

Indictments, convictions must be reported at renewal

Requirement affects resident agents, adjusters, consultants

Have you ever been indicted for, or convicted of, any misdemeanor or felony?

Resident insurance agents, adjusters and consultants will now have to answer that question when they apply to renew their Oregon licenses. And, if the answer is "yes," they'll also have to provide a detailed explanation.

As a courtesy, the Insurance Division sends each resident licensee a renewal notice about 75 days before the license expiration date. The notice now includes a return coupon with a space for the licensee to affirm that he or she hasn't been indicted or convicted. If the licensee has been indicted or convicted, he or she instead must attach an explanation to the coupon.

Patrick Fitzgerald heads Rates & Forms Section

Patrick Fitzgerald has been named manager of the Rates & Forms Section, effective April 12. He had been a hearing officer for the Insurance Division since July 1991, handling workers' compensation premium audit billing cases.

Before joining the division, Fitzgerald worked as a software support engineer for a California firm and was compliance manager of the Oregon Building Codes Division.

Rates & Forms consists of two units: Health, and Life/Property & Casualty.

"I will be looking at our overall process and how we can improve it," Fitzgerald said. "We want filings to be reviewed in the most timely, efficient manner possible. Our staff does a good job in that regard but we can always make improvements."



Patrick
Fitzgerald

Margarita Nuñez, manager of the Agent Licensing Unit, said the new requirement is partly a result of the federal Violent Crime Control and Law Enforcement Act of 1994. The law prohibits an individual convicted of a felony involving dishonesty or breach of trust from engaging in the insurance business or participating in insurance activities that affect interstate commerce.

"We will review all resident license renewals for felonies to satisfy the federal law," Nuñez said. "In addition, Oregon law allows us to look at misdemeanors to determine if they relate to dishonesty or breach of trust, which obviously can affect an individual's fitness to hold an insurance license."

Oregon will rely on a nonresident licensee's home state to check for a felony record.

The renewal notice for resident insurance firms and corporations also has been changed. An agency principal must affirm that the agency doesn't employ any unli-

censed individuals who have been convicted of a felony.

Nuñez reminded licensees that Oregon law does not allow the renewal date to be extended for any reason. "No extensions will be granted," she said. "Agent renewals, including payment and continuing education course completion certificates, must be postmarked on or before the license expiration date. If your renewal is postmarked after the expiration date, your license will expire and you will need to pay a \$45 reinstatement fee."

When a license expires, agent appointments and affiliations on record terminate as of that date and must be re-filed with the Insurance Division.

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Standard Insurance Co. demutualizes

Standard Insurance Co., Oregon's largest domestic insurer, completed its conversion from a mutual insurance company to a publicly held stock company in April.

Standard offers life and disability insurance and retirement plans for individuals and groups, plus dental insurance. The company insures more than four million people nationwide.

Under Oregon law, Standard was required to submit a demutualization plan to the Department of Consumer and Business Services (DCBS), explaining the reasons for the change and how policyholders, company officers, and employees would be affected.

Standard officials said demutualization would allow the company to enhance its financial position and increase its growth potential.

Following a public hearing, Michael

Greenfield, DCBS director and insurance commissioner, conditionally approved Standard's demutualization plan. In an order dated Feb. 12, Greenfield found that Standard's plan provided a fair allocation of consideration to policyholders, who received shares of stock, cash or policy credits in exchange for their membership interests. Standard also demonstrated that demutualization would not increase premiums or reduce policy benefits, guarantees or other policy obligations of the company.

Under terms approved by Greenfield, the plan was not effective until approved by a majority of Standard policyholders and completion of an initial public offering (IPO). More than 91 percent of the policyholders voting approved the plan, and the IPO of stock in Standard's new holding company, StanCorp Financial Group, Inc. (SFG-NYSE), was held April 16.

INSURANCE DIVISION FOCUS

Licensing Unit changes should improve turnaround time

Agents, agencies also can help process go smoother

Recent organizational changes in the Agent Licensing Unit, plus the addition of one new licensing technician position, should result in quicker turnaround time for license applications and renewals.

