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I. Terms and Concepts

Insurance...48.01.040 is a social device for transferring risk (specifically the financial impact of a loss) to an insurance company. The funds to cover losses are raised by collecting small amounts of money (premiums) from a broad base and a large number of people.

“Insurance is a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies.”

Risk is the uncertainty of a loss, specifically, a financial loss. Only pure risk is insurable (the chance of a loss, no gain). With a speculative risk, there is a chance of gain as well as a chance of loss. However, a speculative risk is not insurable.

- A hazard is anything that increases the chance of a loss, i.e., a swimming pool, being overweight, old wiring, sky diving, bad driving record or smoking.

Insurance Transactions...48.01.060 include:

a. Solicitation - offering to sell insurance.
b. Negotiation - quoting, selling and any analysis prior to execution.
c. Execution - putting the policy in force, signing any documents, etc.
d. Transactions after the sale such as adding or changing coverage, etc.
e. Any act of insuring - individuals or companies who perform transactions must be licensed to do so.

- Insurer ...48.01.050 is the insurance company or other entity assuming risks and agreeing to pay claims or provide services. Written communications from insurance companies must be phrased in simple language and list the full name of the insurer and location of its home office or principal office, if any, in the United States.

- Insured is the person, persons, or business covered by the insurance, who (usually) pays the premiums in exchange for protection against losses.

- Insurance Policy is a contract, a legal document, which establishes the terms of the agreement between the insurer and the insured. The policy must not be unintelligible, ambiguous, or likely to mislead the person who is purchasing or reading the policy.
- **Insurance Producer** means a person required to be licensed under the laws of this state to **sell**, **solicit** or **negotiate** insurance. The term, insurance producer, does not include title insurance agents or surplus lines brokers.

- **Person**...**48.01.070** means any individual, company, insurer, association, organization, reciprocal exchange, partnership, business trust, or corporation.

- **Business Entity** means a corporation, association, partnership, limited liability company, or other legal entity. AYZ Insurance Agency or Vern Fonk Insurance Agency are considered business entities, however, Pemco and Safeco are insurance companies and are not considered business entities under this rule.

  A *business entity acting as an insurance producer* is required to obtain a producer license. The business must designate a licensed insurance producer responsible for the business' compliance with the insurance laws and rules of this state.

- **Negotiate** means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

- **Sell** means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

- **Solicit** means attempting to sell insurance, or asking or urging a person to apply for a particular kind of insurance from a particular insurer.

**II. THE INSURANCE COMMISSIONER...**

48.01.010, .020, .030, 040, .053, .060, .070, .080, .150, .190, .250; 48.02.010, .020, .060, .080, .100, .160

*The Insurance Industry in Washington is regulated by the State of Washington. The Revised Code of Washington (RCWs) is comprised of State Laws (a.k.a. Statute Law) passed by the state legislature which governs the insurance activities in our state.*

The National Association of Insurance Commissioners (NAIC) is the oldest association of state government officials. The primary responsibility of the Insurance Commissioner is to protect the interests of the insurance consumer.

**A. The Commissioner** is *elected* every **four (4) years** by **the voters** of the State of Washington.

Washington’s current Insurance Commissioner is Mike Kreidler.
1. General Powers and Duties of the Commissioner

- **Administer and enforce** the provisions of the Insurance Code.
- Make **reasonable rules and regulations** for effectuating any provision of the Insurance Code.
- **Conduct investigations** to determine whether any person or company has violated any provision of the Insurance Code. The Commissioner may **investigate** grievances filed against any authorized insurance company (provider) or insurance producer.
- Take action against an insurance company or health care service contractor by **revocation or suspension of its Certificate of Authority**. A certificate of authority is a company’s license to transact insurance in our state.
- **Revoke or suspend any insurance license**. Any person violating any provision of the insurance code is guilty of a gross misdemeanor and will, upon conviction, **be fined not less than ten dollars nor more than one thousand dollars, or imprisoned for not more than one year, or both** in addition to any other penalty or forfeiture provided herein or otherwise by law.
- The commissioner may delegate authority.

2. Enforcement by the Commissioner...

- If the Commissioner believes any person is violating or is about to violate insurance law, he may issue a **cease and desist order** to a producer or company or bring an action in court to enjoin the person from continuing the violation.
- If the Commissioner believes any person has violated any penal provision of the Insurance Code or other insurance laws, he must certify the facts of the violation to the public prosecutor of the jurisdiction in which the offense was committed.
- The attorney general and prosecuting attorneys in Washington State will prosecute or defend all proceedings brought under this Code when requested by the Commissioner.
- Any person who files reports, or furnishes other information, required under Title 48 RCW, required by the commissioner, shall be immune from liability in any civil action or suit arising from the filing of any such report or furnishing such information to the commissioner or the National Association of Insurance Commissioners, unless actual malice, fraud, or bad faith is shown.

3. The Commissioner **DOES NOT**:
  - Put insurance policies together.
  - Restrict the number of insurance producers a company may have.
  - Make the code or decide on the constitutionality of the codes (statutes).
  - Endorse any insurance company.
  - Prosecute, arrest, sue or issue warrants against licensees **but does file the complaint through the courts**.
4. The Commissioner **DOES:**

- Obtain and publish for the use of courts and appraisers throughout the state, tables showing the average expectancy of life and values of annuities.
- Disseminate information concerning the insurance laws of this state.
- Provide assistance to members of the public in obtaining information about insurance products and in resolving complaints involving insurers and other licensees.

[www.insurance.wa.gov](http://www.insurance.wa.gov)

**B. Rates and Forms... 48.08.080, 48.19.010, 48.17.490**

Washington is a **prior approval state.** Every insurer must file with the Insurance Commissioner, **before using,** every **policy,** manual, **form,** rule, rate, and effective date, utilized in classifications. The insurer must also stipulate why the classifications, premiums, rules, etc., are needed.

- **The Insurance Commissioner is responsible for the regulation of rates and forms.** The Commissioner’s approval of a form may be withdrawn at any time, and he may **order** that the form no longer be used.

**C. Examinations... 48.03.010-020, 284-03-005, 015, 030**

The Commissioner must establish the Examinations Department headed by a Chief Examiner who has the responsibility for monitoring the insurers' financial status.

- The Chief Examiner must examine each **insurance company holding a certificate of authority at least every five years** but may examine at **any time,** and also has the responsibility for licensing applicants and checking their qualifications.
- The Commissioner may elect to accept and rely on an audit report made by an independent certified public accountant for the insurer in the course of that part of the commissioner's examination.

**D. Public Access to Records... (284-03-005, 015,030)** The Insurance Commissioner must allow public access to records by appointing a Public Records Officer. The officer must be located in the Commissioner's Office and will be responsible for implementing the laws. Hours for inspection are Monday through Friday 8-5. The officer must help individuals by accepting written requests for information, helping obtain the appropriate description of the records, and assisting the public. The Public Records Act provides that a number of types of documents are exempt from public inspection and copying.

**E. Unlicensed Activities & Penalties... (48.17.060, 48.17.063)** “A person may not **act** as or **hold himself out to be a producer in this state unless licensed by the Commissioner. A person may not solicit or take applications for or procure or place any kind of insurance for which he is not then licensed.”
A person shall not sell, solicit, or negotiate insurance in this state for any line or lines of insurance unless the person is licensed for that line of authority in accordance with this chapter.

For the purpose of this section, an act is committed in this state if it is committed, in whole or in part, in the state of Washington, or affects persons or property within the state and relates to or involves an insurance contract.

- Any person who knowingly violates this section is guilty of a Class B felony.
- The Commissioner may issue a cease and desist order, suspend or revoke a license and/or assess a civil penalty of not more than $25,000 for each violation.
- Fines collected by the Commissioner must be paid to the State Treasurer for deposit in the general fund.
- Upon failure to pay a civil penalty in not less than 15 days nor more than 30 days, the attorney general may bring a civil action on behalf of the Commissioner.

F. Must be licensed to receive a commission...(48.17.490), service fee, or other valuable consideration.

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.

G. Penalties... (48.17.530)

(1) The commissioner may place on probation, suspend, revoke, or refuse to issue or renew an adjuster's license, an insurance producer's license, a title insurance agent's license, or any surplus line broker's license, or may levy a civil penalty in accordance with RCW 48.17.560 or any combination of actions, for any one or more of the following causes:

(a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;

(b) Violating any insurance laws, or violating any rule, subpoena, or order of the commissioner or of another state's insurance commissioner;

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(d) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business;

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(f) Having been convicted of a felony;
(g) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(h) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in this state or elsewhere;

(i) Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

(j) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(k) Improperly using notes or any other reference material to complete an examination for an insurance license;

(l) Knowingly accepting insurance business from a person who is required to be licensed under this title and is not so licensed, other than orders for issuance of title insurance on property located in this state placed by a nonresident title insurance agent authorized to act as a title insurance agent in the title insurance agent's home state; or

(m) Obtaining a loan from an insurance client that is not a financial institution and who is not related to the insurance producer by birth, marriage, or adoption, except the commissioner may, by rule, define and permit reasonable arrangements.

