4m), Wis. Stat., provides, in part, that:

'The company may nonrenew a policy because the agency no longer represents the company only if the notice of nonrenewal or cancellation contains an offer to continue or renew the policy with the insurer if the insurer receives a written request from the policyholder prior to the cancellation or renewal date. The insurer shall continue or renew the policy if a timely request is received unless the policyholder does not meet normal underwriting criteria.'

However, s. 631.36 (4), Wis. Stat., requires that the company mail a notice of nonrenewal to the policyholder at least 60 days prior to the nonrenewal date if nonrenewing due to underwriting reasons. Therefore, any refusal of policy renewal for underwriting reasons would have to be mailed to the policyholder at least 60 days prior to the nonrenewal date and the company is prohibited from re-underwriting after only sending a nonrenewal notice for the reason that the agency no longer represents the company.

- 15. Recommendation:** It is recommended that the company when nonrenewing a policy because the agency no longer represents the company include in the nonrenewal notice all and any other reasons for which they will not renew the policy and mail such notice to the policyholder at least 60 days prior to the renewal date in order to comply with s. 631.36 (4), Wis. Stat.

The examiners noted that the company took anywhere from 33 to 37 days to issue five new business auto policies, and anywhere from 35 to 69 days to issue 11 new business homeowner's policies. The company stated, that these policies were processed during a three-month period just prior to the withdrawal of the company from personal lines. There were personnel and service problems during this time. The company did not have any written guidelines for the timeliness of policy issuance.

The examiners found two underwriting files where the applicant did not sign the applications for the policies. The applications were transfer business from an agency that was transferring a book of business to the company. The company does not insist on an applicant's signature on their applications.

Claims

The company uses employee claim representatives as well as independent adjusters if needed. The company has a 24-hour answering service to take emergency claims that occur when the office is closed.

The examiners reviewed 238 homeowner's, commercial property, and personal passenger automobile claim files (100 paid claims, 113 denied or closed without payment, and 25 personal auto subrogation files). The examiners also reviewed the company's claim practices and methods.

The initial claim files provided by the company were not representative of the files requested by the examiners. The commercial claim files contained homeowner's claim files. The subrogation claim files were not claims that included the subrogation process.

The examiners found that the company's form titled, AUTHORIZATION FOR RELEASE OF PATIENT RECORDS, does not advise the individual that he/she is entitled to receive a copy of the completed authorization form. Section 610.70 (2) (a) 8, Wis. Stat., provides that:

“Any form that is used in connection with an insurance transaction and that authorizes the disclosure of personal medical information about an individual to an insurer shall advise that the individual, or an authorized representative of the individual, is entitled to receive a copy of the completed authorization form.”

- 16. Recommendation:** It is recommended that the company amend the form titled, AUTHORIZATION FOR RELEASE OF PATIENT RECORDS, to advise that the individual, or an authorized representative of the individual, is entitled to receive a copy of the completed authorization form in order to comply with s. 610.70 (2) (a) 8, Wis. Stat.

The examiners found two claim files where the company failed to make a timely follow up with the claimant after the company's initial request to the claimant for estimates. Section Ins 6.11 (3) (a) 2, Wis. Adm. Code, provides that failure to initiate and conclude a claim investigation with all reasonable dispatch is an unfair claim settlement practice.

- 17. Recommendation:** It is recommended that the company follow up with the claimant 30 days after the initial request for estimates in order to comply with s. Ins 6.11 (3) (a) 2, Wis. Adm. Code.

The examiners found one claim file where the claim was paid over 30 days after the company had sufficient documentation to pay the claim. The company paid the claim right after receiving the adjuster's report; however, the file lacks documentation as to the adjuster's handling of the claim. Per s. 6.11 (3) (a), Wis. Adm. Code, it is an unfair claim settlement practice to fail to promptly acknowledge pertinent communications with respect to a claim, to fail to initiate and conclude a claim investigation with all reasonable dispatch, and to fail to promptly provide necessary claims forms, instructions and reasonable assistance to insured and claimants under its insurance policies.

- 18. Recommendation:** It is recommended that the company document all communications with insured and claimants in order to avoid violations of s. Ins 6.11 (3), Wis. Adm. Code.

The examiners found eight claim files in which the claim payment was recorded to the wrong coverage code. Recording claim payments to the wrong coverage may result in inaccurate rates. The company states they have taken step to reduce coding errors including revision of file set-up sheet, emphasizing training, revised payment requisition, and added new loss codes.

The examiners found one claim file where the company denied the claim for expense coverage for reproduction of records, because the insured didn't incur overtime or use an outside vendor to reproduce the records. The examiners questioned this denial, and the company reviewed the claim again and determined that the adjuster did not clearly establish that the insured incurred extra expense, even though the insured's own employees reproduced the records during working hours, which took time away from their normal work. The company agreed to pay the loss once they verify the facts.

