

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**VIKING INSURANCE COMPANY OF WISCONSIN**  
Stevens Point, Wisconsin

**AS OF  
January 7, 2008**

**COMMONWEALTH OF PENNSYLVANIA**

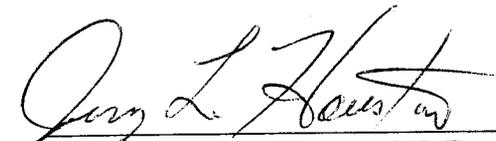


**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: February 20, 2008**

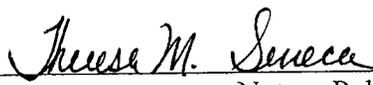
VERIFICATION

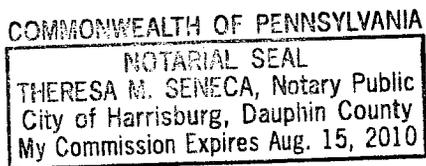
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

  
\_\_\_\_\_  
Jerry L. Houston, AIE, CPCU, Examiner-In-Charge

Sworn to and Subscribed Before me

This 28 Day of *November*, 2007

  
\_\_\_\_\_  
Notary Public



VIKING INSURANCE COMPANY OF WISCONSIN

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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 6<sup>th</sup> day of July, 2007, in accordance with  
Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921,  
P.L. 789, as amended, P.S. § 323.5, I hereby designate Randolph L. Rohrbaugh, Deputy  
Insurance Commissioner, to consider and review all documents relating to the market  
conduct examination of any company and person who is the subject of a market conduct  
examination and to have all powers set forth in said statute including the power to enter  
an Order based on the review of said documents. This designation of authority shall  
continue in effect until otherwise terminated by a later Order of the Insurance  
Commissioner.



  
\_\_\_\_\_  
Joel S. Ario  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
VIKING INSURANCE COMPANY	:	Act 1990-6, Sections 1705(a)(1) and
OF WISCONSIN	:	(4), 1738(d)(1) and (2), 1791,
1800 North Point Drive	:	1791.1(a) and (b), 1793(b), 1797(b)(1)
Stevens Point, WI 54481	:	and 1799.3(d)
	:	
	:	Section 5(a)(11) of the Unfair
	:	Insurance Practices Act, Act of July 22,
	:	1974, P.L. 589, No. 205
	:	(40 P.S. § 1171.5)
	:	
	:	Sections 2005(c), 2006(3) and (7) of
	:	Act 68 of 1998 (40 P.S. §§991.2005
	:	and 991.2006)
	:	
	:	Title 31, Pennsylvania Code,
	:	Sections 62.3(e)(4), 69.43, 69.53(a),
	:	69.55(a), 146.6 and 146.7(a)(1)
	:	
	:	Title 75, Pennsylvania Consolidated
	:	Statutes, Section 1822
	:	
	:	
Respondent.	:	Docket No. MC08-01-013

CONSENT ORDER

AND NOW, this 20<sup>th</sup> day of February, 2008, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra. or other applicable law.

#### FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is Viking Insurance Company of Wisconsin, and maintains its address at 1800 North Point Drive, Stevens Point, Wisconsin 54481.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2006 through December 31, 2006.
- (c) On January 7, 2008, the Insurance Department issued a Market Conduct Examination Report to Respondent.

- (d) Respondent did not submit a response to the Examination Report.
- (e) The Examination Report notes violations of the following:
  - (i) Sections 1705(a)(1) & (4) of Act 1990-6, Title 75, Pa.C.S. § 1705, which requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option;
  - (ii) Section 1738(c)(d)(1) and (2) of Act 1990-6, Title 75, Pa.C.S. § 1738, which requires the insurer to advise that named insured shall be informed that he may exercise the waiver for stacked uninsured and underinsured motorist coverage by signing written rejection forms;
  - (iii) Section 1791 of Act 1990-6, Title 75, Pa.C.S. § 1791, which states it shall be presumed that the insured has been advised of the benefits available under this chapter provided the notice is given to the insured at time of application;
  - (iv) Section 1791.1(a) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires that at the time of application for original coverage and every renewal

thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages." The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages;

