



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor
Sean Dilweg, Commissioner

Wisconsin.gov

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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

ERIE INSURANCE EXCHANGE
100 ERIE INSURANCE PLACE
ERIE, PA 16530

dated OCTOBER 15, 2007, and served upon the company on JULY 1, 2008, 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 23RD day of JULY, 2008.

A handwritten signature in black ink, appearing to read 'Sean Dilweg', written in a cursive style.

SEAN DILWEG
Commissioner of Insurance

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

MARKET CONDUCT EXAMINATION

OF

**ERIE INSURANCE EXCHANGE
ERIE, PENNSYLVANIA**

OCTOBER 15 - 26, 2007

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October 26, 2007

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Honorable Sean Dilweg
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted October 15 to October 26, 2007 of:

ERIE INSURANCE EXCHANGE
Erie, Pennsylvania

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

Erie Insurance Exchange is a member of the Erie Insurance Group which was founded in 1925 in Erie, Pennsylvania. The company operates as a regional property and casualty insurance company that underwrites both personal and commercial business. The company's core products include private passenger auto and homeowners insurance which are marketed through independent agents.

The Company has operations in Illinois, Indiana, Maryland, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin. It obtained its license in Wisconsin in October of 2000 and began writing business in 2001. The Company maintains a branch office in Brookfield, Wisconsin.

The Company was licensed and reported business in the following jurisdictions in 2007.

Jurisdiction	Jurisdiction
- District of Columbia	- Ohio
- Illinois	- Pennsylvania
- Indiana	- Tennessee
- Maryland	- Virginia
- North Carolina	- Wisconsin

In addition, the company reports being licensed in the following jurisdictions, however, reported no premium in these jurisdictions in 2007:

Jurisdiction	Jurisdiction
- Connecticut	- Minnesota
- Kentucky	- Rhode Island
- Maine	- West Virginia

The following table summarizes how the total direct premium written in Wisconsin in 2007, 2006 and 2005 compares to the total direct premium written by the company in all jurisdictions where premium was reported for these years.

Year	Wisconsin Direct Premium Written	National Direct Premium Written
2007	44,899,486	3,138,744,314
2006	39,906,344	3,142,673,538
2005	37,701,017	3,228,154,281

In each of these three years, the majority of the premium earned by the company in Wisconsin was for private passenger auto and homeowners insurance. The following table summarizes the premium earned and incurred losses in Wisconsin for 2007, 2006 and 2005 broken down by line of business.

2007		
Line of Business	Premium Earned	Losses Incurred
Fire & Allied Lines	\$ 269,474	\$ 140,225
Homeowners/Farmowners	\$ 11,717,828	\$ 6,318,579
Commercial Multiple Peril	\$ 5,636,950	\$ 3,806,014
Worker's Compensation	\$ 933,482	\$ 437,559
Private Passenger Auto	\$ 19,789,863	\$ 12,603,902
Commercial Auto	\$ 1,971,518	\$ 939,739
All Others	\$ 1,564,268	\$ 313,654
Total	\$ 41,883,383	\$ 24,559,672

2006		
Line of Business	Premium Earned	Losses Incurred
Fire & Allied Lines	\$ 201,860	\$ 380,617
Homeowners/Farmowners	\$ 10,203,501	\$ 9,845,313
Commercial Multiple Peril	\$ 5,952,816	\$ 5,237,540
Worker's Compensation	\$ 1,145,487	\$ 658,676
Private Passenger Auto	\$ 17,524,151	\$ 12,835,150
Commercial Auto	\$ 2,073,219	\$ 762,960
All Others	\$ 1,383,267	\$ 478,554
Total	\$ 38,484,301	\$ 30,198,810

2005		
Line of Business	Premium Earned	Losses Incurred
Fire & Allied Lines	\$ 91,592	\$ 2,382
Homeowners/Farmowners	\$ 8,958,689	\$ 3,654,782
Commercial Multiple Peril	\$ 6,154,410	\$ 3,938,673
Worker's Compensation	\$ 1,317,223	\$ 491,062
Private Passenger Auto	\$ 16,120,816	\$ 9,654,542
Commercial Auto	\$ 2,069,829	\$ 1,173,197
All Others	\$ 1,200,261	\$ 198,558
Total	\$ 35,912,820	\$ 19,113,196

The company ranked as the 27th largest writer of private passenger automobile insurance and the 19th largest writer of homeowners insurance in Wisconsin in 2006. In 2005, the company ranked as the 28th largest writer of private passenger automobile insurance and the 20th largest writer of homeowners insurance in Wisconsin.

The Office of the Commissioner of Insurance received 54 complaints against the company between January 1, 2005 through December 31, 2007. A complaint is defined as 'a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent.'

A total of 14 complaints were received against the company in 2006, a decrease of 26% from the number of complaints received in 2005. However, the number of complaints received increased to 21 or by 50% in 2007 from the number received in 2006. The majority of the complaints against the company are related to claim handling issues.

For the years 2005 and 2006 the company appeared on the homeowner's above-average complaint-to-premium list with a ratio of 0.07 and 0.04 respectively. In addition, in 2005

the company appeared on the private passenger automobile above-average complaint-to-premium list with a ratio of 0.07; however, did not appear on this list in 2006.

The following table categorizes the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

2007		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	7	-	-	7	1	-
Commercial Vehicle	-	-	-	-	-	-
Com Prop & Liability	1	-	-	1	-	-
Home/Farmowners	9	1	1	9	-	-
Commercial Liability	1	-	-	1	-	-
Worker's Comp	1	1	-	-	-	-
Fidelity & Surety	-	-	-	-	-	-
All Others	2	-	-	2	-	-
Total	21	2	1	20	1	-

2006		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	5	3	-	2	-	-
Commercial Vehicle	-	-	-	-	-	-
Com Prop & Liability	3	-	-	3	-	-
Home/Farmowners	5	5	-	-	-	-
Commercial Liability	1	-	-	1	-	-
Worker's Comp	-	-	-	-	-	-
Fidelity & Surety	-	-	-	-	-	-
All Others	-	-	-	-	-	-
Total	14	8	-	6	-	-

2005		Reason				
Coverage Type	Total.	Under-writing.	Marketing & Sales	Claims	Policyholder Service	Other
Personal Auto	11	3	-	9	-	-
Commercial Vehicle	-	-	-	-	-	-
Com Prop & Liability	-	-	-	-	-	-
Home/Farmowners	6	1	1	6	-	-
Commercial Liability	-	-	-	-	-	-
Worker's Comp	1	1	-	-	-	-
Fidelity & Surety	-	-	-	-	-	-
All Others	1	1	-	-	-	-
Total	19	6	1	15	-	-

II. PURPOSE AND SCOPE

A targeted examination was conducted 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, 2006 through June 30, 2007. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination covered private passenger automobile and homeowners business in Wisconsin and included a review of claims, policy forms & rates, policyholder service & complaints, producer licensing, and underwriting & rating and company operations & management, including privacy.

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

III. CURRENT EXAMINATION FINDINGS

Claims

In settling claims under policies issued to Wisconsin insureds, the company primarily uses employee representatives based out of the regional office located in Brookfield, Wisconsin.