(2) The license of a business entity may be suspended, revoked, or refused if the commissioner finds that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the partnership or corporation, and the violation was neither reported to the commissioner nor corrective action taken.

(3) The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this chapter and this title against any person who is under investigation for or charged with a violation of this chapter or this title, even if the person's license or registration has been surrendered or has lapsed by operation of law.

(4) The holder of any license which has been revoked or suspended shall surrender the license certificate to the commissioner at the commissioner's request.

(5) The commissioner may probate a suspension or revocation of a license under reasonable terms determined by the commissioner. In addition, the commissioner may require a licensee who is placed on probation to:

(a) Report regularly to the commissioner on matters that are the basis of the probation;
(b) Limit practice to an area prescribed by the commissioner; or

(c) Continue or renew continuing education until the licensee attains a degree of skill satisfactory to the commissioner in the area that is the basis of the probation.

(6) At any time during a probation term where the licensee has violated the probation order, the commissioner may:

(a) Rescind the probation and enforce the commissioner's original order; and

(b) Impose any disciplinary action permitted under this section in addition to or in lieu of enforcing the original order.

License or certificate suspension — Noncompliance with support order — Reissuance. The commissioner shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the commissioner’s receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

I. INSURERS (Insurance Companies)

A. Definitions

1. Classifications of Insurance Companies... (48.05.010) An insurance company is a business that takes on the responsibility of transferring risk (chance of a loss) from the general public to itself through insurance contracts. There are three classifications of insurance companies:

- Domestic...companies are insurers formed under the laws of the State of Washington (a.k.a. domiciled). Examples are Premera and Pemco.

- Foreign... companies are formed in the United States other than in the State of Washington. Examples include Farmers, State Farm and Aflac. These companies need three years of insurance experience before being “authorized” in our State.

- Alien... companies are formed under the laws of a nation other than the United States. An example is Sun Life of Canada. These companies need three years of insurance industry experience before being “authorized” in our State.
2. A **Stock Insurance Company** is an incorporated business organization organized as a profit making entity and is owned by the **stockholders**. **Dividends are paid to the stockholders**.

3. **Mutual Insurance Companies**... (48.09.110, .120, .300) are owned by the **policy owners**. Policy owners vote for a board of directors which directs the affairs of the company. The board of directors elects how much of a **dividend (profit) to pay to the policy owners**. Guaranteeing dividends is a form of illegal rebating.

4. **Unfair Discrimination**...(48.30.300, 48.18.480) An insurer may **not** refuse to issue any contract of insurance or cancel or decline to renew such contract, or restrict the amount of insurance benefits payable, on any term, rate, condition, or type of coverage, because of the **sex, marital status, sexual orientation, or the presence of any sensory, mental, or physical handicap of the insured or prospective insured**.

   - This section of the insurance code does not prohibit **fair discrimination** when **bona fide statistical differences** in risk or exposure have been substantiated.

   - For example, a 16 year old driver is a statistically higher-risk than a 45 year old driver. Because there is valid evidence to show this increase in risk, the 16 year old driver will pay a higher premium for auto insurance.

6. **Certificate of Authority** (48.15, .020, .040; 48.05.215; 48.05.030)... An insurance company may not transact insurance in Washington unless the Commissioner grants it a certificate of authority. A certificate of authority is issued by the Commissioner and **authorizes a company to sell insurance in our state**.

   A **certificate** must specify:

   - the name of the insurer
   - the location of its principal office
   - the kind(s) of insurance it is authorized to transact in this state

   ✓ Once an insurance company receives a Certificate of Authority, they are known as an **authorized insurer** or an **admitted insurer** to the state of Washington.

   ✓ An **unauthorized** insurance company may not transact business in the State of Washington. Each violation is punishable by a **$25,000 fine**. The Commissioner may order a policy that was improperly placed with an unauthorized insurer, to be replaced with a policy issued by an authorized insurer.

   **Exception**: If certain insurance coverage cannot be obtained from authorized insurers, coverage may be obtained through a **surplus lines broker**.
A Surplus Lines Broker is hired to find “unauthorized” insurance companies that accept risks not otherwise insurable in the State of Washington.

- **Coverage may not be procured for securing lower premiums.** Diligent effort must be made to first place the business with an authorized insurer in Washington State.

  ✓ (48.17.067) The burden of determining whether a prospective insurer is authorized to transact business in our state is the responsibility of the producer who is soliciting, negotiating or procuring an application for the insurance. The producer selling the insurance must make a good faith effort to determine whether the entity that is issuing the coverage is “authorized” in Washington.

7. **Advertising... (48.03.040, 080)** No person may 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.

  Every advertisement on behalf of an insurer must 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).

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

  **Advertising Financial Condition:** Every advertisement on behalf of any insurer that shows its financial condition may be in a condensed form but must correspond with the insurer’s last verified statement filed with the commissioner. No insurer or person may advertise assets except those actually owned and possessed by the insurer.
IV. LICENSING

Insurance Producer means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance. The term, insurance producer, does not include title insurance agents or surplus lines brokers.

A. Pre-licensing Requirements... (48.17.010, 060, 090) Prior to transacting insurance, an applicant for a resident insurance producer's license must: take and pass the required examination for each line of authority to be applied for; submit an application form with the required attachments and fees; receive a license from the Commissioner. To act as an agent a producer must be appointed with an insurer or affiliated with an agency. To act as a broker a producer must have a bond in place.

As a prerequisite to admission to the examination, an applicant for a resident insurance producer license for personal lines, life, disability, property or casualty lines of authority must complete twenty hours of pre-licensing insurance education for each major line of authority for which the applicant will be tested. Each course must include training on Washington insurance laws and rules applicable to that line of authority and general laws.

The prescribed curriculum for each line of authority must be successfully completed within the twelve-month period immediately preceding the examination.

1. To be a producer, an individual must:
   - be at least 18 years of age and reside in the State of Washington
   - have not committed any act that is grounds for denial, suspension, or revocation (trustworthy)
   - have completed a pre-licensing course of study for the lines of authority for which the person has applied
   - have paid the appropriate fees
   - have passed the exams for the lines of authority for which the person has applied (competent)

2. A business acting as an insurance producer is required to obtain a producer license. The business must designate a licensed insurance producer responsible for the business' compliance with the insurance laws and rules of this state.

3. A producer of insurance does not need to be a citizen of the United States. However, a non-citizen must have a social security number to become licensed.

4. A producer may receive a license in one or more lines of authority: life, disability, property, casualty, variable life and variable annuity products, personal lines and limited lines insurance products.

5. The license shall contain the licensee's name, address, personal identification number, and the date of issuance, lines of authority, and the expiration date.
B. Producers... (48.17.010, 48.17.420, 284-17-015)

A Producer can be an Agent or Broker, or both:

1. An agent is a producer who is appointed by an insurance company to solicit applications for insurance on its behalf, and when authorized to do so, collect premiums for the insurance policy, and essentially effectuate (put into effect) the insurance coverage.
   - An agent can be an individual, partnership or corporation.
   - An agent may be given binding authority, and represents the insurance company he is appointed with at all times.
   - No bond is required for a producer who acts as an agent because the agent is a legal extension of the insurance company with which he is appointed.
     - A Conditional Receipt is issued by Life and Disability Producers when money is collected with the application. It does not provide coverage on an unconditional basis but on a conditional basis, that is, on condition the insurer issues the policy as applied for. If it issues as applied for, any claim incurred during the underwriting period will be covered. If the policy is issued with a counter offer, any claims incurred during the underwriting period will not be covered.
     - A Binder (a.k.a. an unconditional receipt) is issued by Property and Casualty AGENTS and gives temporary guaranteed coverage prior to the delivery of a policy. Binders may be written or they may be verbal. No money is required for a binder premium is not required for coverage to be in force.

2. A broker is a producer licensed to represent the insured and find the best (authorized) company and insurance for the insured in the State of Washington.
   - A bond for a producer acting as a broker must be in place before writing any business. The bond penal amount is $2,500 or five percent of the premiums brokered in the previous calendar year, whichever is greater, not to exceed $100,000, in favor of the people of the State of Washington.

3. Broker vs. Agent
   - A broker needs to be bonded; an agent does not.
   - To sell insurance for a particular insurance company, an agent needs to be appointed by that company; a broker does not.
   - A broker does not have binding authority, a property and casualty agent does.
   - A broker may take applications for insurance and collect premiums without being appointed by the insurer; an agent may not.
   - A broker represents the consumer; an agent represents the insurance company.
   - A producer may not act as a broker and an agent for the same insurance company.
4. **Charges for Extra Services...** *(48.30.157, 48.17.270)* The Commissioner may permit an insurance producer to enter into *reasonable arrangements* with any person to charge a *reasonable fee* in situations where services that are charged for are provided outside the scope of services customarily provided in connection with the solicitation and procurement of insurance.