- (v) Section 1791.1(b) of Act 1990-6, Title 75, Pa.C.S. § 1791, which requires an insurer to provide an insured with a notice of the availability of two alternatives of full tort insurance and limited tort insurance;
- (vi) Section 1793(b) of Act 1990-6, Title 75, Pa. C.S. § 1793, which requires the insurer to provide to the insured a surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and shall deliver the plan to each insured at least once annually. Additionally, the surcharge information plan shall be given to each

prospective insured at the time application is made for motor vehicle insurance coverage;

(vii) Section 1797(b)(1) of Act 1990-6, Title 75, Pa.C.S. § 1797, which requires insurers to contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services;

(viii) Section 1799.3(d) of Act 1990-6, Title 75, Pa.C.S. § 1799, which requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;

- (ix) Section 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. § 1171.5), which requires a company to maintain a complete record of all the complaints which it has received during the preceding four years. This record shall indicate the total number of complaints, their classifications by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint;
  
- (x) Section 2005(c) of Act 68 of 1998 (40 P.S. § 991.2005), which requires all insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance or as a result of any other factors;
  
- (xi) Section 2006(3) of Act 68 of 1998 (40 P.S. § 991.2006), which requires which requires an insurer to deliver or mail to the named insured a cancellation notice and state the specific reason or reasons of the insurer for cancellation;
  
- (xii) Section 2006(7) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa.C.S. § 1533, or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured

has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy;

(xiii) Title 31, Pennsylvania Code, Section 62.3(e)(4), which requires applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value;

(xiv) Title 31, Pennsylvania Code, Section 69.43, which requires an insurer to pay the provider's usual and customary charge for services rendered when the charge is less than 110% of the Medicare payment or a different allowance as may be determined. An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists. In calculating the usual and customary charge, an insurer may utilize the requested payment amount on the provider's bill for services or the data collected by the carrier or intermediaries to the extent that the data is made available. An insurer shall provide a complete explanation of the calculations made in computing its determination of the amount payable including whether the calculation is based on 110% of the Medicare payment, 80% of the usual and customary charge or at a different allowance determined by the Commissioner. A bill submitted by the provider delineating the services rendered and the information from which a determination could be made by the insurer as to the appropriate payment amount will not be construed as a demand for payment in excess of the permissible payment amount;

- (xv) Title 31, Pennsylvania Code, Section 69.53(a), which requires a Peer Review Organization to contract, in writing, jointly or separately with an insurer for the provision of peer review services as authorized by Act 1990-6 and this chapter;
- (xvi) Title 31, Pennsylvania Code, Section 69.55(a), which requires a PRO to apply in writing to the Commissioner for approval to contract with an insurer to provide peer review services in accordance with the act and this Chapter;
- (xvii) Title 31, Pennsylvania Code, Section 146.6, requires that every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;
- (xviii) Title 31, Pennsylvania Code, Section 146.7(a)(1), which requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to such provision, condition or exclusion is included in the denial. The denial must

be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial; and

- (xix) Title 75, Pennsylvania Consolidated Statutes, Section 1822, which requires not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states, in substance, the following: Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000.00.

#### CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department makes the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violations of Section 5(a)(11) of the Unfair Insurance Practices Act, No. 205 (40 P.S. §§ 1171.5) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. § 1171.9):

- (i) cease and desist from engaging in the prohibited activity;
  - (ii) suspension or revocation of the license(s) of Respondent.
- (c) In addition to any penalties imposed by the Department for Respondent's violations of the Unfair Insurance Practices Act (40 P.S. §§ 1171.1 – 1171.5), the Department may, under Sections 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
  - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).
- (d) Respondent's violations of Sections 2005 and 2006 of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. § 991.2013): Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).

- (e) Respondent's violations of Title 31, Pennsylvania Code, Sections 146.6 and 146.7 are punishable under Sections 9, 10 and 11 of the Unfair Insurance Practices Act (40 P.S. §§ 1171.9, 1171.10 and 1171.11), as stated above.

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Thirty Thousand Dollars (\$30,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.

