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Ethics for Producers

Course #624695

1 CE Credit Hour



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Ethics for Producers

The word “ethics” is a derivative of two Greek words meaning “moral” and “character.” Ethics represents a branch of study concerned with rules of conduct, morality, and duties which govern human behavior. The insurance producer has many responsibilities, among them a responsibility to the insurance company, responsibility to the insurance professionals, responsibility to the client and responsibility to the public. In other words, the producer is obligated to act for the benefit of society at large.

Since insurance sales people are professional advisors, they need to be aware of their increased legal responsibility and increased legal risk. Ethics involves good business practices. The person who provides insurance coverage to a person becomes the person responsible for ascertaining the needs of clients and matching those needs with the technical aspects of a complex product. The aim is to be sure that the client’s goals are met. Society as a whole also benefits by protecting individuals and families with life, health, auto, homeowners and business insurance.

RCW 48.30.010... Unfair practices in general -- Remedies and penalties.

(1) No person engaged in the business of insurance shall engage in unfair methods of competition or in unfair or deceptive acts or practices in the conduct of such business as such methods, acts, or practices are defined pursuant to subsection (2) of this section.

(2) In addition to such unfair methods and unfair or deceptive acts or practices as are expressly defined and prohibited by this code, the commissioner may from time to time by regulation promulgated pursuant to chapter 34.05 RCW, define other methods of competition and other acts and practices in the conduct of such business reasonably found by the commissioner to be unfair or deceptive after a review of all comments received during the notice and comment rule-making period.

(3) In defining other methods of competition and other acts and practices in the conduct of such business to be unfair or deceptive, and after reviewing all comments and documents received during the notice and comment rule-making period, the commissioner shall identify his or her reasons for defining the method of competition or other act or practice in the conduct of insurance to be unfair or deceptive and shall include a statement outlining these reasons as part of the adopted rule.

The commissioner shall include a detailed description of facts upon which he or she relied and of facts upon which he or she failed to rely, in defining the method of competition or other act or practice in the conduct of insurance to be unfair or deceptive, in the concise explanatory statement prepared under RCW 34.05.325(6).

Upon appeal the superior court shall review the findings of fact upon which the regulation is based de novo on the record.

(4) No such regulation shall be made effective prior to the expiration of thirty days after the date of the order by which it is promulgated.

(5) If the commissioner has cause to believe that any person is violating any such regulation, the commissioner may order such person to cease and desist therefrom. The commissioner shall deliver such order to such person direct or mail it to the person by registered mail with return receipt requested. If the person violates the order after expiration of ten days after the cease and desist order has been received by him or her, he or she may be fined by the commissioner a sum not to exceed two hundred and fifty dollars for each violation committed thereafter.

(6) If any such regulation is violated, the commissioner may take such other or additional action as is permitted under the insurance code for violation of a regulation.

RCW 48.30.020... Anticomcompact law.

(1) No person shall either within or outside of this state enter into any contract, understanding or combination with any other person to do jointly or severally any act or engage in any practice for the purpose of

(a) controlling the rates to be charged for insuring any risk or any class of risks in this state; or

(b) unfairly discriminating against any person in this state by reason of his or her plan or method of transacting insurance, or by reason of his or her affiliation or nonaffiliation with any insurance organization; or

(c) establishing or perpetuating any condition in this state detrimental to free competition in the business of insurance or injurious to the insuring public.

(2) This section shall not apply relative to ocean marine and foreign trade insurances.

(3) This section shall not be deemed to prohibit the doing of things permitted to be done in accordance with the provisions of chapter 48.19 RCW of this code.

(4) Whenever the commissioner has knowledge of any violation of this section he or she shall forthwith order the offending person to discontinue such practice immediately or show cause to the satisfaction of the commissioner why such order should not be complied with. If the offender is an insurer or a licensee under this code and fails to comply with such order within thirty days after receipt thereof, the commissioner may forthwith revoke the offender's certificate of authority or licenses.

RCW 48.30.030... False financial statements.

No person shall knowingly file with any public official nor knowingly make, publish, or disseminate any financial statement of an insurer which does not accurately state the insurer's financial condition.

RCW 48.30.040... False information and advertising.

No person shall knowingly make, publish, or disseminate any false, deceptive or misleading representation or advertising in the conduct of the business of insurance, or relative to the business of insurance or relative to any person engaged therein.

RCW 48.30.050... Advertising must show name and domicile.

Every advertisement of, by, or on behalf of an insurer shall set forth the name in full of the insurer and the location of its home office or principal office, if any, in the United States (if an alien insurer).

RCW 48.30.060... Insurer name -- Deceptive use prohibited.

No person who is not an insurer shall assume or use any name which deceptively infers or suggests that it is an insurer.