It is generally illegal for a producer to charge fees in addition to the policy premium for services which are not "truly" extra services. Additional charges *may not be made* for services which a producer would normally be expected to perform in connection with the sale of an insurance policy (such as evaluating a person's needs, recommending coverage, processing an application, etc.). Extra services for which *additional charges may be permitted* are those which are not in the scope of the producer's regular duties (such as special research activities, advising individuals or groups about types of insurance and matters for which the producer does not sell insurance, etc.). The extra service and the *reasonable amount* to be charged must be specified in a written agreement, and it must be approved by the applicant prior to the performance of the service.


- *Unless the agency-insurer agreement provides to the contrary*, an insurance producer may receive the following compensation:
  - a) A *commission* paid by the *insurer*
  - b) A *fee* paid by the *insured*
  - c) A *combination of commission paid by the insurer and a fee paid by the insured*

- If the compensation received by an insurance producer who is dealing directly with the *insured includes a fee*, for each policy the insurance producer must disclose in writing to the insured prior to the sale:
  - a) The full amount of the *fee paid* by the insured;
  - b) The full amount of any *commission paid* to the producer;
  - c) Any contingent or renewal commissions to be received
  - d) The full *name of the insurance company* that paid the commission;
  - e) An explanation of any offset or reimbursement of fees or commissions

- Written disclosure of compensation must be provided by the insurance producer to the insured *prior to the sale of the policy*. Written disclosure must be *signed by the insurance producer and the insured*, and the writing must be retained by the insurance producer for *five years*.

- In the case of a purchase over the telephone or by electronic means for which written consent cannot be *obtained*, consent documented by the producer will be acceptable.
6. Premium Accountability... (48.17.480) An insurance producer or any other representative of an insurer involved in procuring an insurance contract must report to the insurer the exact amount of consideration charged as premium for such contract. The amount collected must be shown in the contract and in the records of the insurance producer. Each willful violation of this provision is a misdemeanor.

Fiduciary refers to a person holding the funds of another in a position of trust.

a) All funds representing premiums or return premiums received by an insurance producer and must be promptly accounted for and paid to the person or company who is entitled to the funds.

b) Any person licensed who receives funds which belong to or should be paid to another person as a result of an insurance transaction is deemed to have received the funds in a fiduciary capacity. The licensee must promptly account for and pay the funds to the person entitled to the funds.

c) Any insurance producer or other licensed representative who diverts or appropriates any funds received in a fiduciary capacity is guilty of theft by embezzlement (a.k.a. larceny) and is subject to criminal penalty.

C. General Requirements – Producers

1. Written Response to the Commissioner... (48.17.475) A producer must respond to any inquiries from the Commissioner's office promptly and it must be in writing. Promptly means within 15 business days from receipt of the inquiry.

   • “Sending written notice” means transmitting the required information in writing on forms designated by the Commissioner via mail, commercial delivery company, electronic telefacsimile transmission (fax) or electronic mail (email).

2. Policy Delivery... (284-30-580) A producer must make actual physical delivery (mailing is acceptable) of a policy within a reasonable period of time after its issuance. Insurance companies are held responsible for any delay resulting from the failure of their producers to act diligently.

   • The producer may not obtain a receipt indicating a delivery and then retain the policy in his/her possession. A producer may secure the insured's policy for servicing or analysis, but must give a policy receipt and return the policy promptly.

3. Transaction Records Kept for 5 Years... (284-12-080) Producers, title insurance agents, and adjusters must keep records of all insurance transactions at the licensee’s business address for five years.

   • The Insurance Company must keep transaction records for three years.
4. Separate (Trust) Account... (48.17.600) All funds representing premiums and return premiums received by a producer must be promptly deposited in a separate account (which may be interest bearing). The Separate Account Funds may be deposited in a checking or savings account located in the state. An insurance producer or title insurance agent shall not commingle or otherwise combine premiums with any other moneys. A business entity may utilize one separate account for use by all of its affiliated persons.

A producer may not deposit any funds, other than premium and return premium funds, into the separate account, with the following exceptions... A producer may:

- Deposit funds needed to pay bank charges due to the operation of the account.
- Deposit funds for the purpose of having a reserve in the separate account to be able to advance premium or return premium funds to customers.
- Combine Washington State premiums with premiums produced in other states.

Withdrawals from a separate account may be done for the following reasons and must be done promptly:

- For bank charges for the operation of the separate account.
- For payment of premiums to the Insurer or to pay commissions to another producer.
- For payment of return premiums, and it must go directly to the Insured.
- For the transfer of fiduciary funds to go directly to another account.

✔ Willful violation of this “separate account” regulation is a misdemeanor.

5. Place of Business... (48.17.450) A producer’s office must be accessible to the public. This law does not apply to a producer who works out of his home, nor does it apply to life only or disability only producers.

- A licensee whose personal residence is shown on his license may obscure his residence address as long as the licensee’s name can be clearly seen.

- A producer must advise the Commissioner’s Office of any change in residence, mailing, business or e-mail address within 30 days.

- A producer maintaining more than one place of business in this state must obtain a duplicate license for each additional place.
6. Appointments / Termination of Appointments... *(48.17.160, 284-17-429-483, 490)* A producer acting as an agent must be appointed by an authorized insurer before he can sell for that insurer.

  a) An insurance producer may be appointed or affiliated by submitting electronically the notice of appointment or affiliation through a third-party on-line licensing provider or the commissioner's on-line services, available at www.insurance.wa.gov.

  b) Insurance producers must be authorized to transact at least one line of authority within the authority of the insurer or the business entity.

  c) Each appointment or affiliation is continuous until the first of the following occurs: the producer's license is revoked, terminated, or non-renewed; or a notice of termination of the appointment is electronically submitted to the commissioner; or the appointment or affiliation renewal fee of $20.00 is not paid.

  d) The insurer and business entities are obligated to ensure that appointed insurance producers are licensed for the proper line of authority for which the insurance producer submits an application.

  e) The applicable initial and renewal appointment and affiliation fees must be paid at the time of appointment, affiliation, or their renewals. *Appointments renew every two (2) years on a date set by the Commissioner.*

    • At least sixty days prior to the renewal date, an appointment or affiliation renewal notice will be sent to the insurer or business entity via e-mail.

    • An appointment with a company such as Farmers Insurance Group allows a producer to sell for all of its subsidiaries. Only one appointment will be needed!

    • If a producer is appointed by *only one company or insurer,* he is called a captive or exclusive agent. A captive agent does not own his accounts and renewals.

    • If a producer is appointed by *more than one company,* he is called an independent agent. An independent agent owns a right to his accounts and renewals.

  f) An insurer may terminate an appointment by sending notice of termination to the Commissioner and the producer. If an insurer terminates the appointment *“for cause,”* the insurer must electronically notify the Insurance Commissioner within 30 days following the effective date of the termination. The "*cause*" for termination must be stated in the notice.

  g) A producer may terminate its appointment by sending advance written notice to the insurer or business and send a copy via e-mail to the commissioner.

  h) If an insurance producer solicits insurance on behalf of an insurer, but it is later determined that the insurance producer was not eligible for appointment by the insurer:

    1. The insurance contract will be effective and cannot be terminated by the insurer
    2. The producer *must not* receive compensation for any insurance product sold
    3. The insurance producer and the insurer may be subject to disciplinary action
i) **Affiliation**...Individual licensees that represent a business entity must be affiliated with the licensed business entity. Each business entity must provide the commissioner with the names of all individual licensees authorized to represent the business entity by electronic submission and pay the applicable fees including renewals.

If an insurance producer is affiliated with a business entity, the insurance producer is not required to be directly appointed by the insurer who writes the policy. For example, if a producer is affiliated with Vern Fonk Insurance, he doesn't need to be appointed by each insurer with which Vern Fonk does business. The producer only needs to be affiliated with Vern Fonk. The individual insurance producer's authority to transact insurance is limited to those lines of authority for which the insurance producer is licensed and that are within the business entity's lines of authority.

7. **Agent Licensing vs. Agent Appointment:**
   - A license is the authority granted by the State of Washington to act as an agent.
   - An appointment is the authority that you receive from the insurer to act on its behalf.
   - You cannot act as an agent for any insurance company without being appointed by that company and being licensed in the type of insurance transacted.
   - Obtaining and maintaining the proper license is your responsibility.
   - The renewal of your appointment is the responsibility of the insurer you represent.

8. **Variable Life and Variable Annuity Resident Licenses**... *(284-17-015)* Resident insurance producers who desire to sell, solicit or negotiate variable (security) products in this state must obtain a life insurance producer license and an appropriate securities license. The securities license is issued by the Washington Department of Financial Institutions (DFI).