The examiners reviewed 200 closed homeowners and private passenger automobile claims. Of these claims 50 were paid homeowners claims, 50 were paid private passenger automobile claims, 50 were homeowners claims closed without payment and 50 were private passenger automobile claims closed without payment. The company's claims handling practices and procedures were also reviewed. The following exceptions were noted:

The examiners found one homeowners claim where the company failed to notify the claimant in writing of the denial of the claim, one homeowner claim file where the company failed to mail a written claim denial after a verbal denial was given, and one homeowners claim file where the company failed to promptly provide written notice of the denial. In accordance with s. Ins 6.11(3), Wis. Adm. Code, it is an unfair claims settlement practice to fail to promptly acknowledge pertinent communications, to fail to initiate and conclude a claims investigation with all reasonable dispatch, to fail to promptly provide necessary claims forms, instructions and reasonable assistance to insureds, to fail to promptly provide a reasonable explanation of the basis in the policy for denial of a claim, or to fail to affirm or deny coverage of claims within a reasonable time.

- 1. Recommendation:** In order to avoid the unfair claim settlement practices contained in s. Ins 6.11 (3), Wis. Adm. Code, it is recommended that the company implement procedures that ensure a written claim denial is sent promptly, including in those instances where the claim is initially verbally denied.

Company Operations & Management

The examiners reviewed the company's operations/management plans by reviewing responses to interrogatories and statements and action of the company throughout the examination preparation process and on-site review. The examiners also reviewed the

company's policy and procedures regarding privacy of consumer information, communications to employees regarding treatment of personally identifiable information, and the company's privacy disclosure notices for financial information and protected health information. The following exceptions were noted.

The examiners found that the Authorization to Obtain Medical, Insurance and/or Employment Information form [form number c-820 05/06] used by the company does not advise the signor that they are entitled to receive a copy of the completed authorization form. Section 610.70 (2) (a) 8, Wis. Stats., requires that any form used in connection with an insurance transaction and authorizes the disclosure of personal medical information about an individual to an insurer shall advise the individual, or an authorized representative of the individual, that he or she is entitled to receive a copy of the completed authorization form.

- 2. Recommendation:** It is recommended that the company revise its Authorization to Obtain Medical, Insurance and/or Employment Information [form number c-820 05/06] to comply with s. 610.70 (2) (a) 8, Wis. Stat.

The company is required to file both a homeowners and a private passenger automobile insurance Market Conduct Annual Statement (MCAS) with the Commissioner. The examiners reviewed the data provided by the company in response to the examination data call and compared it to the data provided by the company in the 2006 MCAS. The examiners were unable to reconcile the underwriting data provided in response to the examination with the underwriting data provided in the 2006 MCAS. The company advised that various factors resulted in incomplete reporting of certain underwriting information in the 2006 MCAS in Wisconsin and all other states in which the company is required to file. Section 628.34, (1) (a), Wis. Stat. provides that no person who is or should be licensed under chs. 600 to 646, no employee or agent of any such person, no person whose primary interest is as a competitor of a person licensed under chs. 600 to 646, and no person on behalf of any of the foregoing persons may make or cause to be made any communication relating to an insurance contract, the

insurance business, any insurer or any intermediary which contains false or misleading information, including information misleading because of incompleteness.

3. **Recommendation:** It is recommended that the company develop and implement a quality control program to ensure that the Market Conduct Annual Statement contains accurate and complete data in order to avoid an unfair marketing practices defined by s. 628.34 (1) (a), Wis. Stat.

Policy Forms & Rates

The company provides coverage to its policyholders using independently filed company policy forms and endorsements. The examiners randomly selected and reviewed 34 policy forms (11 private passenger automobile forms and 23 homeowners forms) currently used by the company in Wisconsin in order to verify that the provisions of the policy forms comply with the Wisconsin insurance laws and regulations. In addition, the examiners randomly selected 36 policy forms (11 private passenger automobile forms and 25 homeowners forms) currently used by the company to verify that they have, in fact, been approved for use in Wisconsin. The following exceptions were noted:

The examiners found that the electronic applications used by the company for private passenger automobile insurance and homeowners insurance have not been filed and approved for use in Wisconsin by the Commissioner. In addition, the examiners found that the Auto Death and Disability Application [form number UF-1149 6/01R] used by the company has not been filed and approved for use in Wisconsin by the Commissioner.

The examiners found that the company used or made available for use in Wisconsin the following forms during a portion of the period under review:

- Uninsured/Underinsured Motorist Coverage Endorsement -- Wisconsin [form number AFCU01 (Ed. 05/07) UF-3180]
- Auto Death, Specific Injury and Total Disability Income Benefits Endorsement [form number AAAD01 (Ed. 03/07) UF-4613]
- Auto Medical Payments and Death Benefit Coverage Endorsement - Wisconsin [form number AACM01 (Ed. 05/07) UF-4608]
- Additional Insured Endorsement [form number AFAL02 (Ed. 03/07) UF-4624]

Per the company, approval for the use these forms was granted under SERFF filing number USPH-6UMLVA684 using the following form numbers:

- Uninsured/Underinsured Motorist Coverage Endorsement -- Wisconsin [form number AFCU01 (Ed. 12/06) UF-3180]
- Auto Death, Specific Injury and Total Disability Income Benefits Endorsement [form number AAAD01 (Ed. 12/06) UF-4613]
- Auto Medical Payments and Death Benefit Coverage Endorsement - Wisconsin [form number AACM01 (Ed. 12/06) UF-4608]
- Additional Insured Endorsement [form number AFAL02 (Ed. 12/06) UF-4624]

The company advised that subsequent to the original approval, the company determined it would be necessary to alter the implementation date of the forms, updated the form numbers to reflect the actual implementation date and notified the Commissioner of the change in the implementation date in conjunction with a form filing approved on May 23, 2007, SN 139564. The examiners found that this filing did in fact notify the Commissioner of the change in implementation date; however, it does not reference the change in form numbers or include a copy of the revised forms.

During the period under review, s. 631.01 (1), Wis. Stat., provided that policy forms and endorsements, including applications, are to be filed with and approved by the Commissioner prior to use in Wisconsin. Subsequent to the period under review, s. 631.01, was amended to provide that, unless specifically excepted, a policy form first used on or after the effective date of the change that has not already been filed by that date may be used without approval by the commissioner provided the policy form has been filed with the Commissioner at least 30 days before use and the insurer has certified that the policy form complies with the statutes related to insurance and any rules promulgated under those statutes.

Section Ins 6.05 (4) (a) 5, Wis. Adm. Code, requires that each submission of forms shall include one copy of each form in final printed format or typed facsimile exactly as it will be

offered for issuance or delivery in the state of Wisconsin except for hypothetical data and other appropriate variable material.

4. **Recommendation:** It is recommended that the company file with the Commissioner and obtain approval from the Commissioner (if required) prior to using policy forms and endorsements, including applications, in order to comply with s. 631.20, Wis. Stat.
5. **Recommendation:** It is recommended that, prior to making forms available for use in Wisconsin, the company re-file all previously approved forms when changes to non hypothetical data or other appropriate variable material on the form are made to ensure compliance with s. 631.20, Wis. Stat., and s. Ins 6.05 (4) (a) 5, Wis. Adm. Code.

The examiners found that the Wisconsin - Notice To Policyholders [form number UF-3170 (Ed. 1/07)] and the Important Information for Wisconsin Policyholders [form number (Ed. 9/01) UF-3371] used by the company do not comply with the requirements of s. Ins 6.85, Wis. Adm. Code. Section Ins 6.85 (4), Wis. Adm. Code provides that every insurer shall disclose the insured's right to contact the office of the commissioner of insurance regarding an insurance problem by providing a notice which shall:

- Be in the prescribed form
- Include the issuer's address, toll free phone number, if available, and phone number in no less than 12-point type and bold print.
- Be in no less than 10-point type; and
- Have the phrase "KEEP THIS NOTICE WITH YOUR INSURANCE PAPERS," "PROBLEMS WITH YOUR INSURANCE?" capitalized and in bold lettering.

