Pennsylvania Insurance Department Anti-Fraud Matrix of Compliance Requirements

Antifraud Element	Compliance Reference/Note
INSURANCE FRAUD – *including claim fraud, application fraud, unlicensed or unauthorized insurance activity, false statements to governmental agencies regarding motor vehicle insurance rate filing or motor vehicle transactions.*	18 Pa. C.S.A. § 4117, Insurance Fraud
FRAUD WARNING NOTICE – *mandatory on all applications and claim forms, and for motor vehicle insurers on renewals.*	18 Pa. C.S.A. § 4117(k)(1), Specific notice required on all applications and claim forms, applicable to all insurers. [Notice requirement at 75 Pa. C.S.A. § 1822 is satisfied by use of Title 18, Crimes Code notice.] 40 P.S. § 626.10(b), Viaticals
INSURANCE FRAUD REPORTING TO CRIMINAL LAW ENFORCEMENT - *within 30 days of determining reasonable basis to believe fraud has occurred/is occurring. ** See PA Bulletin 2017-10 for further clarification*	40 P.S. § 325.44, 325.45, Insurer Compliance (mandatory) 40 P.S. § 626.10(c), Viaticals (mandatory) 40 P.S. § 1610.3(b), Arson (mandatory) 75 Pa. C.S.A. § 1817, Motor Vehicle Code (mandatory) 77 P.S. § 1040.5, Workers' Compensation Act
LICENSEE FRAUD REPORTING TO PA INSURANCE DEPT.	31 PA § 37.61(b)(7), Insurance Regulations
POLICYHOLDER INVESTIGATION NOTIFICATION	75 Pa. C.S.A. §§ 1795(b), Motor Vehicle Code
IMMUNITY – *both civil and criminal immunity are provided for in the reporting of suspected insurance fraud*	18 Pa. C.S.A. § 4117(f), Crimes Code 40 P.S. § 325.24, Insurance Fraud Prevention Trust Fund 40 P.S. § 325.47, Insurance Fraud Section of OAG 40 P.S. § 326.7, Automobile Theft Prevention Authority 40 P.S. § 474.1, Immunity from liability 40 P.S. § 626.10(d), Viaticals 40 P.S. § 1610.4, Arson Reporting Immunity Act 75 Pa. C.S.A. §§ 1795, 1818 and 1824, Motor Vehicle Code 77 P.S. § 1039.7, Workers' Compensation

Pennsylvania Insurance Department Anti-Fraud Matrix of Compliance Requirements

Antifraud Element	Compliance Reference/Note
ANTI-FRAUD PLANS **Motor Vehicle Insurers** –** *file within 6 months of licensure, re-file within 30 days of modification* **Workers' Compensation Insurers** –** *certify plan implementation within 4 months of commencing business* **Viaticals -** *certify plan implementation within 60 days of licensure* ** Insurers who do not intend to write PA business may so certify in lieu of plan filing	Title 31 Pa. Code, Chapter 119, Statement of Policy, WC Antifraud Plans and Reporting 40 P.S. § 626.10(g), Viaticals 75 Pa. C.S.A. §§ 1811, 1812 and 1813, Motor Vehicle Code 77 P.S. § 1040.3, Mandated implementation and use of WC Antifraud Plan
ANTI-FRAUD REPORTING – *mandatory annual reporting, by March 31st for prior year's activity.* ** Insurers who do not write PA business may so certify in lieu of completing report.	31 PA § 119.24, Anti-fraud Plan Annual Reports 40 P.S. § 626.10(g), Viaticals 75 Pa. C.S.A. § 1814, Motor Vehicle Code 77 P.S. § 1040.4, Workers' Compensation Act
CLAIMS DATABASE – *mandatory*	75 Pa. C.S.A. § 1821, Motor Vehicle Code
SPECIAL INVESTIGATIONS UNITS, STAFFING AND EXPERIENCE REQUIREMENTS	Anti-fraud plans must detail fraud detection, investigation and reporting procedures
ANTI-FRAUD EDUCATION AND TRAINING	Anti-fraud plans must detail prevention and detection procedures
EXCLUDING THE COST OF INSURANCE FRAUD FROM MOTOR VEHICLE INSURANCE RATES	75 Pa. C.S.A. § 1812, Motor Vehicle Code – Anti-fraud plans must detail a procedure for excluding insurance fraud cost from motor vehicle insurance rate bases
INSURER ASSESSMENTS, *annually on prior year's Pennsylvania direct premium*	40 P.S. § 325.23, Insurance Fraud Prevention Trust Fund 40 P.S. § 326.6, Automobile Theft Prevention Authority
INSURANCE FRAUD BY AGENTS OR BROKERS	40 P.S. § 310.42 and 310.96, Regulation of Insurance Producers 31 PA § 37.61, Insurance Regulations 75 Pa. C.S.A. § 1817, Motor Vehicle Code
TERMINATIONS FOR CAUSE, REQUIRED REPORTING TO PA INSURANCE DEPARTMENT	31 PA § 37.61, Insurance Regulations 75 Pa. C.S.A. § 1817, Motor Vehicle Code