D. **Obtaining and Renewing Licenses**... In order to obtain a Washington Producers or Adjusters license, the applicant must: be at least 18 years old; must not have not committed any act that is grounds for denial, suspension, or revocation of a license; be a resident of Washington State; must pass the appropriate insurance pre licensing education course study and examination; and pay the appropriate fees.

1. **Nonresident**... *(48.17.173, 284-17-122)* A person can obtain a Non-Resident Producer’s License if she does not live in Washington. The licensee must be licensed in her resident state and does not have to pass our state’s license exam if she has passed a written exam in her current state.
   - Each licensed nonresident producer appoints the Commissioner as her attorney to receive service of legal process issued against the producer in this state upon causes of action arising within this state.
   - The state of residence must reciprocate (reciprocity) with Washington in allowing Washington’s producers and brokers to be nonresident licensees.
2. **Temporary**... (48.17.510) A **Temporary License**...can be granted by the Commissioner on an emergency basis for up to a **maximum of 180 days** without passing an exam.

- A temporary license may be issued to any person *legally representing* the interests of the licensed producer that is disabled, deceased, or entering active service in the United States Armed Forces.
- A temporary license could be issued for any circumstance for which the Commissioner feels it necessary to protect the insured and the public.
- The temporary licensee could be a: *spouse, executor, lawyer, employee, or person with power of attorney*.
- A temporary license **may not** be granted to a new prospective licensee.

3. **Renewal**... (284-17-423, 48.14.010) **Renewal of a Producer’s License**...A producer's license will expire every two years on the licensee’s birth date. To renew a producer’s license, a **renewal application** must be submitted **electronically** by the producer and the fee (currently $55) must be paid to the Commissioner's office **by midnight of the licensee’s birth date**.

- **New licenses** will expire on the applicant’s date of birth, plus one year, and every two years thereafter.

- **Continuing Education**... (284-17-423 to 256) **Twenty-four (24) hours of continuing education** (three of which must be in “Ethics”) **must be presented as a prerequisite for the renewal of a producer’s license**.

  ✓ **Exceptions**: This education requirement **does not apply** to limited-lines or to adjusters license renewal. The continuing education may be waived for licensees in **active military service**. A medical waiver with a letter from a medical provider describing the illness may be issued for one renewal period.

  ✓ **Retention of Continuing Education (C.E.) Certificates**... A licensee **must keep C.E. certificates for three years** from the date on the certificate. An approved C.E. course may be repeated for credit after a period of 3 years from the previous completion date. The Commissioner’s office may verify the certificates at any time.

4. **Late Renewal and Reinstatement**... (284-17-490, 48.17.170)

  *Late fees apply if the renewal fee is not paid when due:*

  a) 1 to 30 days late = an additional **50%** surcharge penalty of the license renewal fee.

  b) 31 to 60 days late = an additional **100%** surcharge penalty of the license renewal fee.

  c) 61 days to twelve months late = **200%** surcharge penalty of the license renewal fee.

  ✓ **After 60 days from the expiration date** the license **must be reinstated**. **The individual must also complete an application for reinstatement and pay the license fee and surcharge**.
✓ After 60 days from the expiration date all appointments are terminated. This means that the individual will need to secure a new appointment agreement with any insurance company through which he wishes to transact business.

✓ After one year from the expiration date, the producer will have to begin the entire licensing process again, including pre-licensing education, re-taking all applicable licensing exams, new fingerprint card and re-apply with the state.

E. Licensing & Examination Exemptions... (48.17.062, 110)

The Commissioner may make arrangements, including contracting with an outside testing service, for administering examinations.

The Commissioner may, at any time, require any licensed insurance producer or adjuster to take and successfully pass an examination testing the licensee's competence and qualifications as a condition to the continuance or renewal of a license, if the licensee has been guilty of violating the insurance laws, or has so conducted affairs under an insurance license as to cause the Commissioner to reasonably desire further evidence of the licensee's qualifications.

1. A license to be an insurance producer or adjuster is not required of the following:

An officer, director, or employee of an insurer or of an insurance producer, provided that the officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in this state, and; the officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance; or

The officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

A person who secures and furnishes information for group insurance contracts or for the purpose of enrolling individuals under plans; or issuing certificates under plans or otherwise assisting in administering plans; where no commission is paid to the person for the service; or

Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating, or classification of risks, or in the training of insurance producers, and who are not individually engaged in the sale, solicitation, or negotiation of insurance.

2. The examination to be a producer or adjuster is not required of the following:

Any person who receives a waiver from the Commissioner;
Applicants for an adjuster's license who for a period of one year have been a full-time salaried employee of an insurer or of a general agent to adjust or investigate insurance contracts;

Applicants for a license as a nonresident adjuster who are duly licensed in another state and who are deemed by the Commissioner to be fully qualified and competent for a similar license in this state;

The applicant for a Washington license who has at least two years of licensed experience in another state in the same lines of insurance and was licensed within the preceding 90 days;

A person who is applying for a non-resident license.

V. UNFAIR TRADE PRACTICES

The Unfair Trade Practices Act is divided into two parts: Unfair Marketing Practices and Unfair Claims Practices. Statutes (laws) define and prohibit certain trade and claims practices which are unfair, misleading and deceptive.

Any person violating any provision of the insurance code is guilty of a gross misdemeanor and will, upon conviction, be fined not less than ten dollars nor more than one thousand dollars, or imprisoned for not more than one year, or both. Any person violating any provision of the insurance code may have his license suspended or revoked.

Protection of Public Interest... (48.01.030) The business of insurance is one affected by the public interest, requiring that all persons act in good faith, abstain from deception, and practice honesty and equity in all insurance matters. Upon the insurer, the insured, their providers, and their representatives rests the duty of preserving the integrity of insurance.

A. Penalties for Non-Compliance

Suspension/ Revocation... (48.17.530, 540, 550)

1. Suspension: The Commissioner can take the license away temporarily for a maximum of one year and it is returned without the producer having to retake an exam.

2. Revocation: The Commissioner can take the license away for a maximum of one year. The person must reapply for the license but it may not be approved. However, if the Commissioner does approve the application, pre-license education is required and the proper license exam must be passed again.

   • Immediate revocation (without a hearing) of any insurance license is allowed upon the sentencing of the licensee for conviction of a felony, but only if the facts of the conviction demonstrate the licensee to be untrustworthy to maintain any such license.

   • The Commissioner may suspend, revoke or refuse to renew a license with not less than 15-days written notice.
• The Commissioner may suspend a license with not less than a three-day written notice upon finding that the public safety requires this emergency action.

3. Fines... The Commissioner can fine a maximum of $1,000 per offense for a violation of the insurance code.

  - Fines and penalties must be paid in not less than 15 days nor more than 30 days after the receipt of the order to pay.
  - Failure to pay will result in revocation of the insurance license and the fine recovered in a civil action through the courts on behalf of the Insurance Commissioner.
  - Fines are paid to the State Treasurer for deposit in the general fund.
  - There is an exception that allows for a $25,000 civil penalty for anyone acting as a producer without being properly licensed to do so.

4. Appeal... The licensee has the legal right to appeal orders, fines, penalties, suspensions and revocations levied by the State Commissioner. The licensee can appeal any decision of the Commissioner or any deputy, assistant or examiner of the Commissioner.

  o The licensee has 90 days in which to appeal (a.k.a. request a new hearing)

B. Illegal Dealings in Premium... (48.30.190)

  o No one can willfully collect money as premium for insurance if insurance coverage is not provided or the premium for insurance is in excess of the amount actually due.

  o A person must return any overpayment of money collected as premium, in a reasonable length of time, to the person who paid the premium.

  o Each violation of this section which does not amount to a felony constitutes a misdemeanor.

C. Premium Receipts... (284-30-550) A signed premium receipt for any insurance premiums received by the licensee must be delivered or mailed no later than the next working day. The receipt must include:

  o The insurance company by its full legal name.
  o The date, amount collected and name of the person who made the payment.
  o Identity of the producer, including the producer’s address.
  o A brief description of coverage for which payment was received, policy or contract number
  o The signature of the producer.

  Special note: The issued date of the policy does NOT have to be on a premium receipt.
D. Illegal Inducement ... (48.30.150) It is unlawful for insurance personnel to provide or promise anything valued at more than an aggregate of **$25.00 per year**, to any one prospective or current policyholder.

- *This is usually about rewards other than money, such as gifts and services.*
- Offering any special advisory board contract, prizes, goods or wares, agreement or understanding of any kind is illegal inducement. Paying $26 for an individual’s lunch at the time of procuring insurance is illegal inducement.

E. Illegal Rebating ... (48.30.140) It is unlawful for a producer or insurance company to provide or promise to give any valuable consideration such as a rebate, discount, reduction of premium, commission, etc., to induce a **person** to buy insurance.