The examiners found one claim file where the adjuster stated the wrong policy language in a letter of denial to a claimant. The particular policy language was changed and amended by a Wisconsin Endorsement. In this case, the citing of the wrong language did not affect the claim denial. Per s. Ins 6.11 (3) (a) 6, Wis. Stat., and if done with such frequency as to indicate a general business practice, it is an unfair claim settlement practice to knowingly misrepresent to claimants pertinent facts or policy provisions relating to coverage involved.

Producer Licensing

The company markets its products through the independent agency system. The examiners reviewed 25 agent appointment files and 25 agent termination files.

The producer licensing data provided by the company was not representative of the data requested by the examiners. The data request asked for a listing of all agents representing the company in Wisconsin as of the end of the period under review which is June 30, 2002. The data erroneously included agents from Iowa, Illinois, and

Indiana; agents listed with Venture Insurance Company; and agents terminated prior to June 30, 2002. Agent data was reconciled by the examiners.

The examiners found that the company does not request a terminated agent to return company indicia. Section 628.40, Wis. Stat., states:

“Every insurer is bound by any act of its agent performed in this state that is within the scope of the agent's apparent authority, while the agency contract remains in force and after that time until the insurer has made reasonable efforts to recover from the agent its policy forms and other indicia of agency. Reasonable efforts shall include a formal demand in writing for return of the indicia, and notice to the commissioner if the agent does not comply with the demand promptly.”

Additionally, s. Ins 6.57 (2), Wis. Adm. Code, provides that when the insurer provides written notice to the agent that the agent is no longer to be listed as a representative of the company and that he or she may not act as its representative, the notice shall also include a formal demand for the return of all indicia of agency.

19. Recommendation: It is recommended that when the company provides written notice to an agent that the agent is no longer to be listed as a representative of the company and that he or she may not act as its representative, that the notice include a written formal demand for the return of all indicia of agency in order to comply with s. 628.40, Wis. Stat., and s. Ins. 6.57 (2), Wis. Adm. Code.

The examiners found when reviewing the agent data call information that the company wrote four policies for an agent who was not listed with the company due to a company clerical error. Section Ins 6.57 (5), Wis. Stat., provides, in part, that no insurer shall accept business directly from any intermediary unless that intermediary is a licensed agent listed with that insurer.

20. Recommendation: It is recommended that the company determine that the intermediary submitting the application is a licensed intermediary listed with the company prior to accepting the application to ensure compliance with s. Ins 6.57 (5), Wis. Stat.

The examiners found that the company's standard practice when notifying an agent of his/her termination of appointment of individual intermediary is to mail the termination notice to the agent at the address of the agency, not to the agent's last known home address. Section Ins 6.57 (2), Wis. Adm. Code, provides, in part, that the insurer shall provide the agent written notice that the agent is no longer to be listed as a representative of the company and that he or she may not act as its representative.

- 21. Recommendation:** It is recommended that when the company mails notice of termination of appointment of an individual intermediary to the agent that the company mail the notice to the agent's last known home address to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

V. CONCLUSION

A total of 21 recommendations were made relating to the areas of policy forms, consumer privacy procedures, underwriting, claims, and producer licensing procedures. The company does not require the applicant's signature on worker's compensation applications as well as applications for other lines of insurance.

The company should develop plans and procedures for complying with privacy issues and to ensure compliance with s. Ins 25, Wis. Adm. Code.

The company should gain approval of policy application forms and other policy forms prior to using them to comply with s. 631.20 (1), Wis. Stat. The company should have procedures in place to keep and record underwriting documentation obtained through an oral application to ensure compliance with s. Ins 6.80 (4), Wis. Adm. Code.

The company should follow up with the claimant after the initial request for estimates.

The company should make a written demand for the return of all indicia of agency from an agent when terminating an agent.

Other areas of the company's policy forms, operations, underwriting, claims, and producer licensing were noted as being inconsistent with Wisconsin market conduct regulations.

The following is a list of current examination recommendations.

VI. SUMMARY OF RECOMMENDATIONS

Policy Forms

- Page 08 1. It is recommended that the company amend forms EPL-1 (01-00), Employment Practices Liability, and EPLI-8 (1-00), Employment Practices Liability - Garage, in order to comply with the Supreme Court decision of Rimes vs. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263, and ss. 632.24 and 803.04, Wis. Stat.
- Page 09 2. It is recommended that the company amend form UXL-2 (7-95), Commercial Umbrella Policy, Exclusion 14, in order to comply with s. 632.32 (6) (b) (1), Wis. Stat.