(e) Payment of this matter shall be made by check payable to the Commonwealth of Pennsylvania. Payment should be directed to Sharon L. Fraser, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or it may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

7. Alternatively, in the event there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

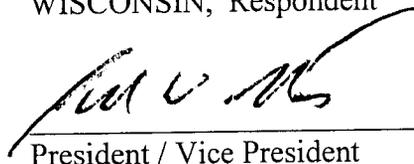
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

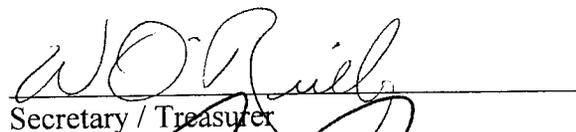
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

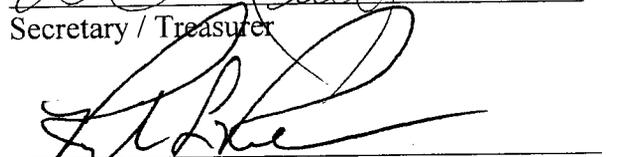
10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: VIKING INSURANCE COMPANY OF  
WISCONSIN, Respondent

  
\_\_\_\_\_  
President / Vice President

  
\_\_\_\_\_  
Secretary / Treasurer

  
\_\_\_\_\_  
COMMONWEALTH OF PENNSYLVANIA  
By: Randolph L. Rohrbaugh  
Deputy Insurance Commissioner

## I. INTRODUCTION

The market conduct examination was conducted at Viking Insurance Company of Wisconsin's office located in Stevens Point, Wisconsin, from July 30, 2007, through August 24, 2007. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review those areas of concern in order to determine the potential impact upon Company operations or future compliance. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in the Report may result in imposition of penalties.

In certain areas of review listed in this Report, the examiners will refer to "error ratio." This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations on 10 policies, the error ratio would be 10%.

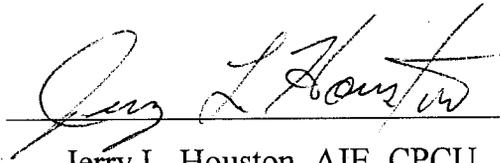
Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.

The courtesy and cooperation extended by the officers and employees of the Company during the course of the examination is hereby acknowledged.

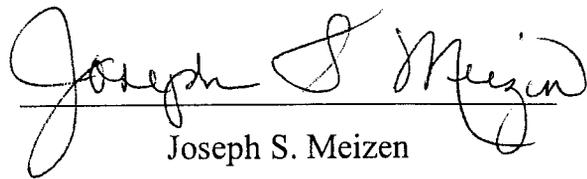
The undersigned participated in this examination and in preparation of this Report.



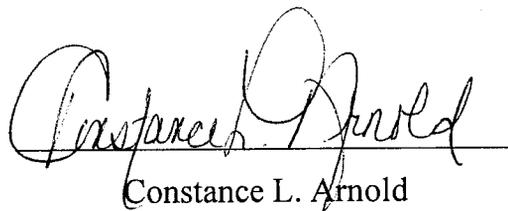
Chester A. Derk, Jr., AIE, HIA  
Market Conduct Division Chief



Jerry L. Houston, AIE, CPCU  
Market Conduct Examiner



Joseph S. Meizen  
Market Conduct Examiner



Constance L. Arnold  
Market Conduct Examiner

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Viking Insurance Company of Wisconsin, hereinafter referred to as "Company," at their office located in Stevens Point, Wisconsin. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of January 1, 2006, through December 31, 2006, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Private Passenger Automobile
  - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations and 60-day cancellations.
  - Rating – Proper use of all classification and rating plans and procedures.
2. Claims
3. Forms
4. Advertising
5. Complaints
6. Licensing

### III. COMPANY HISTORY AND LICENSING

Viking Insurance Company of Wisconsin was incorporated on August 10, 1971, under the laws of Wisconsin. It was licensed and began business on September 15, 1971. Business of the Company was conducted under the name Viking Insurance Company until August 29, 1973, when the words "of Wisconsin" were added to the title. The Company was redomiciled to the state of Colorado in 1999.

#### LICENSING

Viking Insurance Company of Wisconsin's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2007. The Company is licensed in all states except Alabama, Connecticut, Delaware, Florida, Georgia, Hawaii, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, North Carolina, South Carolina, Vermont, Virginia, West Virginia and Wyoming. The Company's 2006 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$4,840,538. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (personal injury protection) \$24,701; Other Private Passenger Auto Liability \$4,026,534 and Private Passenger Auto Physical Damage \$789,303.