RCW 48.30.070... Advertising of financial condition.

(1) Every advertisement by or on behalf of any insurer purporting to show its financial condition may be in a condensed form but shall in substance correspond with the insurer's last verified statement filed with the commissioner.

(2) No insurer or person on its behalf shall advertise assets except those actually owned and possessed by the insurer in its own exclusive right, available for the payment of losses and claims, and held for the protection of its policyholders and creditors.

RCW 48.30.075... Using existence of insurance guaranty associations in advertising...

No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement which uses the existence of the Washington Insurance Guaranty Association or the Washington Life and Disability Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the Washington Insurance Guaranty Association Act or the Washington Life and Disability Insurance Guaranty Association Act.

RCW 48.30.080... Defamation of insurer.

No person shall make, publish, or disseminate, or aid, abet or encourage the making, publishing, or dissemination of any information or statement which is false or maliciously critical and which is designed to injure in its reputation or business any authorized insurer or any domestic corporation or reciprocal being formed pursuant to this code for the purpose of becoming an insurer.

RCW 48.30.090... Misrepresentation of policies.

No person shall make, issue or circulate, or cause to be made, issued or circulated any misrepresentation of the terms of any policy or the benefits or advantages promised thereby, or the dividends or share of surplus to be received thereon, or use any name or title of any policy or class of policies misrepresenting the nature thereof.

RCW 48.30.100... Dividends not to be guaranteed.

No insurer, insurance producer, title insurance agent, or other person shall guarantee or agree to the payment of future dividends or future refunds of unused premiums or savings in any specific or approximate amounts or percentages on account of any insurance contract.

****Violation of this law is considered "*illegal rebating*."**

RCW 48.30.110... Contributions to candidates for insurance commissioner.

(1) No insurer or fraternal benefit society doing business in this state shall directly or indirectly pay or use, or offer, consent, or agree to pay or use any money or thing of value for or in aid of any candidate for the office of insurance commissioner; nor for reimbursement or indemnification of any person for money or property so used.

(2) Any individual who violates any provision of this section, or who participates in, aids, abets, advises, or consents to any such violation, or who solicits or knowingly receives any money or thing of value in violation of this section, shall be guilty of a gross misdemeanor and shall be liable to the insurer or society for the amount so contributed or received.

RCW 48.30.120... Misconduct of officers, employees.

No director, officer, producer, attorney in fact, or employee of an insurer shall:

(1) Knowingly receive or possess himself of any of its property, otherwise than in payment for a just demand, and with intent to defraud, omit to make or to cause or direct to be made, a full and true entry thereof in its books and accounts; nor

(2) Make or concur in making any false entry, or concur in omitting to make any material entry, in its books or accounts; nor

(3) Knowingly concur in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition containing any material statement which is false, or omit or concur in omitting any statement required by law to be contained therein; nor

(4) Having the custody or control of its books, willfully fail to make any proper entry in the books of the insurer as required by law, or to exhibit or allow the same to be inspected and extracts to be taken therefrom by any person entitled by law to inspect the same, or take extracts therefrom; nor

(5) If a notice of an application for an injunction or other legal process affecting or involving the property or business of the insurer is served upon him, fail to disclose the fact of such service and the time and place of such application to the other directors, officers, and managers thereof; nor

(6) Fail to make any report or statement lawfully required by a public officer.

RCW 48.30.130... Presumption of knowledge of director.

A director of an insurer is deemed to have such knowledge of its affairs as to enable him to determine whether any act, proceeding, or omission of its directors is a violation of any provision of this chapter. If present at a meeting of directors at which any act, proceeding, or omission of its directors which is a violation of any such provision occurs, he must be deemed to have concurred therein unless at the time he causes or in writing requires his dissent therefrom to be entered on the minutes of the directors.

If absent from such meeting, he must be deemed to have concurred in any such violation if the facts constituting such violation appear on the records or minutes of the proceedings of the board of directors, and he remains a director of the insurer for six months thereafter without causing or in writing requiring his dissent from such violation to be entered upon such record or minutes.

RCW 48.30.135 Sponsoring events or making contributions—Definitions.

(1) An insurance producer may sponsor events for, or make contributions to a bona fide charitable or nonprofit organization, if the sponsorship or contribution is not conditioned upon the organization applying for or obtaining insurance through the insurance producer.

(2) For purposes of this section, a bona fide charitable or nonprofit organization is:

(a) Any nonprofit corporation duly existing under the provisions of chapter [24.03](#) RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, cultural, athletic, scientific, agricultural, or horticultural purposes;

(b) Any professional, commercial, industrial, or trade association;

(c) Any organization duly existing under the provisions of chapter [24.12](#), 24.20, or [24.28](#) RCW;

(d) Any agricultural fair authorized under the provisions of chapter [15.76](#) or [36.37](#) RCW; or

(e) Any nonprofit organization, whether incorporated or otherwise, when determined by the commissioner to be organized and operated for one or more of the purposes described in (a) through (d) of this subsection.