Margarita Nuñez, manager of Agent Licensing, said the unit has been reorganized into two teams, with each team headed by a licensing coordinator. **Sandee Meek** and **Bryan Theis** will coordinate the work flow of their teams of three licensing technicians and a support person.

"The team approach will help us improve efficiency and customer service," Nuñez said. "We will have two employees trained to handle each part of the licensing process. If one is gone because of illness, for example, the other one can step in so we don't develop a huge backlog of applications and renewals."

Nuñez said the additional licensing technician position was created because of the unit's increasing workload. The goal is to process applications for new licenses within 15 calendar days and renewals within seven days.

New applications take longer to process because criminal background checks are required.

"We run all resident agent applications through the Oregon State Police," Nuñez explained, "and nonresident applications are checked through the National Association of Insurance Commissioner's Regulatory Information Retrieval System."

Here's how to order Oregon licensing forms

Need licensing forms? The phone number to order forms has been changed to **(503) 947-7231**.

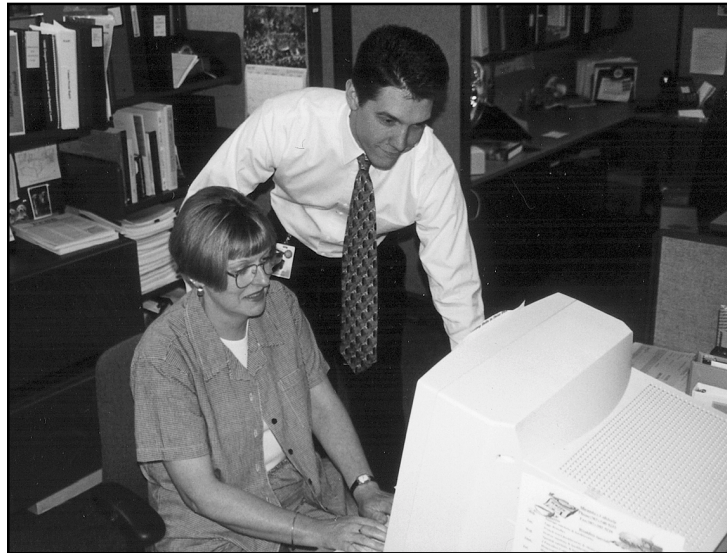
You also can order licensing forms:

- By U.S. mail:

Forms
Oregon Insurance Division
350 Winter St. NE, Room 440
Salem, OR 97310

- By E-mail:

dcbs.insmail@state.or.us



TEAM LEADERS

Sandee Meek and **Bryan Theis** coordinate the work of their licensing teams.

While the reorganization and increased staffing should result in improved turnaround time, there are several things agents and agencies can do to make the licensing process even faster.

Including all of the required information will eliminate the most frequent cause of delays in processing agent license applications. Make sure to include your business address and phone number, sign the application, and provide five years of employment history.

When something is missing, the applicant is notified by mail and given 90 days to submit the necessary information.

If you are renewing your license, be sure to include documentation of continuing education courses.

And, don't forget to report changes of

address or telephone numbers. Oregon law requires licensees to notify the Director no later than 30 days after a change in a business or residence address or telephone number. Failure to report a change of address could cause a renewal notice or other important correspondence to be mailed to the wrong location.

Nuñez said improvements in Agent Licensing Unit operations and cooperation by agents and agencies will help make the entire licensing process run more smoothly.

"We have several new employees and we're fine-tuning our processes and procedures," she said. "But everyone here is committed to reducing turnaround time for license applications and renewals."

Licensing Unit roster

Manager

Margarita Nuñez

Licensing coordinators

Sandee Meek
Bryan Theis

Licensing technicians

Bonnie Beard, Joanne Drapeau,
Brian Maas, Micha Pantle, Dee
Poole, Chris Stover, Pam Young

Receptionists

Amy Shutz, Judy Wentworth

If you are ordering more than five copies of a licensing form, you will need to include a postage-paid return envelope with your order.

Several licensing forms also can be downloaded from our Web site:

- Individual insurance license application.
- Firm or corporation affiliation of agent, adjuster, or insurance consultant.
- Agent address change.