Section Ins 6.85 (5), Wis. Adm. Code provides that for policies issued on or after the effective date of this section a separate notice shall be provided at the time the policy or certificate is issued.

6. **Recommendation:** It is recommended that the company review all notices used to notify a person of their right to file a complaint with the Commissioner and to amend said notices to comply with s. Ins 6.85, Wis. Adm. Code.

The examiners found that the Wisconsin -- Notice to Policyholders form [form number UF-3170 (ed. 1/07)] sent to private passenger automobile policyholders advises policyholders that for vehicles without liability protection:

'Wisconsin imposes penalties for the failure to maintain liability insurance on registered vehicles. These penalties may include suspension of your vehicle registration, confiscation of your license plates and suspension of your driver's license or operating privileges. In addition, some states have random verification programs in which they ask insurers to verify that certain selected registered vehicles carry the required Liability Protection.'

Chapter 344, Wis. Stat., requires that motor vehicle operators and owners demonstrate their financial responsibility in the event the operator and/or owner is involved in an accident in this state which has resulted in bodily injury to or death of any person or damage to property of any other person of \$1,000 or more. Purchasing automobile liability insurance is only one way to demonstrate financial responsibility when required under the provisions of this chapter.

Section 628.34, Wis. Stat. provides that no person who is or should be licensed under chs. 600 to 646, no employee or agent of any such person, no person whose primary interest is as a competitor of a person licensed under chs. 600 to 646, and no person on behalf of any of the foregoing persons may make or cause to be made any communication relating to an insurance contract, the insurance business, any insurer or any intermediary which contains false or misleading information, including information misleading because of incompleteness.

- 7. Recommendation:** It is recommended that the company eliminate the language related to penalties imposed by the State of Wisconsin for failure to maintain liability insurance on registered vehicles and random verification programs on the Wisconsin -- Notice to Policyholders sent to private passenger automobile policyholders to avoid an unfair marketing practice pursuant to s. 628.34, Wis. Stat.

The examiners found that:

- Provision number 2 of the Exclusions - What We Do Not Cover section in the Physical Damage Coverages portion of the Family Auto Insurance Policy [form number FAP (Ed. 3/07) UF-8522] excludes coverage for losses 'caused intentionally by or at the direction of you or a relative'.
- Provision number 16 of the What We Do Not Cover - Exclusions of Property Protection -- Section 1 of the HomeProtector From Erie Insurance Ultracover Insurance Policy [form number 2005 Ultracover (Ed. 2/01) UF-8213] excludes coverage for losses caused 'by intentional loss, meaning any loss arising from an act

committed by or at the direction of anyone we protect with an intent to cause a loss.'

- Provision number 5 of the Limitation on Our Duty to Pay - What We Do Not Cover -- Exclusions of the Comprehensive Physical Damage Protection Boat Form - Wisconsin [form number WIIMCP (Ed. 10/03) UF-3567] excludes coverage for loss or damage caused 'by intentional loss, meaning any loss arising from an act committed by or at the direction of anyone we protect with an intent to cause a loss.'

Section 631.95 (2) (f), Wis. Stat., provides that an insurer may not under property insurance coverage that excludes coverage for loss or damage to property resulting from intentional acts, deny payment to an insured for a claim based on property loss or damage resulting from an act, or pattern, of abuse or domestic abuse if that insured did not cooperate in or contribute to the creation of the loss or damage and if the person who committed the act or acts that caused the loss or damage is criminally prosecuted for the act or acts.

8. Recommendation: It is recommended that the company revise all policy forms providing property insurance to comply with s. 631.95 (2) (f), Wis. Stat.

The examiners found that the Uninsured/Underinsured Motorists Coverage Endorsement -- Wisconsin [form number AFCU01 (Ed. 05/07) UF-3180] used by the company defines an underinsured motor vehicle as 'a motor vehicle that has liability insurance in effect but the sum of the applicable limits of liability under all bodily injury liability bonds, insurance policies and self-insurance plans applicable at the time of the accident is less than the applicable limits shown on the Declarations for Underinsured Motorists Coverage for one auto.' The Wisconsin Supreme Court's decision in Welin v. American Family Mut. Ins. Co, 202 Wis. 2d 73, 717 N.W. 2d 690 (2006) held that a definition of an underinsured motor vehicle that compares the injured person's underinsured motorist coverage limits to the limits of the tortfeasor's liability policy without regard to the amount the injured person actually receives from the tortfeasor's insurer, is invalid under s. 632.32 (4m) and (5) (i), Wis. Stat. Furthermore the court observed that underinsured motorists coverage should be triggered by an insured motor

vehicle whose limits of liability paid or payable to the plaintiff are less than the limits of liability in the plaintiff's underinsured motorists policy.

9. Recommendation: It is recommended that the company revise its uninsured/underinsured motorists coverage endorsement to comply with Wisconsin Supreme Court's decision in Welin v. American Family Mut. Ins. Co., 202 Wis. 2d 73, 717 N.W.2d 690 (2006).

The examiners found that the Market Value Loss Settlement Coverage Endorsement [form number HP-MV (1/97) UF-5551] used by the company contains the following loss settlement provision:

'Repair Cost Settlement: We will not deduct for depreciation. The damaged property will be repaired with commonly used building materials to place the property in a habitable condition. The type of materials will be agreed upon by you and us. If you and we cannot agree, settlement will be on an actual cash value basis, which includes deduction for depreciation.'

The company advised that their claim settlement procedure is to pay the repair costs for all commonly used building materials that can be agreed upon and to pay actual cash value only for those items where an agreement has not been reached until such time as an agreement is reached. The policy form language does not reflect the actual claim settlement practice of the company. In addition, the current language could be construed to mean that the entire loss is to be settled on an actual cash value basis until such time as an agreement has been reached on all commonly used building materials. Section 631.20 (2) (a) 1, Wis. Stat., provides that policy forms may not be misleading, deceptive, obscure or encourage misrepresentation, including cases where the form is misleading because its benefits are too restricted to achieve the purposes for which the policy is sold.

10. Recommendation: It is recommended that the company clarify the Market Value Loss Settlement Coverage Endorsement [form number HP-MV (1/97) UF-5551] to reflect its actual claims settlement practice in order to avoid misleading and deceptive policy form language and to avoid noncompliance with s. 631.20 (2) (a) 1, Wis. Stat.

The examiners found that the HomeProtector From Erie Insurance, Ultracover Insurance Policy [form number 2005 Ultracover(Ed. 2/01) UF-8213] and the Comprehensive

Building Coverage Endorsement [form number HP-AB (2/03)] exclude losses 'caused by freezing by temperature reduction of a plumbing, heating, air conditioning, gutters and drain spouts, or fire protective system, or of a household appliance, or by discharge, leakage or overflow from within the system or appliance caused by freezing, while the dwelling is vacant, unoccupied or being constructed.' Section Ins. 6.76 (3) (e) 2, Wis. Adm. Code, provides that coverage may be suspended or restricted while a described dwelling is vacant or unoccupied beyond a period of 60 consecutive days.