(3) RCW [48.30.140](#) and [48.30.150](#) do not apply to sponsorships or charitable contributions that are provided or given in compliance with subsection (1) of this section.

RCW 48.30.140 Rebating—Other inducements.

(1) Except to the extent provided for in an applicable filing with the commissioner then in effect, no insurer, insurance producer, or title insurance agent shall, as an inducement to insurance, or after insurance has been effected, directly or indirectly, offer, promise, allow, give, set off, or pay to the insured or to any employee of the insured, any rebate, discount, abatement, or reduction of premium or any part thereof named in any insurance contract, or any commission thereon, or earnings, profits, dividends, or other benefit, or any other valuable consideration or inducement whatsoever which is not expressly provided for in the policy.

(2) Subsection (1) of this section shall not apply as to commissions paid to a licensed insurance producer, or title insurance agent for insurance placed on that person's own property or risks.

(3) This section shall not apply to the allowance by any marine insurer, or marine insurance producer, to any insured, in connection with marine insurance, of such discount as is sanctioned by custom among marine insurers as being additional to the insurance producer's commission.

(4) This section shall not apply to advertising or promotional programs conducted by insurers or insurance producers whereby prizes, goods, wares, gift cards, gift certificates, or merchandise, not exceeding one hundred dollars in value per person in the aggregate in any twelve-month period, are given to all insureds or prospective insureds under similar qualifying circumstances. This subsection does not apply to title insurers or title insurance agents.

(5) This section does not apply to an offset or reimbursement of all or part of a fee paid to an insurance producer as provided in RCW [48.17.270](#).

(6)(a) Subsection (1) of this section shall not be construed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract containing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW [48.43.005](#); and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

(7) Subsection (1) of this section does not apply to a payment by an insurer to offset documented expenses incurred by a group policyholder in changing coverages from one insurer to another. Insurers shall describe any such payment in the group insurance policy or in an applicable filing with the commissioner. If an implementation credit is given to a group, the implementation credit is part of the premium for the purposes of RCW [48.14.020](#) and [48.14.0201](#). This exception to subsection (1) of this section does not apply to "medicare supplemental insurance" or "medicare supplemental insurance policies" as defined in chapter [48.66](#) RCW.

(8) Subsection (7) of this section does not apply to small groups as defined in RCW [48.43.005](#).

RCW 48.30.150 Illegal inducements.

(1) No insurer, insurance producer, title insurance agent, or other person shall, as an inducement to insurance, or in connection with any insurance transaction, provide in any policy for, or offer, or sell, buy, or offer or promise to buy or give, or promise, or allow to, or on behalf of, the insured or prospective insured in any manner whatsoever:

(a) Any shares of stock or other securities issued or at any time to be issued on any interest therein or rights thereto; or

(b) Any special advisory board contract, or other contract, agreement, or understanding of any kind, offering, providing for, or promising any profits or special returns or special dividends; or

(c) Any prizes, goods, wares, gift cards, gift certificates, or merchandise of an aggregate value in excess of one hundred dollars per person in the aggregate in any consecutive twelve-month period.

This subsection (1)(c) does not apply to title insurers or title insurance agents.

(2) Subsection (1) of this section shall not be deemed to prohibit the sale or purchase of securities as a condition to or in connection with surety insurance insuring the performance of an obligation as part of a plan of financing found by the commissioner to be designed and operated in good faith primarily for the purpose of such financing, nor shall it be deemed to prohibit the sale of redeemable securities of a registered investment company in the same transaction in which life insurance is sold.

(3)(a) Subsection (1) of this section shall not be deemed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract providing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW [48.43.005](#); and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

(4) Subsection (1) of this section does not prohibit an insurer from issuing any payment to offset documented expenses incurred by a group policyholder in changing coverages from one insurer to another as provided in RCW [48.30.140](#). If an implementation credit is given to a group, the implementation credit is part of the premium for the purposes of RCW [48.14.020](#) and [48.14.0201](#). This exception to subsection (1) of this section does not apply to "medicare supplemental insurance" or "medicare supplemental insurance policies" as defined in chapter [48.66](#) RCW.

(5) Subsection (4) of this section does not apply to small groups as defined in RCW [48.43.005](#).

RCW 48.30.155... Life or disability insurers -- Insurance as inducement to purchase of goods, etc.