#### **IV. UNDERWRITING PRACTICES AND PROCEDURES**

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Agency bulletins and Pennsylvania automobile product guides were furnished for private passenger automobile. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

No violations were noted.

## V. UNDERWRITING

### **A. Private Passenger Automobile**

#### 1. 60-Day Cancellations

A 60-day cancellation is considered to be any policy, which was cancelled within the first 60 days of the inception date of the policy.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited. These files were also reviewed for compliance with Act 68, Section 2002(b)(3) [40 P.S. §991.2002(b)(3)], which requires an insurer who cancels a policy of automobile insurance in the first 60 days, to supply the insured with a written statement of the reason for cancellation.

From the universe of 210 private passenger automobile files identified as being cancelled in the first 60 days of new business, 63 files were selected for review. All 63 files were received and reviewed. No violations were noted.

#### 2. Midterm Cancellations

A midterm cancellation is any policy that terminates at any time other than the normal twelve-month policy anniversary date.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited, and Section 2006 (40 P.S. §991.2006), which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

From the universe of 2,877 private passenger automobile files identified as midterm cancellations by the Company, 50 files were selected for review. All 50 files were received and reviewed. The 2,877 violations noted were based on the universe of 2,877 files, resulting in an error ratio of 100%.

The following findings were made:

*2,877 Violations Act 68, Section 2006(7) [40 P.S. §991.2006(7)]*

Requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa. C.S. §1533 (relating to suspension of operating privilege for failure to respond to a citation) or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy. The Company failed to include the required wording on the cancellation notice for nonpayment of premium.

3. Nonrenewals

A nonrenewal is considered to be any policy that was not renewed, for a specific reason, at the normal twelve-month policy anniversary date.

The purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited, and Section 2006 (40 P.S. §991.2006), which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

The universe of 15 private passenger automobile files identified as nonrenewals by the Company was selected for review. All 15 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 27%.

The following findings were made:

*4 Violations Act 68, Section 2006(3) [40 P.S. §991.2006(3)]*

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the specific reason or reasons of the insurer for cancellation. The Company failed to provide a specific reason for nonrenewal for the 4 files noted.

**B. Private Passenger Automobile – Assigned Risk**

The Company is an excused carrier under the assigned risk Limited Assignment Distribution procedure. Under this procedure groups of companies not under common ownership or management may form a Limited Assignment Distribution (LAD) arrangement. Each LAD arrangement has one servicing company, which writes assigned risk business on behalf of those members, which choose to buy out from their private passenger quota. As part of this arrangement the Company wrote no assigned risk business during the experience period.

## VI. RATING

### **A. Private Passenger Automobile**

#### 1. New Business

New business, for the purpose of this examination, is defined as policies written for the first time by the Company during the experience period.

The primary purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) [40 P.S. §1184], which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at that time. Files were also reviewed to determine compliance with all provisions of Act 6 of 1990 and Act 68, Section 2005(c) [40 P.S. §991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance or as a result of any other factors.

The Company processes and issues personal automobile policies using an automated system. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile – New Business Without Surcharges

From the universe of 8,977 private passenger automobile policies identified as new business without surcharges, 25 files were selected for review. All 25 files were received and reviewed. The 35,912 violations noted were based on the universe of 8,977, resulting in an error ratio of 100%.

The following findings were made:

*8,977 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The Company failed to provide the required notice at the time of application.

*8,977 Violations Title 75, Pa. C.S §1791.1(b)*

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application.

*4 Violations Title 75, Pa. C.S. §1738(d)(1)&(2)*

The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The Company did not provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the 4 files noted.

*8,977 Violations Title 75, Pa. C.S. §1791*

Requires the Company to advise the insured of the benefits and limits available under this Chapter in bold print of at least ten-point type at the time of application for original coverage. The notice the Company provided was not labeled "Important Notice" and is not verbatim. The Company also included additional language.

*8,977 Violations Title 75, Pa. C.S. §1705(a)(1)&(4)*

Requires every insurer, prior to the first issuance of a private passenger motor vehicle liability insurance policy to provide each applicant with the notice required by paragraph (1). A policy may not be issued until the applicant has been provided an opportunity to elect a tort option. The notice shall be standardized form as adopted by the Commissioner.

The notice provided by the Company was not the standardized form as adopted by the Commissioner.