Our Web address is:

www.cbs.state.or.us/ins

DEPUTY COMMISSIONER'S COLUMN

Regulating electronic commerce presents challenges

The Internet brings new benefits for consumers and new challenges for regulators.

Consumer benefits include 24-hour access and the ability to review product information without being pressured by a salesperson.

As an intangible product that virtually everyone needs, insurance is ideal for Web commerce. A new publication that monitors insurance on the Internet recently documented 500 insurer Web sites, and the number is growing.



Nancy Ellison

Our role as regulators should be to facilitate insurance transactions on the Web as much as possible, consistent with our obligation to protect consumers.

Beginning with a 1997 white paper by the National Association of Insurance Commissioners (NAIC), *Marketing of Insurance over the Internet*, regulators have recognized that most issues can be handled simply by applying current law

to the Internet. The Web and other forms of electronic commerce are just another form of communication. We generally don't have special rules for regulating commerce by telephone or U.S. mail, and we generally don't need special rules for the Internet. We do, however, need to review laws that did not envision electronic commerce and remove unnecessary barriers embedded in these laws.

The NAIC's Electronic Commerce Work Group is developing a white paper that states can use to address barriers to electronic commerce. The work group's charge includes developing recommendations to update and, where appropriate, harmonize state laws, regulations, and procedural requirements governing the insurance industry; facilitating the use of electronic commerce by insurers; and maintaining or im-

proving appropriate consumer protections. A draft of the white paper is available at www.naic.org.

On the consumer protection side, Web commerce presents some new challenges. Most troubling are the expanded opportunities for fraud and the abuse of privacy. We haven't received many consumer complaints about the Internet yet, but states that have proactive surveillance of the Web are finding problems. Examples include:

- Advertisements that don't disclose whether an insurer and/or agent is licensed. If an entity is not licensed, soliciting insurance may violate our licensing laws. In some cases, the entity identified is not an insurer or agent, which may violate rules requiring insurers to identify themselves in ads.
- Advertisements that claim to have the "lowest rates" and make other overstatements.
- Insecure sites that ask for private information (Social Security numbers, health history, financial history). There are secure sites, but consumers need to know the difference.

Web commerce will continue to expand. The Insurance Division will take a detailed look at the NAIC Electronic Commerce Work Group's final recommendations and determine how they apply to Oregon. We also will respond to consumer complaints involving the Internet, as we do with other complaints about insurance companies or agents.

Deputy Insurance Commissioner
Division Administrator

Mailing address changes for license renewal payments

The Department of Business and Consumer Services (DCBS) is now processing insurance license renewal payments in-house, instead of utilizing a Portland-based bank.

The new mailing address for renewal payments is:

DCBS
Fiscal Services Section
PO Box 14610
Salem, OR 97309-0445

Visit our Web site:
www.cbs.state.or.us/ins

PacifiCare fined \$50,000 for claims handling

The Oregon Department of Consumer and Business Services (DCBS) has assessed a \$50,000 fine against PacifiCare of Oregon, Inc., for failure to comply with state standards for the handling of health insurance claims.

The action resulted from a market conduct examination of the company's operations by the Insurance Division of DCBS. Examiners reviewed claims-handling practices of PacifiCare and health care provider groups authorized to handle claims on PacifiCare's behalf for the period of July 1994 to June 1997.

"We found substantial noncompliance with important claims-handling standards," said Deputy Insurance Commissioner **Nancy Ellison**. "Some of the viola-

tions involved claims handled directly by PacifiCare, but the highest levels of non-compliance involved claims handled by delegated provider groups."

Ellison also noted that initial follow-up made by examiners indicated significant improvement in PacifiCare's monitoring activity and claims-handling practices.

Problems with claims handling standards were cited in two earlier market conduct examinations of PacifiCare covering the periods of 1989 to 1991 and 1991 to 1994. In 1996, DCBS fined PacifiCare \$20,000 for denying emergency room claims without conducting a reasonable investigation.

The Insurance Division plans to re-examine PacifiCare in late 1999 to ensure that violations have been corrected.