11. Recommendation: It is recommended that the company revise all policy forms providing property coverage to comply with s. Ins 6.76 (3) (e) 2, Wis. Adm. Code.

The examiners found that the Duties of an Injured Person - Medical Payments to Other Coverage provision of the Rights and Duties Conditions in Section II of the HomeProtector From Erie Insurance, Ultracover Insurance Policy [form number 2005 Ultracover (Ed. 2/01) UF-8213] requires the injured person or someone acting on behalf of that person to give the company written proof of claim, as soon as possible. In addition, the examiners found that the What To Do When An Occurrence, Offense, Claim or Suit Happens provision of the Rights and Duties Conditions in Section II of the same policy form requires that 'When there is an occurrence, offense, claim or suit anyone we protect will notify us or our Agent in writing as soon as possible... etal'. Section 631.81 (1), Wis. Stat. provides that if notice or proof of loss is furnished as soon as reasonably possible and within one year after the time it was required by the policy, failure to furnish such notice or proof within the time required by the policy does not invalidate or reduce a claim unless the insurer is prejudiced thereby and it was reasonably possible to meet the time limit.

12. Recommendation: It is recommended that the company revise all homeowners policy forms comply with s. 631.81 (1), Wis. Stat.

The examiners found that the paper version of the Wisconsin HomeProtector Application [form number UF-2179 5/06] includes a question that asks 'Has any member of the household been arrested for any reason?'. Section Ins 6.54, (3), Wis. Adm. Code provides that

no insurance company can refuse, cancel or deny insurance coverage to a class of risks solely on the basis of the applicant's or insured's past criminal record unless the offense which resulted in the conviction is directly related to the risk to be insured.

13. Recommendation: It is recommended that the company revise the paper version of the Wisconsin HomeProtector Application [form number UF-2179 5/06] to remove the question 'Has any member of the household been arrested for any reason?' to ensure compliance with s. Ins 6.54 (3), Wis. Adm. Code.

Policyholder Service & Complaints

The examiners reviewed the procedures used by the company for handling policyholder and consumer complaints. In addition, the examiners reviewed the consumer complaints filed with OCI against the company for the last three calendar years. The examiners discussed concerns about the quality of some of the responses and asked whether the responses were reviewed prior to sending the letter to the Commissioner. The company responded that it would review its procedures and monitor the responses to Commissioner complaints. No other exceptions were noted.

Producer Licensing

The company markets its insurance products using an independent agency system. To review the company's obligation to notify the Commissioner of producers that are appointed or terminated, the examiners requested that the company provide a list consisting of all producers appointed to represent the company as of the end of the period under review. The company's list was then compared to the Commissioner's database of producers appointed to represent the company as of that date. In addition, the examiners reviewed 100 files where the agent was appointed to represent the company and/or the relationship with the company was terminated during the examination period to determine if the company's practices and procedures related to the appointment and termination of its representatives comply with Wisconsin insurance statutes and rules. The following exceptions were noted:

The examiners found that out of 50 terminated agent files reviewed, an incorrect reason for termination for 6% of these individuals was reported to the Commissioner. Section 628.34 (1) (a), Wis. Stat., provides that no person who is or should be licensed under chs. 600 to 646, no employee or agent of any such person, no person whose primary interest is as a competitor of a person licensed under chs. 600 to 646, and no person on behalf of any of the foregoing persons may make or cause to be made any communication relating to an insurance contract, the insurance business, any insurer or any intermediary which contains false or misleading information, including information misleading because of incompleteness. Filing a report and, with intent to deceive a person examining it, making a false entry in a record or willfully refraining from making a proper entry, are "communications" within the meaning of this paragraph.

14. Recommendation: It is recommended that the company develop and implement a procedure to ensure that the correct reason for an agent termination is reported to the Commissioner in order to avoid an unfair marketing practice as defined by s. 628.34 (1), (a), Wis. Stat.

The company advised that it enters into a contractual relationship only with the principal or principals of each agency (hereinafter 'Contracted Agent') representing the company in Wisconsin. It does not enter into a contractual relationship with any other individual employed by or affiliated with the Contracted Agent (hereinafter 'Subagent'). The company does, however, regularly appoint both the Contracted Agent and any Subagents in accordance with s. Ins 6.57 (1), Wis. Adm. Code.

The company advised that when it terminates the agency relationship with the Contracted Agent it sends two written notices of termination to the Contracted Agent during the termination process. The first notice sent is a standard notice used to terminate the agency relationship that includes the following statements:

'The Wisconsin Administrative Code requires that ERIE file a notice of the termination of your Agency's appointment with the office of the Commissioner of Insurance prior to the termination date - a date that cannot yet be determined because of the vagaries arising from the

expiration of your Agency's book of ERIE business. When that notice is filed, your Agency will no longer be listed as a representative of ERIE and may not act as ERIE's representative. At the time of such final termination, it will be necessary for your Agency to return all indicia of agency, [Wisconsin Administrative Code Sec. 6.57(2)(b)].'

The second written notice of termination is sent to the Contracted Agent after the last policy written by the Agency through the company has been nonrenewed in accordance with s. 631.36, Wis. Stat. The standard notice used simply states:

'By receipt of this letter, I am informing you that your appointment to represent ERIE Insurance has been withdrawn.'

The examiners found four files documenting the above referenced process. Section Ins 6.57 (2), Wis. Adm. Code, requires an insurer to provide written notice of termination of appointment of individual intermediary to the agent advising the agent that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative. In addition, s. Ins 6.57 (2), Wis. Adm. Code, provides that this notice shall include a formal demand for the return of all indicia of agency.

15. Recommendation: It is recommended that the company include a formal demand for the return of all indicia of agency at the time that the final notice of the termination of the agency relationship is provided to its Contracted Agents and that said notice include the specific name of the company or companies to which the termination applies and advise the individual that he or she may not act as the company's representative in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

The company advised that when the agency relationship with a Contract Agent is terminated, it sends written notice to the Subagents after the last policy written by the Agency through the company has been nonrenewed in accordance with s. 631.36, Wis. Stat. The examiners found:

- 63 files where the notice of termination to agent did not advise the agent that he or she may not act as the company's representative;
- 63 files where the notice of termination to the agent did not include a formal demand for the return of all indicia of agency, and;
- 51 files where the notice of termination to the agent did not list the specific names of the company or companies to which the termination applied.

Section Ins 6.57 (2), Wis. Adm. Code, requires an insurer to provide written notice of termination of appointment of individual intermediary to the agent advising the agent that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative. In addition, s. Ins 6.57 (2), Wis. Adm. Code, provides that this notice shall include a formal demand for the return of all indicia of agency.

16. Recommendation: It is recommended that the company include a formal demand for the return of all indicia of agency at the time that the notice of the termination of the individuals appointment is provided to the Subagents representing the company and that said notice include the specific name of the company or companies to which the termination applies and advise the individual that he or she may not act as the company's representative in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners found three files where the company failed to terminate the agents appointment to represent the company within 30 days of the effective date of the termination. The examiners found two files where the company failed to send the notice of termination within 15 days of filing the notice of termination with the Commissioner. Section Ins 6.57 (2), Wis. Adm. Code, provides that notice of termination of appointment of an individual intermediary shall be filed prior to or within 30 calendar days of the termination date with the office of the commissioner of insurance. In addition, s. Ins 6.57 (2) requires that prior to or within 15 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative.