No life or disability insurer shall directly or indirectly participate in any plan to offer or effect any kind or kinds of insurance in this state as an inducement to the purchase by the public of any goods, securities, commodities, services or subscriptions to publications.

This section shall not apply to group or blanket insurance issued pursuant to this code.

RCW 48.30.157... Charges for extra services...

Notwithstanding the provisions of RCW 48.30.140, 48.30.150, and 48.30.155, the commissioner may permit an insurance producer to enter into reasonable arrangements with insureds and prospective insureds to charge a reduced fee in situations where services that are charged for are provided beyond the scope of services customarily provided in connection with the solicitation and procurement of insurance, so that an overall charge to an insured or prospective insured is reasonable taking into account receipt of commissions and fees and their relation, proportionally, to the value of the total work performed.

RCW 48.30.170... Rebate -- Acceptance prohibited.

(1) No insured person shall receive or accept, directly or indirectly, any rebate of premium or part thereof, or any favor, advantage, share in dividends, or other benefits, or any valuable consideration or inducement not specified or provided for in the policy, or any commission on any insurance policy to which he or she is not lawfully entitled as a licensed insurance producer or title insurance agent. The retention by the nominal policyholder in any group life insurance contract of any part of any dividend or reduction of premium thereon contrary to the provisions of RCW 48.24.260, shall be deemed the acceptance and receipt of a rebate and shall be punishable as provided by this code.

(2) The amount of insurance whereon the insured has so received or accepted any such rebate or any such commission, other than as to life or disability insurances, shall be reduced in the proportion that the amount or value of the rebate or commission bears to the premium for such insurance. In addition to such reduction of insurance, if any, any such insured shall be liable to a fine of not more than two hundred dollars.

(3) This section shall not apply to an offset or reimbursement of all or part of a fee paid to an insurance producer as provided in RCW 48.17.270.

RCW 48.30.180... "Twisting" prohibited.

No person shall by misrepresentations or by misleading comparisons, induce or tend to induce any insured to lapse, terminate, forfeit, surrender, retain, or convert any insurance policy.

** Failure of an insurance producer or insurance company to fill out and give an insured a "Notice Regarding Replacement of Insurance" form, required by state or federal laws, when replacing an in force policy is considered Twisting.

RCW 48.30.190... Illegal dealing in premiums.

(1) No person shall willfully collect any sum as premium for insurance, which insurance is not then provided or is not in due course to be provided by an insurance policy issued by an insurer as authorized by this code.

(2) No person shall willfully collect as premium for insurance any sum in excess of the amount actually expended or in due course is to be expended for insurance applicable to the subject on account of which the premium was collected.

(3) No person shall willfully or knowingly fail to return to the person entitled thereto within a reasonable length of time any sum collected as premium for insurance in excess of the amount actually expended for insurance applicable to the subject on account of which the premium was collected.

(4) Each violation of this section which does not amount to a felony shall constitute a misdemeanor.

RCW 48.30.200... Hypothecation of premium notes.

It shall be unlawful for any insurer or its representative, or any producer, to hypothecate, sell, or dispose of any promissory note, received in payment for any premium or part thereof on any contract of life insurance or of disability insurance applied for, prior to delivery of the policy to the applicant.

RCW 48.30.210... Misrepresentation in application for insurance.

A person who knowingly makes a false or misleading statement or impersonation, or who willfully fails to reveal a material fact, in or relative to an application for insurance to an insurer, is guilty of a gross misdemeanor, and the license of any such person may be revoked.

RCW 48.30.220... Destruction, injury, secretion, etc., of property.

Any person, who, with intent to defraud or prejudice the insurer thereof, burns or in any manner injures, destroys, secretes, abandons, or disposes of any property which is insured at the time against loss or damage by fire, theft, embezzlement, or any other casualty, whether the same be the property of or in the possession of such person or any other person, under circumstances not making the offense arson in the first degree, is guilty of a class C felony.

RCW 48.30.230... False claims or proof -- Penalty.

(1) It is unlawful for any person, knowing it to be such, to:

(a) Present, or cause to be presented, a false or fraudulent claim, or any proof in support of such a claim, for the payment of a loss under a contract of insurance; or (b) Prepare, make, or subscribe any false or fraudulent account, certificate, affidavit, or proof of loss, or other document or writing, with intent that it be presented or used in support of such a claim.

(2) A violation of this section is a gross misdemeanor. If the claim is in excess of one thousand five hundred dollars, the violation is a class C felony punishable according to chapter 9A.20 RCW.

RCW 48.30.240... Rate wars prohibited.

(1) Any insurer which precipitates, or aids in precipitating or conducting a rate war and by so doing writes or issues a policy of insurance at a less rate than permitted under its schedules filed with the commissioner, or below the rate deemed by him to be proper and adequate to cover the class of risk insured, shall have its certificate of authority to do business in this state suspended until such time as the commissioner is satisfied that it is charging a proper rate of premium.