Antifraud Element	Compliance Reference/Note
CRIMINAL CONDUCT REPORTING	**40 P.S. § 310.78(b)**, Criminal Conduct Reporting
FEDERAL REQUIREMENTS	**18 USC § 1033**, Crimes by or affection persons engaged in the business of insurance whose activities affect interstate commerce **18 USC § 1033(e)(1)(A)**, Prohibiting a convicted felon from engaging in insurance **18 USC § 1033 (e)(1)(B)**, Permitting a convicted felon to engage in insurance Exception, **18 USC § 1033(e)(2)** Civil Penalties, **18 USC § 1034**
SELECT SECTIONS PA Title 18 US Code 18 PA Title 31 PA Title 40 PA Title 75 PA Title 77	

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§ 4117. Insurance fraud.

(a) Offense defined.--A person commits an offense if the person does any of the following:

(1) Knowingly and with the intent to defraud a State or local government agency files, presents or causes to be filed with or presented to the government agency a document that contains false, incomplete or misleading information concerning any fact or thing material to the agency's determination in approving or disapproving a motor vehicle insurance rate filing, a motor vehicle insurance transaction or other motor vehicle insurance action which is required or filed in response to an agency's request.

(2) Knowingly and with the intent to defraud any insurer or self-insured, presents or causes to be presented to any insurer or self-insured any statement forming a part of, or in support of, a claim that contains any false, incomplete or misleading information concerning any fact or thing material to the claim.

(3) Knowingly and with the intent to defraud any insurer or self-insured, assists, abets, solicits or conspires with another to prepare or make any statement that is intended to be presented to any insurer or self-insured in connection with, or in support of, a claim that contains any false, incomplete or misleading information concerning any fact or thing material to the claim, including information which documents or supports an amount claimed in excess of the actual loss sustained by the claimant.

(4) Engages in unlicensed agent, broker or unauthorized insurer activity as defined by the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of one thousand nine hundred and twenty-one, knowingly and with the intent to defraud an insurer, a self-insured or the public.

(5) Knowingly benefits, directly or indirectly, from the proceeds derived from a violation of this section due to the assistance, conspiracy or urging of any person.

(6) Is the owner, administrator or employee of any health care facility and knowingly allows the use of such facility by any person in furtherance of a scheme or conspiracy to violate any of the provisions of this section.

(7) Borrows or uses another person's financial responsibility or other insurance identification card or permits his financial responsibility or other insurance identification card to be used by another, knowingly and with intent to present a fraudulent claim to an insurer.

(8) If, for pecuniary gain for himself or another, he directly or indirectly solicits any person to engage, employ or retain either himself or any other person to manage, adjust or prosecute any claim or cause of action against any person for damages for negligence or, for pecuniary gain for himself or another, directly or indirectly solicits other persons to bring causes of action to recover damages for personal injuries or death, provided, however, that this paragraph shall not apply to any conduct otherwise permitted by law or by rule of the Supreme Court.