17. Recommendation: It is recommended that the company file notice of the termination of an individual intermediary's appointment with the Commissioner prior to or within 30 calendar days of the termination date and within 15 days of filing this termination notice, provide the agent written notice that the agent is no longer appointed as a representative of the company and that he or she may not act as its representative to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners found three files where the company was advised that the agent was no longer with an agency only after the company contacted the agency seeking updated information about the agent. Section Ins 6.57 (2), Wis. Adm. Code, requires that notice of

termination of appointment of individual intermediary shall be filed prior to or within 30 calendar days of the termination date with the office of the commissioner of insurance and that prior to or within 15 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative.

18. Recommendation: It is recommended that the company remind all Contract Agents to notify the company as soon as reasonably possible when a Subagent is longer employed by or affiliated with the Contract Agent to ensure compliance with s. Ins 6.57 (2). Wis. Adm. Code.

The examiners found seven files where the company did not send a notice of termination to individuals appointed to represent the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code. Section Ins 6.57 (2), Wis. Adm. Code, requires an insurer to provide written notice of termination of appointment of individual intermediary to the agent advising the agent that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative.

19. Recommendation: It is recommended that the company send a notice of termination to all agents it terminates in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

Underwriting & Rating

The examiners reviewed 200 new business personal lines underwriting files (100 private passenger automobile and 100 homeowners) and 120 personal lines termination files (60 private passenger automobile and 60 homeowners). The examiners also reviewed the company's underwriting procedures and manuals. The following exceptions were noted.

As noted previously in this report, the company advised the examiners that it enters into a contractual relationship only with the principal or principals (Contract Agent) of an agency that will be representing the company. Each Contract Agent is provided a unique agent number under which he or she submits business to the company. Subagents working for or affiliated with a Contract Agent are only assigned his or her own unique agent number upon request. The

company also advised that when a new Subagent is appointed, it notifies the Contract Agent and the Subagent of the lines of business and/or companies for which the Subagent has the authority to transact business on behalf of the company. Furthermore, the company advised that it becomes the Contract Agents responsibility to monitor the lines of business and companies for which his or her Subagents write in.

Homeowners and private passenger automobile business is typically uploaded electronically to the company, a copy of the paper application is not forwarded to the company at the time the application is underwritten or the business accepted by the company. Subagents without their own agent number submit business to the company under the Contract Agent's agent number. Business written by a Subagent that does not have a unique agent number would be accepted by the company provided the Contract Agent has the license and authority with the company regardless of whether the Subagent has the proper license or authority.

The examiners found:

- Two files where the company accepted business from agents that were not appointed to represent the company in accordance with s. Ins. 6.57 (1), Wis. Adm. Code;
- Two life policies placed with an affiliated company by an agent that was not appointed to represent the affiliated company in accordance with s. Ins 6.57 (1), Wis. Stat.;
- Four homeowners applications where the agent did not sign the application, and;
- Five private passenger automobile applications where the agent did not sign the application.

Since Subagents may or may not have a unique agent code, the agent signature line is the only unique piece of information that would indicate who placed the business with the company. The company advised that it does not have a written procedure requiring the agent to sign the application; however, it is the company's expectation that the agent sign each application. Without a signature or any other unique identifier, there is no method to determine exactly who submitted the business to the company. The company procedures do call for periodic agency signature audits; however, it is only during these signature audits that the

company would discover that it had accepted business from an individual that has not been appointed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code, and/or does not hold a valid Wisconsin insurance license.

Section 628.03 (1), Wis. Stat., provides that no natural person may perform, offer to perform or advertise any service as an intermediary in this state, unless the natural person obtains a license under s. 628.04 or 628.09, and no person may utilize the services of another as an intermediary if the person knows or should know that the other does not have a license as required by law. Furthermore, s. Ins. 6.57 (5), Wis. Stat., provides that no insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent listed with that insurer in accordance with s. Ins 6.57 (1), Wis. Adm. Code.

20. Recommendation: It is recommended that the company implement a more thorough and accurate procedure to verify that an agent is appointed to represent the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code, prior to accepting business from the agent in order to ensure compliance with ss. 628.03, Wis. Stat., and Ins 6.57 (5), Wis. Adm. Code.

The examiners found three homeowners applications and four private passenger automobile applications where the applicant did not sign the application or the Subscriber's agreement. In signing the application, the applicant certifies that the information provided in the application is true and complete and that they have been provided with the company's Notice Of Insurance Information Practices. In signing the Subscriber's Agreement the applicant, among other things, appoints Erie Indemnity Company as the Attorney-in-Fact for the company and grants the Attorney-in-Fact the authority to manage and conduct the business and affairs of the company in exchange for a percentage of all premiums written by the company.

The company places the burden of maintaining certain records related to the company's operations in Wisconsin on its agents through its agency agreement. The company's Signature Retention Policy provides that agents are required to obtain and retain original signatures on applications for insurance, change request forms, coverage selection forms,

Subscriber's Agreements, and waiver forms. Company procedures call for periodic agencies audits to verify that the agents are obtaining the required applicant signatures and retaining the documentation required under the company's record retention procedures. The company advised that the procedures regarding these audits were not followed and that the audits were not completed during the examination period.

21. Recommendation: It is recommended that the company conduct training for its Wisconsin agents on the need to obtain applicant signatures to ensure that the information contained on an application is provided and/or verified by the applicant and to ensure that a properly executed Subscribers Agreement is obtained from each policyholder as required by the company's procedures.

The examiners found two private passenger automobile files and one homeowners file where the agent of record did not retain all or a portion of an application for insurance and one file where the copy of the homeowners application retained by the agent of record was not legible. Section Ins 6.80 (5) (a), Wis. Adm. Code, provides that the company maintain records with regard to insurance company operations in the state of Wisconsin for the preceding 3 years and that these records be available to the commissioner, or the insurance regulatory agency of the insurer's state of domicile. Section Ins 6.80 (5) (b), Wis. Adm. Code, provides that the requirements of this rule pertaining to an insurer's operations in the state of Wisconsin may be met by compliance with the record retention law of its state of domicile. If no such law or regulation exists, an insurer may comply with this rule by presenting a statement attesting to the fact that its record retention system is acceptable to its state of domicile.

22. Recommendation: It is recommended that the company enforce its current procedure of conducting periodic agency audits to ensure that the required applicant signatures are obtained and that agents are retaining documentation related to the company's operations in Wisconsin on behalf of the company to ensure compliance with s. Ins 6.80 (5), Wis. Adm. Code.

The examiners found four files where the company issued the policy on terms other than originally applied for on the application for insurance. One automobile application, signed by the applicant, indicated a specific payment plan. The policy was issued with a different payment plan. The company indicated that the agent communicated the change in payment

plans to the policyholder verbally. One automobile application, signed by the applicant, included a discount for having a homeowners, life insurance and automobile insurance with the company. The policy was issued without the multi-policy discount. One automobile application, signed by the applicant, used a specific rating territory. The policy was issued using a different rating territory. The company indicated that the agent communicated the change in rating territories to the policyholder verbally. One automobile application, signed by the applicant, included two individuals as named insureds. The policy was issued without one of these individuals as a name insured as the company determined prior to issuing the policy that this individual was not a licensed driver. Issuing a policy on terms other than requested on the original application, without direct notice to the policyholder, is misleading by omission and could be considered an unfair marketing practice pursuant to s. 628.34 (1), Wis. Stat.

23. Recommendation: It is recommended that the company provide written notice directly to the policyholder when issuing a policy on terms other than applied for by the applicant in order to avoid an unfair marketing practice as defined by s. 628.34 (1), Wis. Stat.