- *This is usually about money (cash).*
- The **insured** is subject to a $200 fine for accepting a rebate.(48.30.170)
- **Guaranteeing to pay future dividends** is an example of rebating (48.30.100).

F. Misrepresentation (48.30.090, .180, .210, 284-30-350) is telling a lie or deceiving anyone about **any aspect** of insurance, like false coverage, inflated benefits, unrealistic returns, etc.

- **Misrepresentation of Policies**...No person may make, issue, or circulate any misrepresentation of the terms of any policy or the benefits or advantages promised, or the dividends or share of surplus to be received, or use any name or title of any policy or class of policies misrepresenting the nature of the policy.

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

  - **Misrepresentation by Twisting**...No person can, by misrepresentations or misleading comparisons, induce or tend to induce, any **insured** to lapse, terminate, forfeit, surrender, retain, or convert any insurance policy.

- For example, this can occur when a producer wants a prospective customer to cancel and switch his/her current insurance policy over to the producer’s company, and does so by giving misleading facts.
Another example of twisting is failing to give required replacement forms to an insured when replacing an existing life policy.

G. Defamation of Insurer... (48.30.080) 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.

H. Illegal Dealings in Commission... (48.17.490)
(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. For example, a life-only producer may not share commissions with a property and casualty producer.

(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.

- This does not affect salaries paid to unlicensed persons, as long as the salaries are not contingent on the volume of business transacted.
- A person shall not accept a commission, service fee, or other valuable consideration for selling or negotiating insurance if that person was required to be licensed and is not so licensed.
- Renewal or other deferred commission may be paid to a person for a transaction if that person was required to be licensed at the time of the sale, solicitation, or negotiation and was so licensed at that time.

I. Violation of Advertising Laws... (48.30.040, .050, .060, .070, .080) A producer may not commit false advertising in regard to an insurer's financial condition. The producer must not use unfair or deceptive practices in the sale, advertising or marketing of any type of insurance product.

- All advertising must be clear and understandable and contain the name and address of the insurance company. This includes mailings and brochures.
J. Specific Unfair Claims Settlement Practice... (284-30-300-.750, 48.30.010, .015)

1. Misrepresenting pertinent facts or insurance policy provisions.
2. Failing to acknowledge and act promptly upon communications regarding a claim.
3. Failing to implement standards for the prompt investigation of claims.
4. Refusing to pay claims without conducting a reasonable investigation.
5. Failing to affirm or deny coverage of claims within a reasonable time.
6. Not attempting in good faith to make a prompt, fair and equitable settlement of claims in which liability has become clear. If two or more insurers are involved, they should arrange to make payment to innocent third parties leaving to themselves the burden of apportioning it.
7. Compelling insureds to institute or submit to litigation, arbitration, or appraisal to recover amounts due under an insurance policy.
8. **Settling a claim for less than a reasonable amount a claimant is entitled to receive.**
9. Making claims payments not accompanied by a statement setting forth the coverage under which the payments are being made.
10. Telling insureds or claimants that there is a policy arbitration award for the purpose of compelling them to accept less than the amount awarded in arbitration.
11. Delaying the investigation or payment of claims by requiring an insured or claimant to submit a preliminary claim report and then requiring subsequent submissions that contain the same information.
12. Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other insurance policy coverage.
13. Failing to promptly provide a reasonable explanation for denial of a claim.
14. Unfairly discriminating against claimants who are represented by a public adjuster.
15. Failure to expeditiously honor drafts given in settlement of claims.
16. Failure to adopt and implement reasonable standards for the processing and payment of claims once the obligation to pay has been established.
17. Delaying appraisals or adding to their cost through the use of appraisers from outside of the loss area.
18. Failing to make a good faith effort to settle a claim before exercising a contract right to an appraisal.
19. Negotiating or settling a claim directly with any claimant known to be represented by an attorney without the attorney’s knowledge and consent.

- **Unfair Claims Settlement Practices:**
  - Insurance companies must acknowledge receipt of notification of a claim **within 10 working days**.
  - When the Commissioner requests claims information from an insurance company, the insurance company must respond **within 15 working days**.
  - Insurance companies must complete investigation of claims **within 30 days** after notification of claim.

- The insurer's claim files are subject to examination by the commissioner or by duly appointed designees. The files must contain all notes and work papers pertaining to the claim in enough detail that pertinent events and dates of the events can be reconstructed.

K. **Time limit for benefits (284-30-620)** It is an unfair practice not to pay benefits under accidental death or accidental injury policies if the covered death or injury occurs **within one year (365 days)** of the accident. The industry standard is 90 days.
VI. Washington State Laws Relating To Property & Casualty Insurance
(16 questions)

A. Surplus Lines Broker ...(48.15.040) a licensed person who is hired to find “unauthorized” insurers that accepts risks not otherwise insurable in Washington. Coverage may not be procured for securing lower premiums.

Person means any individual, company, partnership, trust, corporation, etc.

A surplus lines broker needs to be licensed as a producer with property and casualty lines of authority, pass the surplus lines broker’s exam and pay the required fees.

- A surplus lines broker must maintain two bonds: One in the penal (penalty) amount of $2,500 or five percent of the premiums brokered in the previous calendar year, whichever is greater, not to exceed $100,000, in favor of the people of the state of Washington; and one in the penal amount of $20,000 in favor of Washington State.

- At the time of procuring surplus lines insurance, a certificate stating the facts must be submitted by the broker and filed within 60 days at the Department of Insurance. The certification must state the facts supporting the surplus line broker’s diligent effort to first place the business with an authorized insurer in Washington.

B. Cancellation and Nonrenewal...(48.18.289, .290, .291, .300) When a notice of renewal, nonrenewal or cancellation is mailed, the insurance company is not required to prove that the insured actually received the notice. It is required to prove only that the written notice was mailed to the named insured at the mailing address on the policy.

1. Independent Evaluation....It is an unfair practice for any insurer to rely solely on another insurer's denial, cancellation, or nonrenewal of insurance to support a denial or termination of coverage. An insurer must make its own independent decision.

2. Day-Care Operations.....It is an unfair practice for any insurer to deny or terminate homeowners insurance for the reason that an insured is engaged in an incidental day care operation at the insured location. However, this rule does not prevent an insurer from excluding coverage for losses arising out of the operation of day care facilities.

3. Nonrenewal of a policy requires a minimum 45-day written notice (except auto--20 days).

4. Cancellation: A 10-day notice is required for cancellation due to non-payment of premium, whereas a 45-day notice is required for other reasons (except auto--20 days).

- 45 days required for return of premium on a pro rata basis should the insurance company cancel the policy. Pro rata means all unearned premium must be returned but no service fee is allowed.

- 30 days required for return of premium on a short rate basis should the insured cancel the policy. Short Rate means all unearned premium must be returned but a service fee is allowed to be charged by the insurer.
5. If a notice of cancellation, nonrenewal or offer to renew is issued to an insured, a copy of any notice must be provided to the producer or broker of record for the insured, within five (5) working days. The copy to the agent or broker may be provided electronically.

6. Any notice must disclose the reason for cancellation or refusal to renew insurance. The reason must be in clear, simple language. It is not sufficient to state that the insured does not meet the company’s underwriting standards.

C. Application and Binders...(284-30-560, 48.18.220-240)

1. Every Application form used in connection with insurance must contain a clear and conspicuous statement setting forth whether or not coverage is in effect. If coverage has commenced, the effective date must be stated. If coverage has not commenced, there must be an explanation as to the circumstances which will cause coverage to commence and the time when coverage will become effective.

The statement concerning commencement of coverage must not be minimized, rendered obscure, or presented in an ambiguous fashion as to be confusing, misleading or not readily evident.

A copy of such application must be delivered or mailed to the applicant promptly following its execution (put into effect).

2. A Binder is used to give temporary-guaranteed coverage prior to the policy being issued by the insurer. When an agent receipts premium at the time that coverage is bound, the receipt must state:
   a) that it is a binder
   b) a brief description of the coverage bound
   c) the identity of the insurer in which the coverage is bound
   d) the current date, the date and time coverage is effective
   e) acknowledgement of the amount of any premium received

3. Under this regulation, the name and address of the agent are NOT needed. Every binder used pending the issuance of a policy for insurance must be in writing or printed form and delivered or mailed to the insured no later than the next business day.

4. Binders should be replaced promptly with insurance policies. Insurance companies must replace binders within ninety days of their effective date. A binder may be extended past 90 days with the permission of the Insurance Commissioner.

5. It is an unfair practice and unfair competition for an insurer or insurance producer to engage in acts or practices which are contrary to the requirements of this section. Any violation will be subject to actions by the Insurance Commissioner.