(b) Additional offenses defined.--

(1) A lawyer may not compensate or give anything of value to a nonlawyer to recommend or secure employment by a client or as a reward for having made a recommendation resulting in employment by a client; except that the lawyer may pay:

(i) the reasonable cost of advertising or written communication as permitted by the rules of professional conduct; or

(ii) the usual charges of a not-for-profit lawyer referral service or other legal service organization.

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Upon a conviction of an offense provided for by this paragraph, the prosecutor shall certify such conviction to the disciplinary board of the Supreme Court for appropriate action. Such action may include a suspension or disbarment.

(2) With respect to an insurance benefit or claim covered by this section, a health care provider may not compensate or give anything of value to a person to recommend or secure the provider's service to or employment by a patient or as a reward for having made a recommendation resulting in the provider's service to or employment by a patient; except that the provider may pay the reasonable cost of advertising or written communication as permitted by rules of professional conduct. Upon a conviction of an offense provided for by this paragraph, the prosecutor shall certify such conviction to the appropriate licensing board in the Department of State which shall suspend or revoke the health care provider's license.

(3) A lawyer or health care provider may not compensate or give anything of value to a person for providing names, addresses, telephone numbers or other identifying information of individuals seeking or receiving medical or rehabilitative care for accident, sickness or disease, except to the extent a referral and receipt of compensation is permitted under applicable professional rules of conduct. A person may not knowingly transmit such referral information to a lawyer or health care professional for the purpose of receiving compensation or anything of value. Attempts to circumvent this paragraph through use of any other person, including, but not limited to, employees, agents or servants, shall also be prohibited.

(4) A person may not knowingly and with intent to defraud any insurance company, self-insured or other person file an application for insurance containing any false information or conceal for the purpose of misleading information concerning any fact material thereto.

(c) Electronic claims submission.--If a claim is made by means of computer billing tapes or other electronic means, it shall be a rebuttable presumption that the person knowingly made the claim if the person has advised the insurer in writing that claims will be submitted by use of computer billing tapes or other electronic means.

(d) Grading.--An offense under subsection (a)(1) through (8) is a felony of the third degree. An offense under subsection (b) is a misdemeanor of the first degree.

(e) Restitution.--The court may, in addition to any other sentence authorized by law, sentence a person convicted of violating this section to make restitution.

(f) Immunity.--An insurer, and any agent, servant or employee thereof acting in the course and scope of his employment, shall be immune from civil or criminal liability arising from the supply or release of written or oral information to any entity duly authorized to receive such information by Federal or State law, or by Insurance Department regulations.

(g) Civil action.--An insurer damaged as a result of a violation of this section may sue therefor in any court of competent jurisdiction to recover compensatory damages, which may include reasonable investigation expenses, costs of suit and attorney fees. An insurer may recover treble damages if the court determines that the defendant has engaged in a pattern of violating this section.

(h) Criminal action.--

(1) The district attorneys of the several counties shall have authority to investigate and to institute criminal proceedings for any violation of this section.

(2) In addition to the authority conferred upon the Attorney General by the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General shall have the authority to investigate and to institute criminal proceedings for any violation of this section or any series of such violations involving more than one county of the Commonwealth or involving any county of the Commonwealth and another state. No person charged with a violation of this section by the Attorney General shall have standing to challenge the authority of the Attorney General to investigate or prosecute the case, and, if any such challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of the Commonwealth to the person making the challenge.

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(i) Regulatory and investigative powers additional to those now existing.--Nothing contained in this section shall be construed to limit the regulatory or investigative authority of any department or agency of the Commonwealth whose functions might relate to persons, enterprises or matters falling within the scope of this section.

(j) Violations, penalties, etc.--

(1) If a person is found by court of competent jurisdiction, pursuant to a claim initiated by a prosecuting authority, to have violated any provision of this section, the person shall be subject to civil penalties of not more than $5,000 for the first violation, $10,000 for the second violation and $15,000 for each subsequent violation. The penalty shall be paid to the prosecuting authority to be used to defray the operating expenses of investigating and prosecuting insurance fraud. The court may also award court costs and reasonable attorney fees to the prosecuting authority.