COMPANY ACTIONS

Sanctions

Advantage Dental Plan, Inc.

Roseburg, OR

- Violation: Failed to file annual holding company registration statement by due date.
Penalty: \$200 fine.
Date of order: Jan. 28, 1999.
- Violation: Failed to file annual statement by due date.
Penalty: \$900 fine.
Date of order: May 24, 1999.

Chicago Title Ins. Co. of Oregon

Portland, OR

Violation: Failed to respond promptly to an inquiry from the Director.

Penalty: \$2,000 fine.

Date of order: Jan. 6, 1999.

Family Care Health Plans, Inc.

Portland, OR

Violation: Failed to file annual holding company registration statement by due date.

Penalty: \$200 fine.

Date of order: Jan. 28, 1999.

Grange Mutual Ins. Co.

Tigard, OR

Violation: Failed to file annual statement by due date.

Penalty: \$1,400 fine.

Date of order: June 14, 1999.

PacifiCare of Oregon, Inc.

Please see story, Page 3.

Providence Health Plan

Portland, OR

Violation: Failed to respond promptly to two inquiries from the Director.

Penalty: \$2,000 fine.

Date of order: Feb. 16, 1999.

Providentmutual Life and Annuity Co. of America

Berwyn, PA

Violation: Failed to timely notify insurers regarding replacement of life insurance policies or annuities.

Penalty: \$10,000 fine.

Date of order: June 18, 1999.

Surrenders of Authority

Cedar Hill Assurance Co.

Voluntarily withdrew • April 15, 1999

Commonwealth National Life Ins. Co.

Voluntarily withdrew • Feb. 9, 1999

Elite Ins. Co.

Voluntarily withdrew • March 8, 1999

First National Life Ins. Co. of America

Suspended • June 14, 1999

Great Northern Insured Annuity Corp.

Merged into General Electric Capital Assurance Co. • Jan. 1, 1999

Harvest Life Ins. Co. (The)

Merged into The Life Ins. Co. of Virginia
Jan. 1, 1999

International Financial Services Life Ins. Co.

Suspended • June 14, 1999

PHF Life Ins. Co.

Merged into Union Fidelity Life Ins. Co.
Jan. 1, 1999

New Admissions - Insurers

American Contractors Indemnity Co.

Los Angeles, CA • April 5, 1999
Surety

Avomark Ins. Co.

Indianapolis, IN • April 2, 1999
Property, Casualty incl. WC, Surety,
Marine and Transportation

Berkshire Hathaway Life Ins. Co. of Nebraska

Omaha, NE • Feb. 5, 1999 • Life

Brotherhood Mutual Ins. Co.

Fort Wayne, IN • March 23, 1999
Property, Casualty incl. WC, Health,
Marine and Transportation

Chubb National Insurance Co.

Indianapolis, IN • March 30, 1999
Property, Casualty incl. WC, Health,
Surety, Marine and Transportation

Colorado Casualty Ins. Co.

Englewood, Co • March 22, 1999
Property, Casualty excl. WC, Marine and
Transportation

Continental Western Casualty Co.

Urbandale, IA • March 16, 1999
Property, Casualty incl. WC, Surety,
Marine and Transportation

First Colonial Ins. Co.

Jacksonville, FL • Jan. 27, 1999
Property, Casualty excl. WC

Frankenmuth Mutual Ins. Co.

Frankenmuth, MI • March 29, 1999
Property, Casualty incl. WC, Surety,
Marine and Transportation

Front Royal Ins. Co.

Columbus, OH • March 5, 1999

Property, Casualty incl. WC, Marine and
Transportation

Gray Ins. Co. (The)

Metairie, LA • Feb. 24, 1999

Property, Casualty incl. WC, Surety,
Marine and Transportation

Healthcare Underwriters Mutual Ins. Co.

Latham, NY • Feb. 5, 1999

Property, Casualty excl. WC, Marine and
Transportation

Kemper Auto & Home Ins. Co.

Long Grove, IL • Feb. 11, 1999

Property, Casualty excl. WC, Marine and
Transportation

Kemper Independence Ins. Co.