The examiners found four files (one private passenger automobile file and three homeowners files) where the effective date on the policy was between one and twelve days later than the effective date shown on the application for insurance. In addition, the examiners found one private passenger automobile file where the coverage limit for the property damage liability coverage shown on the original application for insurance had been lined through and a lower limit handwritten on the application without any indication as to when or who had made the alteration. The company advised that the change for each policy was made at the request of the applicant, however, no documentation from the applicant verifying that the change was in fact made at the request of the applicant was provided. Without documentation to support that the applicant did in fact request a later effective date or lower coverage limit the potential for coverage disputes exists that could have otherwise been avoided. In addition, issuing a policy on terms other than requested on the original application, without documentation to support the

applicant requested said changes could be considered an unfair marketing practice pursuant to s. 628.34 (1), Wis. Stat.

24. Recommendation: It is recommended that the company obtain documentation from the applicant to support any requested changes in coverage at the time the request is made in order to avoid potential coverage disputes and an unfair marketing practice as defined by s. 628.34 (1), Wis. Stat.

The examiners found three policies that contained medical payments coverage with a limit of less than \$1,000. Section 632.32 (4) (b), Wis. Stat., states, in part, that every policy of insurance that insures with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability arising out of the ownership, maintenance, or use of a motor vehicle shall contain medical payments coverage in the amount of at least \$1,000 per person, unless the insured rejects the coverage.

25. Recommendation: It is recommended that every policy of insurance that insures with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability arising out of the ownership, maintenance, or use of a motor vehicle contain medical payments coverage in the amount of at least \$1,000 per person, unless the insured rejects the coverage, in order to comply with s. 632.32 (4) (b), Wis. Stat.

The examiners found two private passenger automobile policies that insured against loss resulting from liability arising out of the ownership, maintenance, or use of a motor vehicle that did not include medical payments coverage on one or more vehicles listed on the policies. The company could not provide documentation to support that the medical payments coverage had been offered and/or rejected. In addition, the company advised that it has no procedure in place which requires applicants or policyholders to affirmatively accept or reject medical payments coverage. Section 632.32 (4) (b), Wis. Stat., states, in part, that every policy of insurance that insures with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability arising out of the ownership, maintenance, or use of a motor vehicle shall contain medical payments coverage in the amount of at least \$1,000 per person, unless the insured rejects the coverage.

26. Recommendation: It is recommended that the company implement a procedure that documents that medical payments coverage was offered and/or rejected by the applicant or policyholder for policies that insure with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability arising out of the ownership, maintenance, or use of a motor vehicle, in order to comply with s. 632.32 (4) (b), Wis. Stat.

The examiners found 16 homeowners policies that were nonrenewed or cancelled by the company where the notice of nonrenewal or cancellation did not provide instructions to the policyholder for applying for insurance through the Wisconsin Insurance Plan. Section 631.36 (7) (a) 2, Wis. Stat., provides that no notice of cancellation or nonrenewal required under ss. 632.31 (2) (b) or (4), Wis. Stat., is effective unless the notice contains adequate instructions to the policyholder for applying for insurance through a risk-sharing plan under ch. 619, Wis. Stat., for the kind of coverage being canceled or nonrenewed. The Wisconsin Insurance Plan is the risk-sharing plan established under ch. 619, Wis. Stat., for homeowners insurance.

27. Recommendation: It is recommended that when cancelling or nonrenewing a policy under ss. 632.36 (2) (b) or (4), Wis. Stat., that the company include in the notice adequate instructions to the policyholder for applying for insurance through a risk-sharing plan under ch. 619, Wis. Stat., if a risk-sharing plan exists under ch. 619 for the kind of coverage being canceled or nonrenewed, in order to ensure compliance with s. 631.36 (7), Wis. Stat.

The examiners found that the private passenger automobile Underwriting Guidelines for new business provide that risks with 'operators who in the past five years who: have participated in the Probation Before Judgment (PBJ), ARD or any similar deferred prosecution program.' are not eligible for coverage. The company advised that PBJ and ARD (Accelerated Rehabilitative Disposition) are terms used to describe programs in other states and that specific entries on an applicant's motor vehicle record from these states may appear. The underwriting guideline does not require that the underlying cause of the entry on the motor vehicle record of an applicant be reviewed to determine the nature of the entry and its relation to the insurance coverage being sought by the applicant.

The examiners found that the underwriting guidelines for private passenger automobile insurance used in Wisconsin by the company provide that risks with the following characteristics are not eligible for coverage:

- persons who have demonstrated a pronounced disregard for authority or the rights of others.
- persons who present a moral hazard, are engaged in an illegal enterprise, ... or are known to be excessive or imprudent users of intoxicants or drugs.
- operators in the past five years who: intentionally cause damage to person or property.

The examiners found that the underwriting guidelines for private passenger automobile insurance used in Wisconsin by the company provide that risks with the following characteristics are not eligible for coverage:

Operators in the past five years who:

- flee or attempt to elude a police officer
- commit any misdemeanor or felony are not eligible for coverage

The examiners also found that the renewal eligibility guidelines for homeowners insurance used in Wisconsin by the company provide that in determining a risks continuing acceptability, the following characteristics should be considered:

- Criminal or illegal actions
- Involvement in fraudulent activities

Section Ins 6.54, Wis. Adm. Code, provides that no insurance company shall refuse, cancel or deny insurance coverage to a class of risks solely on the basis of any of the following factors (taken individually or in combination), nor shall it place a risk in a rating classification on the basis of any of the following factors without credible information supporting such a classification and demonstrating that it equitably reflects differences in past or expected losses and expenses:

1. The applicant's or insured's past criminal record;
2. The applicant's or insured's physical condition or developmental disability;
3. The applicant's or insured's past mental disability;
4. The applicant's or insured's age;
5. The applicant's or insured's marital status;

6. The applicant's or insured's sexual preference;
7. The applicant's or insured's "moral" character.

Section Ins 6.54, (3) (b), Wis. Adm. Code, provides an insurer may deny, cancel or nonrenew automobile or property insurance of a person convicted of an offense if the offense which resulted in the conviction is directly related to the risk to be insured.

28. Recommendation: It is recommended that the company revise the eligibility guidelines in the new business section of the private passenger automobile underwriting guidelines related to participation in Probation Before Judgment (PBJ), Accelerated Rehabilitative Disposition (ARD) or any similar deferred prosecution programs, to ensure compliance with s. Ins 6.54 (3) (a), Wis. Adm. Code.

29. Recommendation: It is recommended that the company revise its underwriting guidelines to remove broad characteristics such as the moral character of an applicant or insured that make risk ineligible for coverage, to ensure compliance with s. Ins 6.54 (3) (a), Wis. Adm. Code.

30. Recommendation: It is recommended that the company revise its underwriting guidelines to remove the broad characteristics related to an applicant's or insured's past criminal record that make risks ineligible for coverage, to ensure compliance with s. Ins 6.54 (3) (a), Wis. Adm. Code.

The examiners found that the private passenger auto new business eligibility guidelines used in Wisconsin provide that risks with 'operators who have been residents of the United States or Canada for less than three years.' are not eligible for coverage.

