

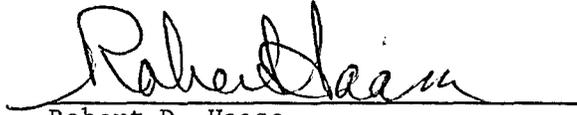
STATE OF WISCONSIN)
)
OFFICE OF THE COMMISSIONER OF INSURANCE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Robert D. Haase, Commissioner of Insurance and custodian of the official records of said Office, do hereby certify that the annexed order creating a rule relating to the disclosure requirements and prohibited practices of claimant representatives was issued by this Office on the 25th of August, 1988.

I further certify that said copy has been compared by me with the original on file in this Office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 25th day of August, 1988.



Robert D. Haase
Commissioner of Insurance

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SECRETARY OF STATE

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DOUGLAS LA FOLLETTI
SECRETARY OF STATE

ORDER OF THE COMMISSIONER OF INSURANCE

CREATING A RULE

To create Ins 6.08 relating to disclosure requirements for and prohibited practices of claimant representatives.

ANALYSIS PREPARED BY THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3) and 628.34 (12), Stats.

Statute interpreted: s. 628.34 (11), Stats.

The purpose of this rule is to protect Wisconsin consumers from insurance practices that the commissioner finds to be unfair trade practices. The commissioner finds as unfair trade practices all practices in which claimant representatives (1) require damaged property to be repaired by a specified repair facility or contractor, (2) receive compensation for the referral of business to a repair facility or contractor, (3) operate as a repair facility or contractor, (4) participate in the insurance claim payments to a repair facility or contractor, (5) fail to disclose to the consumer the method of compensation for services performed, and (6) fail to provide the consumer with copies of contracts or agreements entered into between the claimant representative and the consumer.

The commissioner finds that such practices either restrain competition unreasonably or are misleading and deceptive. According to information received by the commissioner, such practices have been occurring in Wisconsin. No current statute or administrative rule provides the necessary protection to the consumer.

The rule requires claimant representatives to make disclosures to the consumer prior to performing any services for the consumer and before the consumer assumes any obligation to pay for services performed by the representative. The disclosures must describe the method, manner and accounting of compensation that the representative will receive for services performed. The rule requires the claimant representative to give the consumer a copy of any contract or agreement entered into between the consumer and representative. The rule also prohibits claimant representatives from engaging in practices that create potential conflicts of interest. These practices are requiring that repairs be made by a specific repair facility, accepting any form of compensation from a repair facility in exchange for referring business to that facility, operating as both a claimant representative and a contractor for repairs or repair facility, and participating in the claim payments to the repair facility or contractor.

SECTION 1. Ins 6.08 is created to read:

Ins 6.08 CLAIMANT REPRESENTATIVES. (1) PURPOSE. This section provides limited regulatory guidelines concerning the activities of claimant representatives. This section also protects insurance consumers from practices that the commissioner finds to be unfair trade practices. The commissioner finds as unfair trade practices those practices in which a

claimant representative requires property to be repaired by a specified repair facility or contractor for repairs, receives compensation for the referral of business to a repair facility or contractor for repairs, operates as a repair facility or contractor for repairs, participates in the insurance claim payments to a repair facility or contractor for repairs, fails to disclose to the consumer the method of compensation and fails to provide the consumer with copies of contracts entered into between the claimant representative and consumer. This section requires a claimant representative to disclose his or her method and manner of compensation to the consumer and prohibits a claimant representative from engaging in practices that create potential conflicts of interest. This section implements and interprets s. 628.34 (11) and 628.34 (12), Stats. This section is in addition to, and does not affect, s. 757.30, Stats.

(2) SCOPE. This section applies to all claimant representatives transacting business in this state.

(3) DEFINITIONS. As used in this section:

(a) "Contractor for repairs" means the person, firm or corporation performing the repair work or furnishing the materials for the repair work, or both, for a building, dwelling or structure.

(b) "Claimant representative" means any person, except an attorney licensed to practice law in the state, who receives compensation from a claimant in exchange for representing or advising the claimant in negotiations for the settlement of a claim against an insurer arising out of the coverage provided by an insurance policy. A claimant representative does not include a person whose sole service to the claimant is to provide to the claimant an estimate or appraisal for repairs.

(c) "Repair facility" means the person, firm or corporation performing the repair work or furnishing the materials for the repair work, or both, for tangible personal property other than a building, dwelling or structure.

(4) DISCLOSURE REQUIREMENTS. (a) No claimant representative may accept compensation for performing services for or otherwise assisting a claimant with an insurance claim unless, prior to performing any services and prior to the claimant's assuming any obligation to pay for adjusting services, the claimant representative clearly and conspicuously discloses and explains to the claimant in writing the method and manner of receiving and accounting for compensation for services performed.

(b) A claimant representative shall submit to the claimant a copy of any written contract entered into between the claimant representative and claimant within 5 working days after the contract is signed by the claimant. A claimant representative shall commit to writing any oral agreement entered into between the claimant representative and claimant and shall submit a copy of the writing to the claimant within 10 working days after the agreement is made.

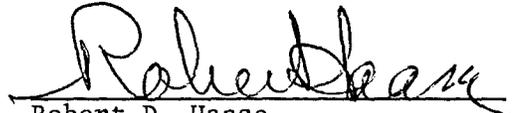
(5) PROHIBITED PRACTICES. (a) No claimant representative may require that repairs of property be performed by a specific repair facility or contractor for repairs.

(b) No claimant representative may receive any compensation from a repair facility or contractor for repairs for referring business to the repair facility or contractor for repairs.

(c) No claimant representative may operate as a repair facility or contractor for repairs or participate in any manner in the insurance claim payments to a repair facility or contractor for repairs.

EFFECTIVE DATE. Pursuant to section 227.22 (2), Stats., this rule shall first apply on the first day of the month commencing after the date of publication.

Dated at Madison, Wisconsin, this 25th day of August, 1988.


Robert D. Haase
Commissioner of Insurance



State of Wisconsin

OFFICE OF THE COMMISSIONER OF INSURANCE

Tommy G. Thompson
Governor

Robert D. Haase
Commissioner of Insurance

Robert M. Elconin
Deputy Commissioner

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P.O. Box 7873
Madison, Wisconsin 53707
(608) 266-3585

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AUG 25 1988

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DATE: August 25, 1988

TO: Gary Poulson

FROM: Fred Nepple, General Counsel
Office of the Commissioner of Insurance

SUBJECT: Section Ins 6.08, Wis. Adm. Code, Clearinghouse No. 88-11

Enclosed are two copies of an Order of the Commissioner of Insurance creating s. Ins 6.08, Wis. Adm. Code, Clearinghouse No. 88-11, relating to disclosure requirements for prohibited practices of claimant representatives.

FN:LH:mle
Enclosure
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