



Oregon

Department of Consumer and Business Services

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INSURANCE DIVISION BULLETIN INS 98-5

THIS BULLETIN HAS BEEN WITHDRAWN

DATE: November 20, 1998

TO: ALL INSURERS

SUBJECT: USE OF A FRAUD WARNING

The Rates and Forms Section of the Division receives form filings that include a wide variety of fraud warning statements. While the Oregon Insurance Code does not specifically address insurance fraud, the Division supports anti-fraud efforts generally and fraud warnings specifically. Some of the proposed warnings, however, do not meet Division guidelines for approval. This Bulletin is intended to provide guidance on acceptable fraud warnings.

Warning statements may be included on insurance applications, claim forms and claim payments. They may appear in policies and declaration pages **only** if the statement is part of the application for insurance.

The Insurance Division reviews statements according to the following guidelines:

1. Statements must assert "an intent to knowingly defraud."
2. Statements must refer to "materially false information" that is related to the acceptance of the risk.
3. Statements using the term "deceptive" must clearly relate the term to activities that are material to the risk at issue or to the claim.
4. Statements that connect fraudulent statements with criminal penalties must be phrased to avoid definite statements of guilt. Phrases such as, "**may be** guilty of insurance fraud," or "**may be** subject to prosecution for insurance fraud" are acceptable.
5. Warning statements on life and health insurance policies must not conflict with the applicable two year limit on contestability under Oregon law.

APPLICABLE STATUTES:

GENERAL REQUIREMENT: (ORS 742.013) - A statement is fraudulent only if it is material to the acceptance of the risk or to the hazard assumed by the insurer.

LIFE: (ORS 743.168 and ORS 743.171) - Contestability of a fraudulent statement in an application is limited to a two year period.

HEALTH: (ORS 743.414) - Coverage may be denied or rescinded for a materially fraudulent misstatement without time limit. Denial of coverage for a non-material misstatement is subject to a two year limit.

CASUALTY: (ORS 746.265) - A statement regarding adverse driving experience that occurred three years or more before application for or renewal of a policy may not be utilized for rate making purposes or used as a fraudulent omission to deny a claim.

Other State Versions Acceptable in Oregon (key words underlined):

Texas version: "Any person who makes an intentional misstatement that is material to the risk may be found guilty of insurance fraud by a court of law."

Maryland version: "Any person who, with intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement may be guilty of insurance fraud." (In this statement the "intent" and "may be guilty" could make it acceptable even though the "false or deceptive statement" is not identified as material.)

Other Acceptable Examples:

Willfully falsifying material facts on an application or claim may subject you to criminal penalties.

Any person who knowingly and with intent to defraud or solicit another to defraud an insurer: (1) by submitting an application, or (2) by filing a claim containing a false statement as to any material fact, may be violating state law.

This bulletin is dated the 20th day of November 1998 at Salem, Oregon.

(signed) _____
Nancy Ellison, Deputy Insurance Commissioner
and Administrator