Long Grove, IL • Feb. 24, 1999

Property, Casualty excl. WC, Marine and
Transportation

MGIC Assurance Corp.

Milwaukee, WI • Feb. 25, 1999

Casualty excl. WC, Surety

MGIC Credit Assurance Corp.

Milwaukee, WI • Feb. 25, 1999

Mortgage

Northern Mutual Ins. Co.

Minneapolis, MN • Jan. 27, 1999

Property, Casualty excl. WC, Marine and
Transportation.

Old Republic Home Protection Co.

San Ramon, CA • March 26, 1999

Home Protection

PacifiCare Life Assurance Co.

Englewood, CO • Jan. 28, 1999

Life, Health

Progressive Max Ins. Co.

Mayfield Village, OH • Feb. 25, 1999

Property, Casualty excl. WC, Marine and
Transportation

Reliance Direct Ins. Co.

Norristown, PA • Feb. 16, 1999

Property, Casualty incl. WC, Surety,
Marine and Transportation

White Mountains Ins. Co.

Manchester, NH • April 2, 1999

Property, Casualty incl. WC, Marine and
Transportation

New Admissions - Nonprofits

Free Methodist Foundation

Spring Arbor, MI • Feb. 2, 1999

Annuities

NW Baptist Foundation

Vancouver, WA • March 16, 1999

Annuities

Visit our Web site:
www.cbs.state.or.us/ins

Be aware of Oregon's anti-rebate, commission-only laws

By Mitchel Curzon

Two potholes to avoid on your road to a successful career as an insurance intermediary are ORS 746.045, known as Oregon's insurance anti-rebating law, and ORS 744.039(2), what we might refer to as Oregon's insurance commission-only law.

The Insurance Division has recently received several calls, letters and complaints about insurance agents offering rebates by reducing their commissions. Offering instant or mail-in rebates and charging fees for services is common in many commercial transactions. Some states even allow offering rebates and charging fees in lieu of commissions in insurance transactions. However, Oregon isn't one of them.

Oregon's anti-rebate law

Our anti-rebate law, ORS 746.045, prohibits an insurer or agent from giving, offering to give, or causing a prospective insured to receive an inducement to buy a policy when such a rebate is not contained in the policy as issued by the insurer. Inducements include reducing the policy premium or agent's commission, or providing an increased or improved policy benefit or other valuable consideration. This law has been around since before 1967 when the Oregon Insurance Code was last reorganized. Because rebating is illegal in Oregon, rebate agreements between insurers or agents and prospective insureds are not enforceable in Oregon courts.

Some agents believe they can accept less commission and not violate the law as long as they don't pay any money to the prospective insured. This is not correct. Oregon's anti-rebate law prohibits an agent not only from paying a rebate to a prospective insured, but also from causing the prospective insured to receive a rebate from someone else. For example, the agent agrees to reduce or eliminate his or her commission which, in turn, causes the insurer to reduce the premium accordingly.

Oregon's anti-rebate law benefits consumers by preventing insurers and agents from offering different benefits or prices to similarly-situated prospective insureds.

Also, the law assists insurers by requiring them to charge and receive sufficient premiums to adequately fund their reserves to pay future claims.

Finally, the law helps insurers and agents compete in the marketplace based on the value and benefits of the policies and services they provide, rather than on how much profit or commission they're willing to accept to make a sale.

Prohibited activities

How can you tell which activities are not allowed? Here are some examples of activities that violate ORS 746.045:

- An agent pays the first annual premium on a policy to be auctioned by a charitable organization and issued to the highest bidder.
- An agent accepts a reduced commission, thereby causing the insurer to reduce the normal premium for a policy in

order to induce the prospective insured to buy the policy from the agent offering the rebate rather than from a competing agent who offered the policy at the normal premium but would not rebate part of the commission.

- An agent pays for two round-trip airline tickets and gives the tickets to anyone who buys an auto insurance policy through the agent during a specified time period.