Private Passenger Automobile - New Business With Surcharges

From the universe of 975 private passenger automobile policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 files were received and reviewed. The 4,876 violations noted were based on the universe of 975, resulting in an error ratio of 100%.

The following findings were made:

*1 Violation Title 75, Pa. C.S. §1705(a)(1)&(4)*

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The violation noted was the result of a policy issued with limited tort and no evidence of a signed limited tort selection form.

*975 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-

point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages." The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages. The Company failed to provide the required notice at the time of application.

*975 Violations Title 75, Pa. C.S §1791.1(b)*

Requires an insurer to provide an insured a notice of the availability of two alternatives of full tort insurance and limited tort insurance. The Company did not provide the notice of tort options to the insured at the time of application.

*975 Violations Act 68, Sec. 2005(c) [40 P.S. §991.2005(c)]*

All insurers shall provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance or as a result of any other factors.

*AND*

*Title 75, Pa. C.S. §1799.3(d)*

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the

manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to inform the named insured the manner in which the surcharge was made and the amount of the surcharge as required.

*975 Violations Title 75, Pa. C.S. §1791*

Requires the Company to advise the insured of the benefits and limits available under this Chapter in bold print of at least ten-point type at the time of application for original coverage. The notice the Company provided was not labeled "Important Notice" and is not verbatim. The Company also included additional language.

*975 Violations Title 75, Pa. C.S. §1705(a)(1)&(4)*

Requires every insurer, prior to the first issuance of a private passenger motor vehicle liability insurance policy to provide each applicant with the notice required by paragraph (1). A policy may not be issued until the applicant has been provided an opportunity to elect a tort option. The notice shall be standardized form as adopted by the Commissioner. The notice provided by the Company was not the standardized form as adopted by the Commissioner.

2. Renewals

A renewal is considered to be any policy, which was previously written by the Company and renewed on the normal twelve-month anniversary date.

The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) (40 P.S. §1184), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with Act 68, Section 2005(c) (40 P.S. §991.2005(c)), which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

The Company processes and issues personal automobile policies using an automated system. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

#### Private Passenger Automobile – Renewals Without Surcharges

From the universe of 1,064 private passenger automobile policies renewed without surcharges during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 2,128 violations noted were based on the universe of 1,064 files, resulting in an error ratio of 100%.

The following findings were made:

*1,064 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages." The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages. The Company failed to provide the required notice at the time of renewal.

*1,064 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance

coverage. The company failed to provide the surcharge disclosure plan at the time of renewal.

#### Private Passenger Automobile – Renewals With Surcharges

From the universe of 173 private passenger automobile policies renewed with surcharges during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 519 violations noted were based on the universe of 173 files, resulting in an error ratio of 100%.

The following findings were made:

#### *173 Violations Title 75, Pa. C.S. §1791.1(a)*

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: “The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages.” The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured’s existing coverages. The Company failed to provide the required notice at the time of renewal.

*173 Violations Title 75, Pa. C.S. §1793(b)*

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The company failed to provide the surcharge disclosure plan at the time of renewal.

*173 Violations Act 68, Section 2005(c) [40 P.S. §991.2005(c)]*

All insurers shall provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance or as a result of any other factors.

*AND*

*Title 75, Pa. C.S. §1799.3(d)*

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The Company failed to inform the named insured the manner in which the surcharge was made and the amount of surcharge as required.

## **B. Private Passenger Automobile – Assigned Risk**

The Company is an excused carrier under the assigned risk Limited Assignment Distribution procedure. Under this procedure groups of companies not under common ownership or management may form a Limited Assignment Distribution (LAD) arrangement. Each LAD arrangement has one servicing company, which writes assigned risk business on behalf of those members, which choose to buy out from their private passenger quota. As part of this arrangement the Company wrote no assigned risk business during the experience period.

## VII. CLAIMS

The Company was requested to provide copies of all established written claim handling procedures utilized during the experience period. Written claim handling procedures were received and reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

The Claims review consisted of the following areas of review:

- A. Automobile Property Damage Claims
- B. Automobile Comprehensive Claims
- C. Automobile Collision Claims
- D. Automobile Total Loss Claims
- E. Automobile First Party Medical Claims
- F. Automobile First Party Medical Claims Referred to a PRO

The primary purpose of the review was to determine compliance with Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices. The files were also reviewed to determine compliance with Act 205, Section 4 (40 P.S. §1171.4) and Section 5(a)(10)(vi) [40 P.S. §1171.5(a)(10)(vi)], Unfair Insurance Practices Act.