Operations & Management

- Page 10 3. It is recommended that the company add language to any new agent contracts it executes and any changes made to existing contracts that includes a provision stating the obligation of the agent in situations where the agent utilizes the company's policyholder non-public financial information that is beyond the scope of the company's privacy policy and s. Ins. 25.55 and 25.60, Wis. Adm. Code. It is also recommended that the company notify its existing agents in writing about the obligation of the agent in situations where the agent utilizes the company's policyholder nonpublic information beyond the scope of the company's privacy policy and s. Ins. 25.55 and 25.60, Wis. Adm. Code.
- Page 10 4. It is recommended that the company develop and implement a program whereby its employees are educated on their responsibilities with respect to its privacy policies and procedures to ensure compliance with s. Ins 25, Wis. Adm. Code.
- Page 11 5. It is recommended that the company develop and implement a written policy and procedure for providing customer access to personal medical information in the company's possession and for handling customer requests to correct, amend, or delete recorded personal medical information in the company's possession, as required by s. 610.70 (3) and (4), Wis. Stat., respectively.

Policyholder Service & Complaints

- Page 11 6. It is recommended that the company put in writing its present procedures for handling O.C.I. complaints in order to make reports available to the Commissioner under s. 601.42 (1g), Wis. Stat.

Underwriting and Rating

- Page 13 7. It is recommended that the company does not underwrite or rate on convictions of Altering a Driver's License (ADL) and Loaning of License (LOL) and it is recommended that the company prior to underwriting or rating for a Juvenile Alcohol (JA) violation investigate whether the Juvenile Alcohol (JA) violation is related to driving in order to ensure compliance with s. Ins 6.54 (3) (a) 1, Wis. Adm. Code.
- Page 13 8. It is recommended that the company accurately rate the use of a clergyman's vehicle in order to ensure compliance with s. 628.34 (3), Wis. Stat.
- Page 14 9. It is recommended that the company prior to using scripted questions to capture underwriting information from a prospect rather than a paper application, file and gain approval by the commissioner for its scripted questionnaire in order to comply with s. 631.20 (1), Wis. Stat.
- Page 14 10. It is recommended that the company record and document all oral questions and answers provided by the applicant from a company scripted application questionnaire, retain that documentation for at least three years, and be able to make such documentation available to the commissioner in order to comply with s. Ins 6.80 (4), Wis. Adm. Code.
- Page 14 11. It is recommended that the company provide training to its agents on properly completing applications with the date and time of binding to accurately reflect the actual time of binding and to complete the application to indicate whether or not the coverage is bound in order to avoid potential coverage disputes and to ensure compliance with s. 628.34 (1), Wis. Stat.
- Page 15 12. It is recommended that the company accept only those worker's compensation application forms that have been approved for use in Wisconsin in order to comply with s. 631.20 (1), Wis. Stat.
- Page 15 13. It is recommended that the company modify its computer system that issues policy cancellation notices to correctly identify the cancellation date stated in the notice as the effective date instead in order to avoid confusion to the policyholder and noncompliance with s. 628.34 (1), Wis. Stat.
- Page 16 14. It is recommended that the company file with the commissioner and gain approval of policy application forms that it uses and accepts from agents in order to comply with s. 631.20 (1), Wis. Stat.

- Page 16 15. It is recommended that the company when nonrenewing a policy because the agency no longer represents the company include in the nonrenewal notice all and any other reasons for which they will not renew the policy and mail such notice to the policyholder at least 60 days prior to the renewal date in order to comply with s. 631.36 (4), Wis. Stat.

Claims

- Page 18 16. It is recommended that the company amend the form titled, AUTHORIZATION FOR RELEASE OF PATIENT RECORDS, to advise that the individual, or an authorized representative of the individual, is entitled to receive a copy of the completed authorization form in order to comply with s. 610.70 (2) (a) 8, Wis. Stat.
- Page 18 17. It is recommended that the company follow up with the claimant 30 days after the initial request for estimates in order to comply with s. Ins 6.11 (3) (a) 2, Wis. Adm. Code.
- Page 18 18. It is recommended that the company document all communications with insured and claimants in order to avoid violations of s. Ins 6.11 (3), Wis. Adm. Code.

Producer Licensing

- Page 20 19. It is recommended that when the company provides written notice to an agent that the agent is no longer to be listed as a representative of the company and that he or she may not act as its representative, that the notice include a written formal demand for the return of all indicia of agency in order to comply with s. 628.40, Wis. Stat., and s. Ins 6.57 (2), Wis. Adm. Code.
- Page 20 20. It is recommended that the company determine that the intermediary submitting the application is a licensed intermediary listed with the company prior to accepting the application to ensure compliance with s. Ins 6.57 (5), Wis. Stat.
- Page 21 21. It is recommended that when the company mails notice of termination of appointment of an individual intermediary to the agent that the company mail the notice to the agent's last known home address to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners 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.

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Respectfully submitted,

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