6. Each insurer must inform its insurance producers of the requirements of this section.
D. **Termination of Agency Contract...** *(48.17.591)*

No insurer authorized to do business in this state may cancel or refuse to renew any policy because that insurer's contract with the independent insurance producer through whom such policy is written has been terminated by the insurer, the insurance producer, or by mutual agreement.

If an insurer intends to terminate an agency contract with an “independent” property and casualty agent, the insurer may give not less than 120 days’ advance written notice of the intent to terminate.

1. **However, such notice is not needed if the termination is based upon the agent’s:**
   a) Abandonment of agency
   b) Gross and willful misconduct
   c) Loss of license by order of the commissioner
   d) Sale of or material change of ownership in the agency
   e) Fraud or material misrepresentation relative to the business of insurance
   f) Default in payments due to the insurer

2. During the 120 days, the agent may not bind or write any new business on behalf of the terminating insurer, other than to make routine changes, i.e., add a new car.

3. However, the terminating insurer may continue to **renew all policies in the agent’s book and pay commission to the agent for a period of one year**. The appointment is terminated after one year. The terminated independent agent must have a reasonable opportunity to transfer affected policies to other insurers.

E. **Credit Scoring and Adverse Action...** *(48.18.545(3, 4, 5)) (Personal Lines) .....* The insurance industry has used credit scores to set prices for many years. Companies have statistically shown that people with bad credit histories are more likely to file insurance claims.

"**Credit history**" means communication of information by a consumer reporting agency regarding a consumer's creditworthiness or credit standing. The credit history is used for the purpose of serving as a factor in determining insurance premiums or eligibility for coverage.

"**Insurance score**" means a number or rating that is derived from a computer application, model, or other process that is based on credit history.

To set premiums or deny coverage in Washington for property and casualty insurance, the insurers **may not use:**

1. The absence of credit history
2. *Collection accounts for medical bills*
3. Recent purchase of a financed home or vehicle
4. A consumer’s available line of credit
5. The use of a particular type of credit card

6. The number of credit inquiries made

An insurer may not cancel or non-renew personal insurance based on a consumer’s credit history or insurance score.

1. An offer of placement with an affiliate insurer does not constitute cancellation or nonrenewal.

2. An insurer that takes adverse action against a consumer based on credit history must provide written notice to the named insured on why the credit history resulted in the adverse action and inform the consumer that he is entitled to a free copy of his report.

F. Required Records and Record Retention...(48.17.470) Every producer and adjuster must keep a record of all transactions that occur under his or her license for 5 years after the transaction is completed. These records must be kept at the address listed on the license.

G. Place of Business...(48.17.450) Every licensed insurance producer, title insurance agent, and adjuster must have and maintain in this state, or, if a nonresident insurance producer, in this state or in the state of the licensee's domicile, a place of business accessible to the public.

1. Such place of business must be where the insurance producer or title insurance agent principally conducts transactions under that person's licenses. A licensee maintaining more than one place of business in this state must obtain a duplicate license or licenses for each additional such place, and pay any appropriate fees.

2. Any notice, order, or written communication from the Commissioner to a person licensed must be sent by mail to the licensed person's last address of record with the Commissioner.

H. Change of Address...(284-17-005) The address of record will be used for all matters (including disciplinary orders) by the Commissioner. This will be the e-mail address listed in the mailing address section of the Commissioner's licensing date [data] base.

- Licensees must advise the Commissioner of any change of address within thirty days after a change of address. This includes any change in the person's residence, mailing, business or e-mail address. Failure to advise the Commissioner of a change of address may subject a licensee to disciplinary action.
VII. Washington State Laws and Rules Relating to Casualty Insurance ONLY
(8 questions)
Auto Insurance

Definitions:

"Passenger car" means every motor vehicle except motorcycles and motor-driven cycles, designed for carrying ten passengers or fewer and used for the transportation of persons.

The "named insured" is defined to include the individual named in the declarations of the policy and his or her spouse if a resident of the same household.

"First Party" is defined as
- The named insured or any family member residing in the named insured's household who is injured while occupying a motor vehicle or a trailer which is designed for use on public roads, and members of the household who are injured if struck as a pedestrian by a motor vehicle or a trailer used for public roads.
- Anyone who is injured while occupying a covered auto. Occupying means in, on, getting into, or out of.

1. Personal Injury Protection (PIP)...(48.22.085, 284-30-395)(a.k.a. First Party Coverage) pays for bodily injury, lost wages and lost services of a first party injured in an insured's auto, regardless of who is at fault. Payments are made on a per person, single limit, occurrence basis.

Personal Injury Protection (P.I.P.) Must Be Offered:

a) No new automobile liability insurance policy or renewal of such an existing policy may be issued unless personal injury protection coverage is offered as an optional coverage.

b) A named insured may reject, in writing, P.I.P. coverage. If a named insured rejects personal injury protection coverage, the insurer is not required to include personal injury protection coverage in any supplemental, renewal, or replacement policy unless a named insured subsequently requests such coverage in writing.

P.I.P. benefits may be terminated if the insurer determines that the medical and hospital services are not reasonable, necessary, and related to the accident.

An insurer is not required to provide P.I.P. coverage to a person:

a) who intentionally causes injury to himself; who is injured while participating in organized racing; whose bodily injury is due to war; whose bodily injury results from the insured's use of an automobile in the commission of a felony; or whose bodily injury results from radioactive, toxic, or hazardous properties of nuclear material.

b) who is the named insured or a relative, while occupying a motor vehicle owned by the named insured or furnished for the named insured's regular use, if such vehicle is not described on the declaration page of the policy under which a claim is made.
### Occurrence Limits (range) of P.I.P. coverage which are required to be offered...

<table>
<thead>
<tr>
<th>MINIMUM LIMITS (of at least)</th>
<th>COVERAGES</th>
<th>MAXIMUM LIMITS (of at least)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$10,000 - payable for up to three years</td>
<td>Medical payments</td>
<td>$35,000 payable for up to three years.</td>
</tr>
<tr>
<td>$10,000, max. $200 per week</td>
<td>Lost Income</td>
<td>$35,000, max. $700 per week</td>
</tr>
<tr>
<td>$40/day max., not to exceed $200/week, up to $5,000</td>
<td>Loss of Services</td>
<td>$40/day max., not to exceed $14,600</td>
</tr>
<tr>
<td>$2,000</td>
<td>Funeral Costs</td>
<td>$2,000</td>
</tr>
</tbody>
</table>

2. **Underinsured Motorist, UIM/UM**...(48.22.030) *must be offered* to all new auto liability insurance applicants. Each policy will include underinsured motorists coverage, unless the named insured or spouse specifically rejects either the BI or PD portion of the coverage, or both, in writing, and must be part of the insurer’s records. **First Party Coverage.**

   a) **Bodily Injury** must be offered *for the same limit* for which the insured is covered under coverage “A” of the auto policy. The insured may elect a lower limit on UIM than on coverage “A”, but may not be insured for more than “A”.

   - Insurers must get a *signed request from the named insured for UIM limits that are lower than the third party liability limit (Coverage A)*. This rejection must be in writing and kept by the insurer for 3 years.

   - *Pays for Bodily Injuries* to the insured when injured by a driver who is uninsured or underinsured. It also pays the insured if hit by a hit-and-run driver, a phantom vehicle, or if the other insurer who should pay becomes insolvent within 3 years from the date of the accident.

   A “phantom vehicle” means a motor vehicle which causes bodily injury, death or property damage to an insured and has no physical contact with the insured or the vehicle which the insured is occupying at the time of the accident, as long as there is a witness and the accident is reported within 72 hours after the accident.

   b) **Underinsured Motorist Property Damage, UMPD**...(48.22.030) protects the insured’s covered auto if damaged by an uninsured, underinsured or hit-and-run motorist. There is a *$100 deductible* for all losses, except for damage caused by a hit-and-run or phantom vehicle, which has a *$300 deductible*.

   c) **Stacking Is Not Permitted.....**The limit of liability for UIM coverage may be defined as the maximum limits of liability for all damages resulting from one accident, regardless of the number of vehicles involved in the accident or number of vehicles covered under the insurance contract.

   d) All insurers must also make Personal Injury Protection (PIP) and Underinsured Motorist (UIM) coverage available to all policyholders at renewal of the policy.
   - A **minimum 20-day written notice** is required to be sent to the named insured for cancellation, renewal or non-renewal of an auto policy. The notice sent by the insurer must state the actual reason for the non-renewal or cancellation.
   
   - A **minimum 10-day written notice** is required to be sent to the named insured if cancellation is for **nonpayment of premium**.
   
   - After the first **60 days** of an auto contract, cancellation is permitted only for nonpayment of premium, or suspension or revocation of the driver’s license of the named insured, or any regular operator of an insured vehicle during the policy term, or during the 180 days immediately prior to the last policy renewal date.
   
   - It is an unfair practice for any insurer to consider traffic violations more than **three (3) years past** in order to accept, reject, cancel, or refuse to renew a policy.
   