(2) Any insurer which has precipitated, or aided in precipitating or conducting a rate war for the purpose of punishing or eliminating competitors or stifling competition, or demoralizing the business, or for any other purpose, and has ordered the cancellation or rewriting of policies at a rate lower than that provided by its rating schedules where such rate war is not in operation, and has paid or attempted to pay to the insured any return premiums, on any risk so to be rewritten, on which its agent has received or is entitled to receive his regular commission, such insurer shall not be allowed to charge back to such agent any portion of his commission on the grounds that the same has not been earned.

RCW 48.30.260... Right of debtor or borrower to select agent, broker, insurer.

(1) Every debtor or borrower, when property insurance of any kind is required in connection with the debt or loan, shall have reasonable opportunity and choice in the selection of the agent, broker, and insurer through whom such insurance is to be placed; but only if the insurance is properly provided for the protection of the creditor or lender, whether by policy or binder, not later than at commencement of risk as to such property as respects such creditor or lender, and in the case of renewal of insurance, only if the renewal policy, or a proper binder therefore containing a brief description of the coverage bound and the identity of the insurer in which the coverage is bound, is delivered to the creditor or lender not later than thirty days prior to the renewal date.

(2) Every person who lends money or extends credit and who solicits insurance on real and personal property must explain to the borrower in prominently displayed writing that the insurance related to such loan or credit extension may be purchased from an insurer or agent of the borrower's choice, subject only to the lender's right to reject a given insurer or agent as provided in subsection (3) (b) of this section.

(3) No person who lends money or extends credit may: (a) Solicit insurance for the protection of property, after a person indicates interest in securing a loan or credit extension, until such person has received a commitment from the lender as to a loan or credit extension; (b) Unreasonably reject a contract of insurance furnished by the borrower for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for rejection of an insurance contract because the contract contains coverage in addition to that required in the credit transaction; (c) Require that any borrower, mortgagor, purchaser, insurer, broker, or agent pay a separate charge, in connection with the handling of any contract of insurance required as security for a loan, or pay a separate charge to substitute the insurance policy of one insurer for that of another. This subsection does not include the interest which may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit document; (d) Use or disclose, without the prior written consent of the borrower, mortgagor, or purchaser taken at a time other than the making of the loan or extension of credit, information relative to a contract of insurance which is required by the credit transaction, for the purpose of replacing such insurance; (e) Require any procedures or conditions of duly licensed agents, brokers, or insurers not customarily required of those agents, brokers, or insurers affiliated or in any way connected with the person who lends money or extends credit; or (f) Require property insurance in an amount in excess of the amount which could reasonably be expected to be paid under the policy, or combination of policies, in the event of a loss.

(4) Nothing contained in this section shall prevent a person who lends money or extends credit from placing insurance on real or personal property in the event the mortgagor, borrower, or purchaser has failed to provide required insurance in accordance with the terms of the loan or credit document.

(5) Nothing contained in this section shall apply to credit life or credit disability insurance.

RCW 48.30.300... Unfair discrimination, generally -- Disability policies, specifically.

Notwithstanding any provision contained in Title [48](#) RCW to the contrary:

A person or entity engaged in the business of insurance in this state may not refuse to issue any contract of insurance or cancel or decline to renew such contract because of the sex, marital status, or sexual orientation as defined in RCW [49.60.040](#), or the presence of any sensory, mental, or physical handicap of the insured or prospective insured. The amount of benefits payable, or any term, rate, condition, or type of coverage may not be restricted, modified, excluded, increased, or reduced on the basis of the sex, marital status, or sexual orientation, or be restricted, modified, excluded, or reduced on the basis of the presence of any sensory, mental, or physical handicap of the insured or prospective insured. This subsection does not prohibit fair discrimination on the basis of sex, or marital status, or the presence of any sensory, mental, or physical handicap when bona fide statistical differences in risk or exposure have been substantiated.

RCW 48.30.310... Commercial motor vehicle employment driving record not to be considered.

When an individual applies for a policy of casualty insurance providing either automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage, or automobile physical damage coverage on an individually owned passenger vehicle or a renewal of such policy, an insurer shall not consider the applicant's commercial motor vehicle employment driving record in determining whether the policy will be issued or renewed or in determining the rates for the policy. An insurer shall not cancel such policy or discriminate in regard to other terms or conditions of the policy based upon the applicant's commercial motor vehicle employment driving record.

"Employment driving record" means that record maintained by the director pertaining to motor vehicle accidents or convictions for violation of motor vehicle laws while the applicant is driving a commercial motor vehicle as an employee of another.