Allowable activities

Here are examples of activities that do not violate the law:

- An agent pays to a charitable, educational or civic organization a specified amount or percentage of commissions earned for each insurance policy sold during a specified time period and the person buying the policy doesn't benefit from the payment to the organization.
- An agent buys a radio advertisement and offers to provide dinner and a movie for two to each person who comes to the agent's office, enters a weekly random drawing, and is selected from among the entries. No one is obligated to buy insurance to enter the drawing or receive a prize. Prizes are provided by their respective vendors free of charge to the agent and the recipients.
- An agent, during a fair, home show or other exhibition, offers to provide a door prize, such as cash or a color TV, to anyone who comes to the agent's booth, enters a random drawing and is selected from among the entries. The agent pays for the door prize, which is provided by a vendor free of charge. No one is obligated to apply for or buy insurance to enter the drawing.

Oregon's commission-only law

Oregon's commission-only law, ORS 744.039(2), permits an agent to receive only a commission for marketing and servicing insurance policies and thus also prohibits an agent from charging a fee in lieu of a commission. This is true even if 1) the insurer or a brokering agent agrees to reduce the premium by the amount of the foregone commission, 2) the prospective insured agrees to pay a fee in lieu of the commission, or 3) the fee is less than the commission.

This law became effective Jan. 1, 1992. Although it permits the Insurance Division to adopt rules providing exceptions to the law, the Insurance Division has not done so yet, but may consider doing so in the future.

We encourage intermediaries to review their marketing practices to make sure they are not offering prospective insureds more than what the insurer is offering in the approved policy, including agreeing to reduce or eliminate the agent's commission in order to make a sale. We also encourage intermediaries to make sure they do not charge a fee in lieu of a commission, even if the fee is less than the commission. If you are unsure whether a marketing practice complies with these or any other insurance laws, call the Insurance Division for assistance.

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

POTHOLES ON THE ROAD TO SUCCESS

ADMINISTRATIVE RULES AND BULLETINS

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

Administrative Rules

ID 1-1999 — Amends OAR 836-042-0060. Establishes conditions for division of payroll with respect to an individual employee who works in different manual classifications, for the purpose of computing worker's compensation insurance premiums. OAR 836-043-0120 defines by reference to the first rule certain minimum standards for the employer education program that workers' compensation insurers

must provide to their employers.

Adopted: Feb. 11, 1999
Effective: Feb. 19, 1999

ID 2-1999 — Amends OAR 836-042-0215 and 836-042-0220. Establishes a procedure that enables insurers to combine the workers' compensation experience of a group of employers for insurance rating purposes. The amendments establish a procedure for creating new rating groups, moving a rating group to another insurer, and splitting an existing group between two or more insurers. The amended rules also establish appropriate disclosure requirements and guidelines.

Adopted: March 15, 1999
Effective: March 25, 1999

ID 3-1999 — Amends OAR 836-050-0205 and 836-050-250. Allows use of urine testing to the same extent as blood and oral specimen testing in application questions, pre-existing conditions and underwriting

practices relating to HIV infection.

Adopted: March 22, 1999
Effective: March 25, 1999

ID 4-1999 — Adopts OAR 836-052-0142 and amends OAR 836-052-0119, -0133, -0136, -0138, -0160. Adopts on a permanent basis recent changes by the National Association of Insurance Commissioners (NAIC) to its Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act. These permanent rules replace temporary rulemaking that adopted the revised NAIC model regulation effective Jan. 1, 1999.

Adopted: April 29, 1999
Effective: April 29, 1999

Bulletins

INS 99-2 — March 22, 1999

Provides instructions for annual reporting of quality assessment activities as enacted under SB 21 (1997) for insurers offering managed health insurance.

INS 99-3 — March 22, 1999

Provides instructions for reporting of utilization review policies as enacted under SB 21 (1997) for insurers who provide utilization review or have utilization review provided on their behalf.

INS 99-4 — March 22, 1999

Provides instructions for annual reporting on scope of network as enacted under SB 21 (1997) for insurers offering managed health insurance.

Fire insurance policies limited to value of risk

Oregon law prohibits the sale or purchase of fire insurance that exceeds the fair value of the risk or the insured's interest in the risk, when combined with any existing insurance. The prohibition in ORS 742.200 covers insurers, their agents, and insureds, including mortgage lenders and brokers.