   - No insurer can refuse to renew the liability and/or collision coverage of a policy on the basis that an insured has submitted one or more claims under comprehensive, road service or towing coverage. However, an insurer may decline to renew the coverage on the basis of claims submitted.

4. **Unfair Practice**...(284-30-570) Whenever an insurer cancels, denies, or refuses to renew insurance, **it must give the true and actual reason for its action in clear and simple language**, so that the insured or applicant will not need to resort to additional research to understand the real reason for the action. It is not sufficient to state that an insured "does not meet the company's underwriting standards." If the actual reason relates to medical information, the insurer may make a broad reference and limit specific disclosure of details to the applicant's or insured's physician.

4. **The Assigned Risk Pool**...(48.22.020) (WA Auto Insurance Plan) allows people with bad driving records who cannot secure auto insurance the opportunity to purchase coverage. The insured is **apportioned** among the **authorized** insurers for a maximum of three years. All insurers licensed to write auto insurance in Washington must participate in the plan.
   - Agents do not have binding authority in the plan and they must submit the application to the plan for approval and apportionment.
   
   - The state’s insurance industry administers, funds and sets the premiums.

5. **Auto Renewal, Non-Renewal/Cancellation of Coverage**.....Damage to Your Auto, Part “D,” (a.k.a. **physical damage** coverage), pays for damage to the insured's own auto. **The insurer reserves the right to repair or replace the damaged car rather than make a cash settlement.**
   
   - Following a total loss of the car, the insurance company is required to indemnify on a **minimum Fair Market Value** (what the car could be sold for). **Not wholesale!**
A. **Financial Responsibility Liability Law** *(46.29.090, 260, 480, 46.30.020)*

This law requires that following an accident which involves *bodily injury or losses above $750 of property damage*, proof of the ability to pay for damages to the third party must be provided.

- **This law applies to** both the **driver and the owner** of the vehicle.

- **Failure to demonstrate financial responsibility** liability may result in loss of driving privileges, which could include vehicle registration and driver's license suspension, and/or a fine of about $550.

- The Department of Financial Responsibility will determine the amount of security sufficient in its estimation to satisfy any judgment for damages resulting from the accident.
  1) If the amount of security required by the Department is not deposited within 60 days, an order of driver's license suspension will be made.
  2) **If a license is suspended**, the license will not be renewed or reinstated until that person makes the **required security deposit or 3 years have passed**. Meaning a driver's license could be suspended for up to 3 years for failing to meet the Washington Financial Responsibility Liability Law.

- A law enforcement officer may also check for proof of financial responsibility. An insurance certificate showing minimum limits and effective days is required.
  1) **Failure to provide proof of motor vehicle insurance is a traffic infraction and is subject to** penalties as set under Washington Law.
  2) If the person cited provides written evidence that at the time the person was cited, he was in compliance with the financial responsibility requirements, the citation will be dismissed and **the court or violations bureau may assess court administrative costs of twenty-five dollars at the time of dismissal**.

- **The minimum amount required** to satisfy this financial responsibility liability law is:
  1) **$60,000** Combined Single Limit for BI and PD with **auto insurance** or
  2) **25/50/10** Split Limit for BI and PD with **auto insurance** or
  3) **$60,000** surety bond or
  4) **$60,000** deposited in cash with the state

- A **person may be released from financial responsibility** when he:
  1) is **judged not to be liable in the accident**
  2) has obtained a **release from the other party**
  3) **has paid all damages in cash, or through a written agreement or contract**

- **Vehicles exempt from the mandatory liability law** include: motorcycles, motor scooters, mopeds, specially-licensed antique vehicles over 40 years old and collector's vehicles over 30
years old, publicly-owned vehicles, and vehicles registered with the Washington Utilities and Transportation Commission.

C. Workers’ Compensation Insurance...*(51.04. 175)* is *compulsory* and *monopolistic* in the State of Washington. Workers’ Compensation laws impose a form of *absolute liability* because employers are held liable for employees’ work related injuries and sicknesses, *regardless of fault.*

The term "department" means the Department of Labor and Industries. The main purpose of the Department of Labor and Industries is to *provide a safe workplace for workers,* therefore, inspections of a business may occur at any time. The amount of the benefit which is paid to the injured or sick employee will be determined by "department" and by state statute.

- **Monopolistic** means that Workers’ Compensation may be purchased from one source only, the Department of Labor and Industries (a.k.a. exclusive underwriter). However, larger businesses can be approved as self-insurers, paying the same benefits as the state, but funding the benefits themselves. Private carriers are permitted to write excess coverage for self-insurers, and some do purchase excess layers of coverage from the private sector.

- **The State Fund** means those funds held by the State or any agency of the State. The Washington Industrial Insurance Fund means the Department of Labor and Industries when acting as the agency to insure the industrial insurance obligation of employees.

- **Coverage “A”** pays the benefits required for the injured workers for: medical, disability income, death, and rehabilitation for work related injuries and sicknesses.

- **Employers Liability Coverage “B,”** a.k.a. “Stopgap,” protects the employer against liability arising from work-related injuries or diseases not covered by the workers’ compensation law. This is *not* written through the State of Washington’s Fund, but added through a company’s Commercial General Liability policy. Once added to the CGL policy, it may also be included under the Business Umbrella Policy.

- **Other States Coverage “C”,** provides automatic coverage in states which have non-monopolistic workers’ compensation laws. It may be purchased at the employers' option.

- **Your Duties If Injury Occurs** explains the duties of the insured when a loss occurs, i.e., prompt notice of injury or suit, cooperate with investigations, etc.

- **Premiums** are paid *by the employer to the Department of Labor and Industries* (although the employer may charge up to one-half of the premiums to the employee). Premiums are based on the hours worked by the employee, loss experience rating, and work industry.
  
  - *The per hour premium is established by state statute.* Most states will use gross payroll; however, Washington is one of the few states that uses the “hours worked” calculation for establishing premiums.

- **Acting in the Course of Employment** means the worker acting at his or her employer’s discretion, including time spent going to and from work on the *job site,* which is not their normal place of business. *It is not necessary that at the time of injury the worker be doing the work on which his or her compensation is based.*
• **Acting in the Course of Employment does not** include time spent coming to or going from work, or in commuter ride sharing, even if the employer participates in the arrangements.

51.08.010...Meaning of words.

51.08.012..."Accredited school." For the purposes of this title, "accredited school" means a school or course of instruction which is:

(1) Approved by the state superintendent of public instruction, the state board of education, the state board for community college education, or the state division of vocational education of the coordinating council for occupational education; or,

(2) Regulated or licensed as to course content by any agency of the state or under any occupational licensing act of the state, or recognized by the apprenticeship council under an agreement registered with the apprenticeship council pursuant to chapter 49.04 RCW.

51.08.013..."Acting in the course of employment." (1) "Acting in the course of employment" means the worker acting at his or her employer's direction or in the furtherance of his or her employer's business which shall include time spent going to and from work on the jobsite, as defined in RCW 51.32.015 and 51.36.040, insofar as such time is immediate to the actual time that the worker is engaged in the work process in areas controlled by his or her employer, except parking area. It is not necessary that at the time an injury is sustained by a worker he or she is doing the work on which his or her compensation is based or that the event is within the time limits on which industrial insurance or medical aid premiums or assessments are paid.

(2) "Acting in the course of employment" does not include:

(a) Time spent going to or coming from the employer's place of business in an alternative commute mode, notwithstanding that the employer (i) paid directly or indirectly, in whole or in part, the cost of a fare, pass, or other expense associated with the alternative commute mode; (ii) promoted and encouraged employee use of one or more alternative commute modes; or (iii) otherwise participated in the provision of the alternative commute mode.

(b) An employee's participation in social activities, recreational or athletic activities, events, or competitions, and parties or picnics, whether or not the employer pays some or all of the costs thereof, unless: (i) The participation is during the employee's working hours, not including paid leave; (ii) the employee was paid monetary compensation by the employer to participate; or (iii) the employee was ordered or directed by the employer to participate or reasonably believed the employee was ordered or directed to participate.

(c) "Alternative commute mode" means (a) a carpool or vanpool arrangement whereby a group of at least two but not more than fifteen persons including passengers and driver, is transported between their places of abode or termini near those places, and their places of employment or educational or other institutions, where the driver is also on the way to or from his or her place of employment or educational or other institution; (b) a bus, ferry, or other public transportation service; or (c) a non-motorized means of commuting such as bicycling or walking.
51.08.014..."Agriculture."..."Agriculture" means the business of growing or producing any agricultural or horticultural produce or crop, including the raising of any animal, bird, or insect, or the milk, eggs, wool, fur, meat, honey, or other substances obtained therefrom.