### **A. Automobile Property Damage Claims**

From the universe of 836 private passenger automobile property damage claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The violation noted resulted in an error ratio of 4%.

The following finding was made:

*1 Violation Title 31, Pa. Code, Section 146.7(a)(1)*

Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide a written denial letter for the claim noted.

#### **B. Automobile Comprehensive Claims**

From the universe of 79 private passenger automobile comprehensive claims reported during the experience period, 15 files were selected for review. All 15 files were received and reviewed. No violations were noted.

#### **C. Automobile Collision Claims**

From the universe of 209 private passenger automobile collision claims reported during the experience period, 25 files were selected for review. All 25 files were received and reviewed. The 3 violations noted were based on 3 files, resulting in an error ratio of 12%.

The following findings were made:

*3 Violations Title 31, Pa. Code, Section 146.6*

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The

Company did not provide timely status letters for the 3 claims noted.

#### **D. Automobile Total Loss Claims**

The universe of 10 private passenger automobile total loss claims reported during the experience period was selected for review. All 10 files were received and reviewed. The 5 violations noted were based on 5 files, resulting in an error ratio of 50%.

The following findings were made:

*5 Violations Title 31, Pa. Code, Section 62.3(e)(4)*

Requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value. The 5 files noted did not have sales tax included in the replacement value of the vehicle.

#### **E. Automobile First Party Medical Claims**

From the universe of 206 private passenger automobile first party medical claims reported during the experience period, 50 files were selected for review. All 50 files were received and reviewed. The 4 violations noted were based on 4 files, resulting in an error ratio of 8%.

The following findings were made:

*4 Violations Title 31, Pa. Code, Section 69.43*

An insurer shall pay the provider's usual and customary charge for services rendered when the charge is less than 110% of the Medicare payment or a different allowance as

may be determined under §69.12(b). An insurer shall pay 80% of the provider's usual and customary charge rendered if no Medicare payment exists. In calculating the usual and customary charge, an insurer may utilize the requested payment amount on the provider's bill for services or the data collected by the carrier or intermediaries to the extent that the data is made available. An insurer shall provide a complete explanation of the calculations made in computing its determination of the amount payable including whether the calculation is based on 110% of the Medicare payment, 80% of the usual and customary charge or at a different allowance determined by the Commissioner under §69.12(b). A bill submitted by the provider delineating the services rendered and the information from which a determination could be made by the insurer as to the appropriate payment amount will not be construed as a demand for payment in excess of the permissible payment amount. The Company failed to have medical bills repriced or adjusted for cost containment for the 4 claims noted.

**F. Automobile First Party Medical Claims Referred to a PRO**

The Company did not report any private passenger automobile first party medical claims referred to a peer review organization. The Company was requested to provide copies of all peer review contracts in place during the experience period. No written contracts were provided.

The following finding was made:

*1 Violation Title 31, Pa. Code, Section 69.53(a)*

A Peer Review Organization shall contract, in writing, jointly or separately with an insurer for the provision of peer review services as authorized by Act 1990-6 and this chapter.

AND

*Title 75, Pa. C.S. §1797(b)(1)*

Peer review plan for challenges to reasonableness and necessity of treatment. Peer review plan. Insurers shall contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services.

AND

*Title 31, Pa. Code, Section 69.55(a)*

A PRO shall apply in writing to the Commissioner for approval to contract with an insurer to provide peer review services in accordance with the act and this Chapter. The Company did not have a written contract in place with an approved peer review organization during the experience period.

### VIII. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with Insurance Company Law, Section 354 (40 P.S. §477b), Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting and claim files were also reviewed to verify compliance with Title 75, Pa. C.S. §1822, which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage.

The following findings were made:

#### Private Passenger Automobile Rating – Renewals Without Surcharges

*1,064 Violations Title 75, Pa. C.S. §1822*

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." The Company did not provide the fraud warning on the renewal.

Private Passenger Automobile Rating – Renewals Without Surcharges

*173 Violations Title 75, Pa. C.S. §1822*

Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of up to \$15,000." The Company did not provide the fraud warning on the renewal.