The examiners found that the Private Passenger Auto Exchange Underwriting Guidelines - New Business used by the company in Wisconsin provide that risks do not qualify for coverage if there are 'operators who are currently excluded on any personal auto policy, ERIE or otherwise.' The company advised that it does not exclude coverage for operators in Wisconsin and that the 'guideline is used only to determine acceptability of a risk when a driver has been lawfully excluded from a policy in another state before moving to Wisconsin.'

Section 632.35, Wis. Stat., provides that no insurer may cancel or refuse to issue or renew an automobile insurance policy wholly or partially because of one or more of the following characteristics of any person: age, sex, residence, race, color, creed, religion, national origin, ancestry, marital status or occupation. Failure to determine the exact reason an operator has

been excluded from coverage in another state could result in the company refusing to insure a risk for reasons that are prohibited under ss. 632.35, Wis. Stat. and Ins 6.54 (3) (a), Wis. Adm. Code.

31. Recommendation: It is recommended that the company remove from its private passenger auto underwriting guidelines the requirement that operators must be a resident of the United States or Canada for at least three years to be eligible for coverage to ensure compliance with s. 632.35, Wis. Stat.

32. Recommendation: It is recommended that the company remove from its Wisconsin Private Passenger Auto Exchange Underwriting Guidelines - New Business the guideline making risks ineligible for coverage if there are 'operators who are currently excluded on any personal auto policy, ERIE or otherwise' to ensure compliance with ss. 632.35, Wis. Stat. and Ins 6.54 (3) (a), Wis. Adm. Code.

The examiners found that the private passenger automobile underwriting guidelines used by the company in Wisconsin contain a provision that rates a car owned by a clergyman as not being used for business or being driven to and from work regardless of the actual use of the vehicle. Section 625.11 (1), Wis. Stat., provides that rates shall not be unfairly discriminatory. Section 625.11 (4), Wis. Stat., provides that a

'...rate is unfairly discriminatory in relation to another in the same class if it clearly fails to reflect equitably the differences in expected losses and expenses. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the differences with reasonable accuracy.'

Singling out one occupation for consideration is unfairly discriminatory, without creditable information to support such a classification and demonstrating that it equitable reflects differences in past or expected losses and expenses, is contrary to s. 625.11, Wis. Stat.

33. Recommendation: It is recommended that the company give clergymen the same rating considerations as any other occupation group to ensure compliance with s. 625.11, Wis. Stat.

The examiners found typographical errors and incorrect reference to specific policy forms in the HomeProtector and Private Passenger Auto Rate and/or Rule manuals used by the company during the period under review. While the errors do not appear to have a material

affect on the rating or underwriting of policies, the company should exercise care in updating the rate and rule manual pages to insure that the manuals are an accurate reflection of the actual practices of the company.

The examiners found that the company has a procedure in place that would allow for the rescission of a policy in the event of material misrepresentation on the part of the applicant and/or insured. The company advised that it relies on the following statement contained in the homeowners and/or private passenger automobile applications used by the company:

'This application is an endorsement to your policy and becomes part of your policy. The applicant applies for insurance and represents the following to be true. This entire policy may be voided if the Applicant has concealed or misrepresented any material fact or circumstance concerning application for this insurance.'

Furthermore the company advised that at the time the application, the agent is responsible for having the applicant sign a printed copy of the application and providing a copy of the signed application to the applicant. A copy of the application is not attached to the policy at the time the policy is issued and no written communication is provided by the company to the insured within 60 days after the effective date of the policy.

Section 631.11, Wis. Stat., provides that no statement, representation or warranty made by a person other than the insurer or an agent of the insurer in the negotiation for an insurance contract affects the insurer's obligations under the policy unless it is stated in any of the following:

1. The policy.
2. A written application signed by the person, provided that a copy of the written application is made a part of the policy by attachment or endorsement.
3. A written communication provided by the insurer to the insured within 60 days after the effective date of the policy.

Section 631.13, Wis. Stat., provides that no insurance contract may contain any agreement or incorporate any provision not fully set forth in the policy or in an application or other document attached to and made a part of the policy at the time of its delivery.

34. Recommendation: It is recommended that the company revise its procedures and policy forms to comply with ss. 631.11 and 631.13, Wis. Stat.

IV. CONCLUSION

A total of 34 recommendations were made as a result of this targeted examination relating to the company's need to modify claims, underwriting, producer licensing, and policy forms and filing procedures.

The company needs to ensure written claim denials are sent promptly, including in those instances where the claim is initially verbally denied.

The company also needs to revise its Authorization to Obtain Medical, Insurance and/or Employment Information to comply with s. 610.70 (2) (a) 8, Wis. Stat. In addition, the company needs to develop and implement a quality control program to ensure that the Market Conduct Annual Statement contains accurate and complete data prior to filing it with the Commissioner.

The company needs to revise its policy form filing process to ensure compliance with the filing requirements in s. 631.20, Wis. Stat. The company must also update various policy forms and consumer disclosure notices to comply with Wisconsin insurance laws.

The company needs to develop and implement procedures to ensure that the correct reason for an agent termination is reported to the Commissioner, that agent appointments are promptly terminated, and that all agents are provided proper notice of termination to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

In addition, the company must implement a more thorough and accurate procedure to verify that an agent is appointed to represent the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code, prior to accepting business from the agent in order to ensure compliance with ss. 628.03, Wis. Stat., and Ins 6.57 (5), Wis. Adm. Code. The company must also follow its current procedure of conducting periodic agency audits to ensure that the required applicant signatures are obtained and that agents are retaining documentation related to the company's operations in Wisconsin on behalf of the company.

The company needs to revise its procedures to ensure that policyholders are notified when a policy is issued on terms other than applied for, obtain documentation from the applicant to support any requested changes in coverage at the time the request is made, and that medical payments coverage was offered and/or rejected by the applicant or policyholder for policies that insure any motor vehicle registered or principally garaged in this state against loss resulting from liability arising out of the ownership, maintenance, or use of a motor vehicle.

The company needs to provide adequate instructions to the policyholder for applying for insurance through a risk-sharing plan when canceling or nonrenewing a policy and revise the eligibility and underwriting guidelines used in Wisconsin to comply with Wisconsin insurance laws and regulations.

V. SUMMARY OF RECOMMENDATIONS

Claims

- Page 06 1. In order to avoid the unfair claim settlement practices contained in s. Ins 6.11 (3), Wis. Adm. Code, it is recommended that the company implement procedures that ensure a written claim denial is sent promptly, including in those instances where the claim is initially verbally denied.

Company Operations & Management

- Page 07 2. It is recommended that the company revise its Authorization to Obtain Medical, Insurance and/or Employment Information [form number c-820 05/06] to comply with s. 610.70 (2) (a) 8, Wis. Stat.
- Page 08 3. It is recommended that the company develop and implement a quality control program to ensure that the Market Conduct Annual Statement contains accurate and complete data in order to avoid an unfair marketing practices defined by s. 628.34 (1) (a), Wis. Stat.