51.08.015..."Amount," "payment," "premium," "contribution," "assessment."
Wherever and whenever in any of the provisions of this title relating to any payments by an employer or worker the words "amount" and/or "amounts," "payment" and/or "payments," "premium" and/or "premiums," "contribution" and/or "contributions," and "assessment" and/or "assessments" appear said words shall be construed to mean taxes, which are the money payments by an employer or worker which are required by this title to be made to the state treasury for the accident fund, the medical aid fund, the supplemental pension fund, or any other fund created by this title.

51.08.018..."Average monthly wage." For purposes of this title, the average monthly wage in the state shall be the average annual wage as determined under RCW 50.04.355 as now or hereafter amended divided by twelve.

51.08.020..."Beneficiary." "Beneficiary" means a husband, wife, child, or dependent of a worker in whom shall vest a right to receive payment under this title: PROVIDED, That a husband or wife of an injured worker, living separate and apart in a state of abandonment, regardless of the party responsible therefor, for more than one year at the time of the injury or subsequently, shall not be a beneficiary. A spouse who has lived separate and apart from the other spouse for the period of two years and who has not, during that time, received, or attempted by process of law to collect, funds for maintenance, shall be deemed living in a state of abandonment.

51.08.030..."Child." "Child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, child born after the injury where conception occurred prior to the injury, and dependent child in the legal custody and control of the worker, all while under the age of eighteen years, or under the age of twenty-three years while permanently enrolled at a full time course in an accredited school, and over the age of eighteen years if the child is a dependent as a result of a physical, mental, or sensory handicap.

51.08.040..."Department." "Department" means department of labor and industries.

51.08.050..."Dependent." "Dependent" means any of the following named relatives of a worker whose death results from any injury and who leaves surviving no widow, widower, or child, viz: Father, mother, grandfather, grandmother, stepfather, stepmother, grandson, granddaughter, brother, sister, half-sister, half-brother, niece, nephew, who at the time of the accident are actually and necessarily dependent in whole or in part for their support upon the earnings of the worker.

51.08.060..."Director." "Director" means the director of labor and industries.

51.08.070..."Employer" — Exception. "Employer" means any person, body of persons, corporate or otherwise, and the legal representatives of a deceased employer, all while engaged in this state in any work covered by the provisions of this title, by way of trade or business, or who contracts with one or more workers, the essence of which is the personal labor of such worker or workers.
51.08.095..."Health services provider" — "Provider." "Health services provider" or "provider" means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of services related to the treatment of an industrially injured worker.

51.08.100..."Injury." "Injury" means a sudden and tangible happening, of a traumatic nature, producing an immediate or prompt result, and occurring from without, and such physical conditions as result therefrom.

51.08.110..."Invalid." "Invalid" means one who is physically or mentally incapacitated from earning.

51.08.140..."Occupational disease." "Occupational disease" means such disease or infection as arises naturally and proximately out of employment under the mandatory or elective adoption provisions of this title.

51.08.142..."Occupational disease" — Exclusion of mental conditions caused by stress. The department shall adopt a rule pursuant to chapter 34.05 RCW that claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease in RCW 51.08.140.

51.08.150..."Permanent partial disability." "Permanent partial disability" means the loss of either one foot, one leg, one hand, one arm, one eye, one or more fingers, one or more toes, any dislocation where ligaments were severed where repair is not complete, or any other injury known in surgery to be permanent partial disability.

51.08.160..."Permanent total disability." "Permanent total disability" means loss of both legs, or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the worker from performing any work at any gainful occupation.

51.08.173..."Self-insurer." "Self-insurer" means an employer or group of employers which has been authorized under this title to carry its own liability to its employees covered by this title.

51.08.175..."State fund" — "State of Washington industrial insurance fund." "State fund" means those funds held by the state or any agency thereof for the purposes of this title. The "state of Washington industrial insurance fund" means the department when acting as the agency to insure the industrial insurance obligation of employers. The terms "state fund" and "state of Washington industrial insurance fund" shall be deemed synonymous when applied to the functions of the department connected with the insuring of employers who secure the payment of industrial insurance benefits through the state. The director shall manage the state fund and the state of Washington industrial insurance fund and shall have such powers as are necessary to carry out its functions and may reinsure any risk insured by the state fund.

51.08.177..."Successor." "Successor" means any person to whom a taxpayer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys, directly or indirectly, in bulk and not in the ordinary course of the taxpayer's business, a major part of the property, whether real or personal, tangible or intangible, of the taxpayer.
51.08.178..."Wages" — Monthly wages as basis of compensation — Computation thereof. 
(1) For the purposes of this title, the monthly wages the worker was receiving from all employment at 
the time of injury shall be the basis upon which compensation is computed unless otherwise provided 
specifically in the statute concerned. In cases where the worker’s wages are not fixed by the month, they 
shall be determined by multiplying the daily wage the worker was receiving at the time of the injury.

51.08.180..."Worker" — Exceptions. "Worker" means every person in this state who is engaged in the 
employment of an employer under this title, whether by way of manual labor or otherwise in the course 
of his or her employment; also every person in this state who is engaged in the employment of or who is 
working under an independent contract, the essence of which is his or her personal labor for an 
employer under this title, whether by way of manual labor or otherwise, in the course of his or her 
employment, or as an exception to the definition of worker, a person is not a worker if he or she meets 
the tests set forth in subsections (1) through (6) of RCW 51.08.195 or the separate tests set forth in RCW 
51.08.181 for work performed that requires registration under chapter 18.27 RCW or licensing under 
chapter 19.28 RCW: PROVIDED, That a person is not a worker for the purpose of this title, with respect 
to his or her activities attendant to operating a truck which he or she owns, and which is leased to a 
common or contract carrier.

51.08.181..."Worker" — Registered contractor and electrician exclusions. For the purposes of this title, 
any individual performing services that require registration under chapter 18.27 RCW or licensing under 
chapter 19.28 RCW for remuneration under an independent contract is not a worker when:

51.08.185..."Employee." "Employee" shall have the same meaning as "worker" when the context would 
so indicate, and shall include all officers of the state, state agencies, counties, municipal corporations, or 
other public corporations, or political subdivisions.

51.08.195..."Employer" and "worker" — Additional exception. As an exception to the definition of 
"employer" under RCW 51.08.070 and the definition of "worker" under RCW 51.08.180, services 
performed by an individual for remuneration shall not constitute employment subject to this title if it is 
shown that:

51.08.900...Construction — Title applicable to state registered domestic partnerships — 2009 c 521. 
For the purposes of this title, the terms spouse, marriage, marital, husband, wife, widow, widower, next 
of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or 
individuals in state registered domestic partnerships as well as to marital relationships and married 
persons, and references to dissolution of marriage shall apply equally to state registered domestic 
partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation 
does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-
specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be 
gender neutral, and applicable to individuals in state registered domestic partnerships.
**Common Property and Casualty Abbreviations**

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<tr>
<th>Abbreviation</th>
<th>Description</th>
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<td>ACV</td>
<td>Actual Cash Value</td>
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<td>AIP</td>
<td>Auto Insurance Policy</td>
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<td>BI</td>
<td>Bodily Injury</td>
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<td>BOP</td>
<td>Business Owners Policy</td>
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<td>BAP</td>
<td>Business Auto Policy</td>
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<td>CAP</td>
<td>Commercial Auto Policy</td>
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<td>CPP</td>
<td>Commercial Package Policy</td>
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<td>CGL</td>
<td>Commercial General Liability</td>
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<td>CPL</td>
<td>Comprehensive Personal Liability</td>
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<td>D &amp;O</td>
<td>Directors and Officers</td>
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<td>DOC</td>
<td>Drive Other Car</td>
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<td>ERP</td>
<td>Extended Reporting Period</td>
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<td>E &amp; O</td>
<td>Errors and Omissions</td>
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<td>(Fair) Market Value</td>
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<td>Homeowners</td>
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<td>ISO</td>
<td>Insurance Services Office</td>
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<td>NAIC</td>
<td>National Association of Insurance Commissioners</td>
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<td>OIC</td>
<td>Office of Insurance Commissioner</td>
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<td>OTC</td>
<td>Other Than Collision (Comprehensive – Auto)</td>
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<td>PAF</td>
<td>Personal Article Floater</td>
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<td>PAP</td>
<td>Personal Auto Policy</td>
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<td>PI</td>
<td>Personal Injury (3rd Party - Liability)</td>
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<td>PIP</td>
<td>Personal Injury Protection (1st Party Auto)</td>
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<td>PD</td>
<td>Property Damage (Liability)</td>
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<td>SIR</td>
<td>Self Insured Retention (Umbrella)</td>
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<td>Uninsured Motorist</td>
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<tr>
<td>UIM</td>
<td>Underinsured Motorist</td>
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<td>V &amp; MM</td>
<td>Vandalism and Malicious Mischief</td>
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<td>WA</td>
<td>State of Washington</td>
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<tr>
<td>WAIP</td>
<td>Washington Auto Insurance Plan</td>
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