RCW 48.30.320... Notice of reason for cancellation, restrictions based on handicaps.

Every authorized insurer, upon canceling, denying, or refusing to renew any individual life, individual disability, homeowner, dwelling fire, or private passenger automobile insurance policy, shall, upon written request, directly notify in writing the applicant or insured, as the case may be, of the reasons for the action by the insurer. ***The written communications required by this section shall be phrased in simple language which is readily understandable to a person of average intelligence, education, and reading ability.***

RCW 48.30.330... Immunity from libel or slander.

With respect to contracts of insurance as defined in RCW [48.30.320](#), there shall be no liability on the part of, and no cause of action of any nature shall arise against, the insurance commissioner, the commissioner's agents, or members of the commissioner's staff, or against any insurer, its authorized representative, its agents, its employees, furnishing to the insurer information as to reasons for

cancellation or refusal to issue or renew, for libel or slander on the basis of any statement made by any of them in any written notice of cancellation or refusal to issue or renew, or in any other communications, oral or written, specifying the reasons for cancellation or refusal to issue or renew or the providing of information pertaining thereto, or for statements made or evidence submitted in any hearing conducted in connection therewith.

RCW 48.30A.005... Findings -- Intent.

The legislature finds that the business of insurance is one affected by the public interest, requiring that all persons be actuated by good faith, abstain from deception, and practice honesty and equity in all insurance matters. The payment of kickbacks, bribes, or rebates for referrals to service providers, as has been occurring with increasing regularity in this state, results in inflated or fraudulent insurance claims, results in greater insurance costs for all citizens, and is contrary to the public interest. In particular, the process whereby "cappers" buy and sell insurance claims without the controls of professional licensing and discipline creates a fertile ground for illegal activity and has, in this state, resulted in frauds committed against injured claimants, insurance companies, and the public. Operations that engage in this practice have some or all of the following characteristics: Cappers, acting under an agreement or understanding that they will receive a pecuniary benefit, refer claimants with real or imaginary claims, injuries, or property damage to service providers. This sets off a chain of events that corrupts both the provision of services and casualty or property insurance for all citizens. This chain of events includes false claims for services through the use of false estimates of repair; false prescriptions of care or rehabilitative therapy; services that either do not occur or are provided by persons unqualified to provide the services; submission of false claims; submission of and demands for fraudulent costs, lost wages, pain and suffering, and the like; and other devices meant to result in false claims under casualty or property insurance policies or contracts, whether insured or self-insured, and either directly or through subrogation.

The legislature finds that combatting these practices requires laws carefully fashioned to identify practices that mimic customary business practices. The legislature does not intend this law to be used against medical and other business referral practices that are otherwise legal, customary, and unrelated to the furtherance of some or all of the corrupt practices identified in this chapter.

RCW 48.30A.015... Unlawful acts -- Penalties.

(1) It is unlawful for a person: (a) Knowing that the payment is for the referral of a claimant to a service provider, either to accept payment from a service provider or, being a service provider, to pay another; or (b) To provide or claim or represent to have provided services to a claimant, knowing the claimant was referred in violation of (a) of this subsection.

(2) It is unlawful for a service provider to engage in a regular practice of waiving, rebating, giving, paying, or offering to waive, rebate, give, or pay all or any part of a claimant's casualty or property insurance deductible.

(3) A violation of this section constitutes trafficking in insurance claims.

(4)(a) Trafficking in insurance claims is a gross misdemeanor for a single violation. (b) Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a class C felony.

RCW 48.30A.020... Defenses to proceedings under this chapter.

In a proceeding under this chapter, it is a defense if proven by the defendant by a preponderance of the evidence that, at the time of the offense:

- (1) The conduct alleged was authorized by the rules of professional conduct or the admission to practice rules for lawyers as adopted by the state supreme court, Washington business and professions licensing statutes, or rules adopted by the secretary of health or the director of licensing;
- (2) The payment was an incidental nonmonetary gift or gratuity, or was purely social in nature;
- (3) The conduct alleged was an exercise of a group-buying arrangement;
- (4) The conduct alleged was a legal provider paying a service provider's bills from the proceeds of an insurance claim that included the bills;
- (5) The conduct alleged was a legal provider paying for services of an expert witness, including reports, consultation, and testimony; or
- (6) The conduct alleged was a service provider's purchase of advertising from an unrelated business that provides referrals from advertising for groups of ten or more service providers that are not related to the advertising business and not related to each other.

RCW 48.30A.030... Injunction available -- Remedies -- Costs -- Attorneys' fees -- Degree of proof...