Policy Forms & Rates

- Page 10 4. It is recommended that the company file with the Commissioner and obtain approval from the Commissioner (if required) prior to using policy forms and endorsements, including applications, in order to comply with s. 631.20, Wis. Stat.
- Page 10 5. It is recommended that, prior to making forms available for use in Wisconsin, the company re-file all previously approved forms when changes to non hypothetical data or other appropriate variable material on the form are made to ensure compliance with s. 631.20, Wis. Stat., and s. Ins 6.05 (4) (a) 5, Wis. Adm. Code.
- Page 10 6. It is recommended that the company review all notices used to notify a person of their right to file a complaint with the Commissioner and to amend said notices to comply with s. Ins 6.85, Wis. Adm. Code.
- Page 11 7. It is recommended that the company eliminate the language related to penalties imposed by the State of Wisconsin for failure to maintain liability insurance on registered vehicles and random verification programs on the Wisconsin -- Notice to Policyholders sent to private passenger automobile policyholders to ensure compliance in order to avoid an unfair marketing practice pursuant to s. 628.34, Wis. Stat.
- Page 12 8. It is recommended that the company revise all policy forms providing property insurance to comply with s. 631.95 (2) (f), Wis. Stat.
- Page 13 9. It is recommended that the company revise its uninsured/underinsured motorists coverage endorsement to comply with Wisconsin Supreme Court's decision in Welin v. American Family Mut. Ins. Co., 202 Wis. 2d 73, 717 N.W.2d 690 (2006).

- Page 13 10. It is recommended that the company clarify the Market Value Loss Settlement Coverage Endorsement [form number HP-MV (1/97) UF-5551] to reflect its actual claims settlement practice in order to avoid misleading and deceptive policy form language and to avoid noncompliance with s. 631.20 (2) (a) 1, Wis. Stat.
- Page 14 11. It is recommended that the company revise all policy forms providing property coverage to comply with s. Ins 6.76 (3) (e) 2., Wis. Adm. Code.
- Page 14 12. It is recommended that the company revise all homeowners policy forms comply with s. 631.81 (1), Wis. Stat.
- Page 15 13. It is recommended that the company revise the paper version of the Wisconsin HomeProtector Application [form number UF-2179 5/06] to remove the question 'Has any member of the household been arrested for any reason?' to ensure compliance with s. Ins 6.54 (3), Wis. Adm. Code.

Producer Licensing

- Page 16 14. It is recommended that the company develop and implement a procedure to ensure that the correct reason for an agent termination is reported to the Commissioner in order to avoid an unfair marketing practice as defined by s. 628.34 (1), (a), Wis. Stat.
- Page 17 15. It is recommended that the company include a formal demand for the return of all indicia of agency at the time that the final notice of the termination of the agency relationship is provided to its Contracted Agents and that said notice include the specific name of the company or companies to which the termination applies and advise the individual that he or she may not act as the company's representative in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.
- Page 18 16. It is recommended that the company include a formal demand for the return of all indicia of agency at the time that the notice of the termination of the individuals appointment is provided to the Subagents representing the company and that said notice include the specific name of the company or companies to which the termination applies and advise the individual that he or she may not act as the company's representative in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.
- Page 18 17. It is recommended that the company file notice of the termination of an individual intermediary's appointment with the Commissioner prior to or within 30 calendar days of the termination date and within 15 days of filing this termination notice, provide the agent written notice that the agent is no longer appointed as a representative of the company and that he or she may not act as its representative to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.
- Page 19 18. It is recommended that the company remind all Contract Agents to notify the company as soon as reasonably possible when a Subagent is longer

employed by or affiliated with the Contract Agent to ensure compliance with s. Ins 6.57 (2). Wis. Adm. Code.

- Page 19 19. It is recommended that the company send a notice of termination to all agents its terminates in order to comply with s. Ins 6.57 (2), Wis. Adm. Code.

Underwriting & Rating

- Page 21 20. It is recommended that the company implement a more thorough and accurate procedure to verify that an agent is appointed to represent the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code, prior to accepting business from the agent in order to ensure compliance with ss. 628.03, Wis. Stat., and Ins 6.57 (5), Wis. Adm. Code.

- Page 22 21. It is recommended that the company conduct training for its Wisconsin agents on the need to obtain applicant signatures to ensure that the information contained on an application is provided and/or verified by the applicant and to ensure that a properly executed Subscribers Agreement is obtained from each policyholder as required by the company's procedures.

- Page 22 22. It is recommended that the company enforce its current procedure of conducting periodic agency audits to ensure that the required applicant signatures are obtained and that agents are retaining documentation related to the company's operations in Wisconsin on behalf of the company to ensure compliance with s. Ins 6.80 (5), Wis. Adm. Code.

- Page 23 23. It is recommended that the company provide written notice directly to the policyholder when issuing a policy on terms other than applied for by the applicant in order to avoid an unfair marketing practice as defined by s. 628.34 (1), Wis. Stat.

- Page 24 24. It is recommended that the company obtain documentation from the applicant to support any requested changes in coverage at the time the request is made in order to avoid potential coverage disputes and an unfair marketing practice as defined by s. 628.34 (1), Wis. Stat.

- Page 24 25. It is recommended that every policy of insurance that insures with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability arising out of the ownership, maintenance, or use of a motor vehicle contain medical payments coverage in the amount of at least \$1,000 per person, unless the insured rejects the coverage, in order to comply with s. 632.32 (4) (b), Wis. Stat.

- Page 25 26. It is recommended that the company implement a procedure that documents that medical payments coverage was offered and/or rejected by the applicant or policyholder for policies that insure with respect to any motor vehicle registered or principally garaged in this state against loss resulting from liability arising out of the ownership, maintenance, or use of a motor vehicle, in order to comply with s. 632.32 (4) (b), Wis. Stat.

- Page 25 27. It is recommended that when cancelling or nonrenewing a policy under ss. 632.36 (2) (b) or (4), Wis. Stat., that the company include in the notice adequate instructions to the policyholder for applying for insurance through a risk-sharing plan under ch. 619, Wis. Stat, if a risk-sharing plan exists under ch. 619 for the kind of coverage being canceled or nonrenewed, in order to ensure compliance with s. 631.36 (7), Wis. Stat.
- Page 27 28. It is recommended that the company revise the eligibility guidelines in the new business section of the private passenger automobile underwriting guidelines related to participation in Probation Before Judgment (PBJ), Accelerated Rehabilitative Disposition (ARD) or any similar deferred prosecution programs, to ensure compliance with s. Ins 6.54 (3) (a), Wis. Adm. Code.
- Page 27 29. It is recommended that the company revise its underwriting guidelines to remove broad characteristics such as the moral character of an applicant or insured that make risk ineligible for coverage, to ensure compliance with s. Ins 6.54 (3) (a), Wis. Adm. Code.
- Page 27 30. It is recommended that the company revise its underwriting guidelines to remove the broad characteristics related to an applicant's or insured's past criminal record that make risks ineligible for coverage, to ensure compliance with s. Ins 6.54 (3) (a), Wis. Adm. Code.
- Page 28 31. It is recommended that the company remove from its private passenger auto underwriting guidelines the requirement that operators must be a resident of the United States or Canada for at least three years to be eligible for coverage to ensure compliance with s. 632.35, Wis. Stat.
- Page 28 32. It is recommended that the company remove from its Wisconsin Private Passenger Auto Exchange Underwriting Guidelines - New Business the guideline making risks ineligible for coverage if there are 'operators who are currently excluded on any personal auto policy, ERIE or otherwise' to ensure compliance with ss. 632.35, Wis. Stat. and Ins 6.54 (3) (a), Wis. Adm. Code.
- Page 28 33. It is recommended that the company give clergymen the same rating considerations as any other occupation group to ensure compliance with s. 625.11, Wis. Stat.
- Page 30 34. It is recommended that the company revise its procedures and policy forms to comply with ss. 631.11 and 631.13, Wis. Stat.

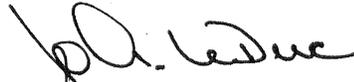
VI. ACKNOWLEDGEMENT

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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