Parties involved may be in violation of the law if they require or provide insurance equal to the amount of a loan if it exceeds the insurable value of improvements to a property.

Here's an example: A couple takes out a loan to buy a house and four acres. The house is valued at \$125,000 and the land at \$50,000. The mortgage lender requires a fire insurance policy for the total value of the loan (\$175,000). In this case, the lender is violating the law by requiring fire insurance that exceeds the value of the improvements.

If you have questions about fire insurance limits, contact the Insurance Division's Consumer Assistance Unit, (503) 947-7984.

KEY CONTACTS

Administration

Information (503) 947-7980
Fax (503) 378-4351
E-mail dcbs.insmail@state.or.us
Web www.cbs.state.or.us/ins

Administrator Nancy Ellison
Deputy Admin. Charles Nicoloff

Admin. Services & Operations

Information (503) 947-7980
Manager Elaine Day

• Agent Licensing

Information (503) 947-7981
Manager Margarita Nuñez

Consumer Protection/Complaints

Information (503) 947-7984
Manager Joel Ario

Company Regulation

Information (503) 947-7982
Manager Charles Nicoloff

Rates & Forms

Information (503) 947-7983
Manager Patrick Fitzgerald

• Health

Information (503) 947-7985
Asst. Manager ... Maxi McKibben

• Life/Property & Casualty

Information (503) 947-7983
Asst. Manager Donna Bleiler

WORKERS' COMPENSATION

Vanderlip and Company (INS 97-01-016, Sept. 25, 1998)

During the workers' compensation policy periods at issue, Vanderlip, a commercial construction contractor, was hired to build the Chinook Winds casino in Lincoln City, Oregon. Vanderlip hired approximately 119 union workers for the project from Oregon and Washington. Both the Oregon and Washington union contracts mandated payment of a fixed amount per day in food and lodging expenses (per diem). The contracts required payment of per diem based on the distance of the job from a specified point. Unlike the Washington contract, which adopted a schedule of graduated payments based on distance, the Oregon contract mandated payment of the amount allowed by the IRS to be claimed by the employer as per diem without being required to produce records of actual employee expenses.

The per diem payments for the casino project were in addition to the workers' regular hourly wage. Those amounts were computed by the union that dispatched the workers and Vanderlip paid the bill weekly. Vanderlip did not question the unions' calculations and did not make its own. The records of per diem payments were kept separately from the time cards showing the hours worked on the project. The employer never required employees to produce receipts for food and lodging during the project. The per diem payments were not reported to the insurer as payroll.

Vanderlip also hired a project manager, three on-site project superintendents, and production foremen. The project manager supervised the three project superintendents from the main office in Seattle. He was typically on the telephone with one of the three project superintendents at least once per hour. The project superintendents

managed different phases of the casino project and supervised the production foremen. The project superintendents were based in an office trailer located on the job site. The project superintendents were sometimes on the job site but their duties were administrative and managerial in nature. They did not directly supervise the crews and did not use construction tools or perform any construction work themselves. The project superintendents had been directed to record their time in Code 5606, the supervisory code.

On audit, SAIF assessed premium on the per diem payments as payroll and moved the project superintendent payroll from the construction superintendent code to construction codes. Applying the rules of the authorized rating organization, the Department of Consumer & Business Services (DCBS) concluded that the per diem payments met two of the three criteria for exclusion: 1) the expenses paid were incurred upon the business of the employer, and 2) the amount of each employee's expense payment was shown separately in the records of the employer. However, the third criterion, that the amount of each expense reimbursement payment approximates the actual expenses incurred by the employee in the conduct of his or her work, was not met. The department upheld the insurer's premium charges on the per diem payments.

With respect to the proper classification of the project superintendents, DCBS concluded that the on-site project superintendents performed only supervisory duties and were properly classified to the construction supervisor code. The department ordered the insurer to move payroll back to the lower-rated supervisory code.

This case is on appeal to the Oregon Court of Appeals.

Law limits grounds for canceling auto policies

Can an insurer cancel a woman's auto insurance policy if her teenage son's license is suspended after he receives a minor in possession citation for having beer at a party?