Independent of authority granted to the attorney general, the prosecuting attorney may petition the superior court for an injunction against a person who has violated this chapter. Remedies in an injunctive action brought by a prosecuting attorney are limited to an order enjoining, restraining, or preventing the doing of any act or practice that constitutes a violation of this chapter and imposing a civil penalty of up to five thousand dollars for each violation. The prevailing party in the action may, in the discretion of the court, recover its reasonable investigative costs and the costs of the action including a reasonable attorney's fee. The degree of proof required in an action brought under this section is a preponderance of the evidence. An action under this section must be brought within three years after the violation of this chapter occurred.

RCW 48.30A.035... Detrimental judgment -- Written notification to appropriate regulatory or disciplinary body or agency.

Whenever a service provider or a person licensed by the state in a business or profession is convicted, enjoined, or found liable for damages or a civil penalty or other equitable relief under RCW [48.30A.030](#), the attorney general or the prosecuting attorney shall provide written notification of the judgment to the appropriate regulatory or disciplinary body or agency.

RCW 48.30A.040... Violation -- Cause for discipline -- Unprofessional conduct-- Regulatory penalty.

A violation of this chapter is cause for discipline and constitutes unprofessional conduct that could result in any regulatory penalty provided by law, including refusal, revocation, or suspension of a business or professional license, or right or admission to practice. Conduct that constitutes a violation of this chapter is unprofessional conduct in violation of RCW 18.130.180.

RCW 48.30A.045... Insurance antifraud plan - File plan and changes with commissioner - Exemptions.

(1) Each insurer licensed to write direct insurance in this state, except those exempted in subsection, shall institute and maintain an insurance antifraud plan. An insurer licensed on July 1, 1995, shall file its antifraud plan with the insurance commissioner no later than December 31, 1995. An insurer licensed after July 1, 1995, shall file its antifraud plan within six months of licensure. An insurer shall file any change to the antifraud plan with the insurance commissioner within thirty days after the plan has been modified.

(2) This section does not apply to health carriers, as defined in RCW 48.43.005, life insurers, or title insurers; or property or casualty insurers with annual gross written medical malpractice insurance premiums in this state that exceed fifty percent of their total annual gross written premiums in this state; or all credit-related insurance written in connection with a credit transaction in which the creditor is named as a beneficiary or loss payee under the policy except vendor single-interest or collateral protection coverage as defined in RCW 48.22.110(4).

RCW 48.30A.050... Insurance antifraud plan -- Specific procedures.

An insurer's antifraud plan must establish specific procedures to:

- (1) Prevent insurance fraud, including internal fraud involving employees or company representatives, fraud resulting from misrepresentation on applications for insurance coverage, and claims fraud;
- (2) Review claims in order to detect evidence of possible insurance fraud and to investigate claims where fraud is suspected;
- (3) Report fraud to appropriate law enforcement agencies and cooperate with those agencies in their prosecution of fraud cases;
- (4) Undertake civil actions against persons who have engaged in fraudulent activities;
- (5) Train company employees and insurance producers in the detection and prevention of fraud.

RCW 48.30A.055... Insurance antifraud plan -- Review -- Disapproval --Notice -- Audits...

If after review of an insurer's antifraud plan, the commissioner finds that the plan does not comply with RCW [48.30A.050](#), the commissioner may disapprove the antifraud plan. Notice of disapproval must include a statement of the specific reasons for disapproval. The insurer shall refile a plan disapproved by the commissioner within sixty days of the date of the notice of disapproval. The commissioner may audit insurers to ensure compliance with antifraud plans.

RCW 48.30A.060... Insurance antifraud plan -- Actions taken by insurer --Reports...

Each insurer shall annually provide to the insurance commissioner a summary report on actions taken under its antifraud plan to prevent and combat insurance fraud. The report must also include, but not be limited to, measures taken to protect and ensure the integrity of electronic data processing-generated data and manually compiled data, statistical data on the amount of resources committed to combating fraud, and the amount of fraud identified and recovered during the reporting period. The antifraud plans and summary of the insurer's antifraud activities are not public records and are exempt from chapter 42.17 RCW, are proprietary, are not subject to public examination, and are not discoverable or admissible in civil litigation.

RCW 48.30A.065... Insurance antifraud plan -- Failure to file or exercise good faith -- Penalty -- Failure to follow plan -- Civil penalty.

An insurer that fails to file a timely antifraud plan or who does not make a good faith attempt to file an antifraud plan that complies with RCW 48.30A.050, is subject to the penalty provisions of RCW 48.01.080, but no penalty may be imposed for the first filing made by an insurer under this chapter. An insurer that fails to follow the antifraud plan is subject to a civil penalty not to exceed ten thousand dollars for each violation, at the discretion of the commissioner after consideration of all relevant factors, including the willfulness of the violation.