## IX. ADVERTISING

The Company was requested to provide copies of all advertising, sales material and internet advertisements in use during the experience period.

The purpose of this review was to determine compliance with Act 205, Section 5 [40 P.S. §1171.5], which defines unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as well as Title 31, Pennsylvania Code, Section 51.2(c) and Section 51.61.

The Company provided 15 pieces of advertising which included brochures, agent's kits, bulletins and a newsletter. The Company's website was also reviewed. No violations were noted.

## X. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 7 consumer complaints received during the experience period and provided all consumer complaint logs requested. All 7 complaint files were selected, received and reviewed.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). Section 5(a)(11) of the Act requires a Company to maintain a complete record of all complaints received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint.

The following finding was made:

*1 Violation Act 205, Section 5(a)(11) [40 P.S. §1171.5(a)(11)]*

Requires an insurer to maintain a complete record of all the complaints, which it has received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and time it took to process each complaint. The 2005 complaint log was incomplete. The Company failed to include the classification by line of insurance, nature of each complaint and the disposition.

The following synopsis reflects the nature of the 7 complaints that were reviewed.

• 3	Cancellation	43%
• 3	Claims	43%
• 1	Miscellaneous	14%
<hr/>		<hr/>
7		100%

## *XI. LICENSING*

In order to determine compliance by the Company and its agency force with the licensing requirements applicable to Section 641.1(a) [40 P.S. §310.41(a) and Section 671-A [40 P.S. §310.71] of the Insurance Department Act No. 147, the Company was requested to furnish a list of all active producers during the experience period and a listing of all producers terminated during the experience period. Underwriting files were checked to verify proper licensing and appointment.

No violations were noted.

## *XII. RECOMMENDATIONS*

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other statutory or regulatory violations, noted in the Report.

1. The Company must review and revise internal control procedures to ensure compliance with cancellation and nonrenewal notice requirements of Act 68, Section 2006 [40 P.S. §§991.2006], so that the violations noted in the Report do not occur in the future.
2. The Company must review Title 75, Pa. C.S. §1791.1(b) to ensure the notice of tort options is provided at the time of application, as noted in the Report, and does not occur in the future.
3. The Company must review Title 75, Pa. C.S. §1791.1(a) violations to ensure that an itemized invoice listing minimum coverages is provided at the time of application and every renewal thereafter as noted in the Report do not occur in the future.
4. The Company must review Title 75, Pa. C.S. §1791 violations to ensure that the notice of available benefits is given to the insured with the correct language at the time of application as noted in the Report.
5. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file.

The form must be provided verbatim. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(1)(4) do not occur in the future.

6. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under Title 75, Pa. C.S. §1738(d)(1) and (2) do not occur in the future.
7. The Company must review Title 75, Pa. C.S. 1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan at the time of renewal, as noted in the Report, do not occur in the future.
8. When a surcharge is imposed on a private passenger automobile policy the Company must provide a surcharge disclosure and clearly identify the amount of the surcharge on the premium notice. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Act 68, Sec. 2005(c) [40 P.S. §991.2005(c)] and Title 75, Pa. C.S. §1799.3(d) do not occur in the future.
9. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to status letters and denials as noted in the Report do not occur in the future.

10. The Company must review Title 31, Pa. Code, Section 62.3(e)(4) with its claim staff to ensure that sales tax is included in the replacement value of a motor vehicle. The Company must review all claims where sales tax was not included in the replacement value of a motor vehicle. The sales tax must be paid to the claimant and proof of such payment must be provided to the Insurance Department within 30 days of the Report issue date.
  
11. The Company must review Title 31, Pa. Code, Sections 69.43 with its claim staff to ensure that provider bills are repriced for cost containment as required.
  
12. The Company must review Title 31, Pa. Code, Sections 69.53(a), 69.55(a) and Title 75, Pa. C.S. §1797(b)(1) with its claim staff to ensure that a written contract is in place with an approved peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary.
  
13. The Company must review Act 205, Section 5(a)(11) [40 P.S. §1171.5(a)(11)], to ensure that the violations relative to complaint records noted in the Report does not occur in the future.
  
14. The Company must ensure that all renewals contain the required fraud warning notice.

**XIII. COMPANY RESPONSE**

*The Company did not submit a response to the Examination Report*