No. Oregon law (ORS 742.562) is very specific when it comes to grounds for canceling an auto insurance policy.

A policy can be canceled for:

- Nonpayment of premium.
- Fraud or material misrepresentation

affecting the policy or a claim, or violation of any terms or conditions of the policy.

- Suspension or revocation of the driving privileges of the insured or anyone who customarily operates the insured vehicle.

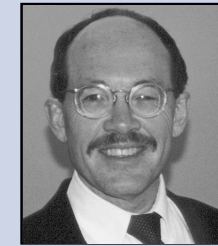
The law prohibits an insurer from canceling a policy if the suspension of driving privileges was based on a nondriving offense.

Veteran actuary joins Insurance Division

Ralph Kopp joined the Oregon Insurance Division March 3 as a life and health actuary.

He most recently was an actuary with American National Insurance Co. in Galveston, Texas.

Kopp started his insurance career with American National in 1974. He



Ralph Kopp

also has been an actuary for Commonwealth Life and Accident Insurance Co. in St. Louis, Missouri, and Prairie States Life Insurance Co. in Rapid City, South Dakota. In addition, he was a private consulting actuary in Rapid City from 1989 to 1994.

PERSONNEL

Patrick Fitzgerald was promoted to manager of the Rates & Forms Section (see story, Page 1).

Bonnie Abell was promoted to publication coordinator. She had been an office specialist 1 in Company Regulation.

Jack Sanguin, manager for receiverships, retired Feb. 28.

Katherine Witt, rates and forms analyst in the Health Unit, retired June 30.

New Insurance Division employees are:

- **Mark Giffin**, insurance examiner, Company Regulation.
- **Ralph Kopp**, actuary, Administrative Services (see story, this page).
- **Dee Poole**, licensing technician, Agent Licensing.
- **Joyce Riggi**, field officer, Senior Health Insurance Benefits Assistance (SHIBA)
- **Bryan Theis**, licensing coordinator, Agent Licensing.
- **Pam Young**, licensing technician, Agent Licensing.

PRODUCER ACTIONS

Assets, Inc.

Vicky M. Palmerton, President

Grants Pass, OR

Violations: Canceled an insurance agent continuing education course but failed to refund the charge. Engaged in false, misleading or deceptive advertising.

Penalty: Continuing education provider registration revoked.

Date of order: May 6, 1999

Isham & Sprague Insurance, Inc.

Lincoln City, OR

Violations: Failed to remit premiums within 30 days. Failed to maintain premiums in its trust account.

Penalty: \$15,000 fine.

Date of order: June 15, 1999

Ronald T. Lee

Portland, OR

Violation: Knowingly made a false or misleading statement on an agent license renewal application.

Penalty: \$1,000 fine.

Date of order: April 5, 1999

Scott J. Lyda

Violation: Failed to perform the duties of an agent in a life insurance replacement transaction.

Penalty: \$2,000 fine.

Date of order: June 14, 1999

Barbara L. Purdie

Parkdale, OR

Order: Request to reinstate insurance agent license denied.

Date of order: Feb. 25, 1999

Information on legislative session available on Web

The 1999 Oregon Legislature was still in session when this issue of the *Oregon Insurance Regulator* went to press.

Information about the session, including the schedule and status of bills, is avail-

able on the Legislature's Web site: www.leg.state.or.us.

A summary of legislation relating to insurance will be included in the fall issue of the *Regulator*.

Agents: Don't procure policy from an unauthorized insurer

Oregon law (ORS 746.310) prohibits an agent from assisting in the procurement of a policy from an unauthorized insurer.

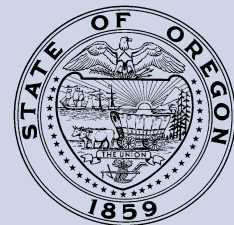
Agents are liable for any valid claim not

paid by the unauthorized insurer. The law does not apply to insurance written in compliance with the Oregon surplus lines law.

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

**Deputy Insurance Commissioner
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Nancy Ellison**

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John Piper**



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