RCW 48.30A.070... Duty to investigate, enforce, and prosecute violations.

It is the duty of all peace officers, law enforcement officers, and law enforcement agencies within this state to investigate, enforce, and prosecute all violations of this chapter.

RCW 48.17.450... Place of business.

(1) Every licensed producer, and adjuster, **other than a producer licensed for life or disability insurances only**, shall have and maintain in this state, or, if a nonresident producer, in this state or in the state of the licensee's domicile, a place of business accessible to the public. Such place of business shall be that wherein the producer principally conducts transactions under that person's licenses. The address of the licensee's place of business shall appear on all of that person's licenses, and the licensee shall notify the commissioner of any change thereof within 30 days. A licensee maintaining more than one place of business in this state shall obtain a duplicate license or licenses for each additional such place, and shall pay the full fee therefore.

(2) Any notice, order, or written communication from the commissioner to a person licensed under this chapter which directly affects the person's license shall be sent by mail to the person's last residential address, if an individual, and to the person's last business address, if licensed as a firm or corporation, as such address is shown in the commissioner's licensing records.

**A licensee shall notify the commissioner within 30 days of any change of residential or business address.

RCW 48.17.460... Display of license...

The license or licenses of each producer, other than licenses as to life or disability insurance only, or adjuster shall be displayed in a conspicuous place in that part of his place of business which is customarily open to the public.

RCW 48.17.470...Records of insurance producers, title insurance agents, adjusters.

- (1) Every insurance producer, title insurance agent, or adjuster shall retain a record of all transactions consummated under the license. This record shall be in organized form and shall include:
 - (a) If an insurance producer or title insurance agent:
 - (i) A record of each insurance contract procured or issued, together with the names of the insurers and insureds, the amount of premium paid or to be paid, and a statement of the subject of the insurance;
 - (ii) The names of any other licensees from whom business is accepted, and of persons to whom commissions or allowances of any kind are promised or paid.
 - (b) If an adjuster, a record of each investigation or adjustment undertaken or consummated, and a statement of any fee, commission, or other compensation received or to be received by the adjuster on account of such investigation or adjustment.
 - (c) Such other and additional information as shall be customary, or as may reasonably be required by the commissioner.
- (2) All such records as to any particular transaction shall be kept available and open to the inspection of the commissioner at any business time during the five years immediately after the date of the completion of such transaction.
- (3) This section shall not apply as to life or disability insurances.

RCW 48.17.475...Licensee to reply promptly to inquiry by commissioner.

Every insurance producer, title insurance agent, adjuster, or other person licensed under this chapter shall promptly reply in writing to an inquiry of the commissioner relative to the business of insurance. A timely response is one that is received by the commissioner within fifteen business days from receipt of the inquiry. Failure to make a timely response constitutes a violation of this section.

RCW 48.17.480... Reporting and accounting for premiums.

- (1) A producer or any other representative of an insurer involved in the procuring or issuance of an insurance contract shall report to the insurer the exact amount of consideration charged as premium for such contract, and such amount shall likewise be shown in the contract and in the records of the producer. Each willful violation of this provision is a misdemeanor.
- (2) All funds representing premiums or return premiums received by a producer shall be so received in his or her fiduciary capacity, and shall be promptly accounted for and paid to the insured, insurer, or producer as entitled thereto.
- (3) Any person licensed under this chapter who receives funds which belong to or should be paid to another person as a result of or in connection with an insurance transaction is deemed to have received the funds in a fiduciary capacity. The licensee shall promptly account for and pay the funds to the person entitled to the funds.
- (4) Any producer, adjuster or other person licensed under this chapter who, not being lawfully entitled thereto, diverts or appropriates funds received in a fiduciary capacity or any portion thereof to his or her own use, is guilty of theft under chapter [9A.56](#) RCW.

RCW 48.17.490

Must be licensed to receive a commission, service fee, or other valuable consideration.

(1) An insurance company, insurance producer, or title insurance agent shall not pay a commission, service fee, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter or chapter [48.15](#) RCW and is not so licensed.

(2) A person shall not accept a commission, service fee, or other valuable consideration for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter or chapter [48.15](#) RCW and is not so licensed.

(3) Renewal or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in this state if the person was required to be licensed under this chapter or chapter [48.15](#) RCW at the time of the sale, solicitation, or negotiation, and was so licensed at that time.

(4) An insurer, except a title insurer, or insurance producer may pay or assign commissions, service fees, or other valuable consideration to an insurance agency, or to persons who do not sell, solicit, or negotiate insurance in this state, unless the payment would violate RCW [48.30.140](#), [48.30.150](#), [48.30.155](#), [48.30.157](#), or [48.30.170](#).