(2) Nothing in this subsection shall be construed to prohibit a prosecuting authority and the person accused of violating this section from entering into a written agreement in which that person does not admit or deny the charges but consents to payment of the civil penalty. A consent agreement may not be used in a subsequent civil or criminal proceeding, but notification thereof shall be made to the licensing authority if the person is licensed by a licensing authority of the Commonwealth so that the licensing authority may take appropriate administrative action. Penalties paid under this section shall be deposited into the Insurance Fraud Prevention Trust Fund created under the act of December 28, 1994 (P.L.1414, No.166), known as the Insurance Fraud Prevention Act.

(3) The imposition of any fine or other remedy under this section shall not preclude prosecution for a violation of the criminal laws of this Commonwealth.

(k) Insurance forms and verification of services.--

(1) All applications for insurance and all claim forms shall contain or have attached thereto the following notice:

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

(2) (Repealed).

(l) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Insurance policy." A document setting forth the terms and conditions of a contract of insurance or agreement for the coverage of health or hospital services.

"Insurer." A company, association or exchange defined by section 101 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921; an unincorporated association of underwriting members; a hospital plan corporation; a professional health services plan corporation; a health maintenance organization; a fraternal benefit society; and a self-insured health care entity under the act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act.

"Person." An individual, corporation, partnership, association, joint-stock company, trust or unincorporated organization. The term includes any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, beneficial association and any other legal entity engaged or proposing to become engaged, either directly or indirectly, in the business of insurance, including agents, brokers, adjusters and health care plans as defined in 40 Pa.C.S. Chs. 61 (relating to hospital plan corporations), 63 (relating to professional health services plan corporations), 65 (relating to fraternal benefit societies) and 67 (relating to beneficial societies) and the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act. For

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purposes of this section, health care plans, fraternal benefit societies and beneficial societies shall be deemed to be engaged in the business of insurance.

"Self-insured." Any person who is self-insured for any risk by reason of any filing, qualification process, approval or exception granted, certified or ordered by any department or agency of the Commonwealth.

"Statement." Any oral or written presentation or other evidence of loss, injury or expense, including, but not limited to, any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X-ray, test result or computer-generated documents.

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18 U.S. Code § 1033 - Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

(a)

(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and knowingly, with the intent to deceive, makes any false material statement or report or willfully and materially overvalues any land, property or security—

(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner, shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court.

(b)

(1) Whoever—

(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

(c)

(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to deceive any person, including any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person, about the

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financial condition or solvency of such business shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years.

(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

(e)

(1)

(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

(f) As used in this section—

(1) the term “business of insurance” means—

(A) the writing of insurance, or

(B) the reinsuring of risks, by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

(2) the term “insurer” means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

(3) the term “interstate commerce” means—

(A) commerce within the District of Columbia, or any territory or possession of the United States;

(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

(C) all commerce between points within the same State through any place outside such State; or

(D) all other commerce over which the United States has jurisdiction; and

(4) the term "State" includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

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18 U.S. Code § 1034 - Civil penalties and injunctions for violations of section 1033

(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the appropriate regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.
(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

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Chapter 37 AGENT CERTIFICATES OF QUALIFICATION AND BROKER LICENSES

RESPONSIBILITIES OF INSURANCE ENTITIES

§ 37.61. Appointments and termination by entity.

(a) A certificate does not permit a person to act as an agent. To complete the certificate process to act as an agent, a person shall secure a written appointment from each sponsoring entity.

(1) An insurance entity shall make appointments of agents in writing to the agent.

(2) If an entity enters into a contract with the agent, the effective date of the appointment shall be the same as the effective date of the contract.

(3) An insurance entity's appointment form shall contain at least the following:

(i) The effective date of the appointment.

(ii) The lines of authority conferred.

(iii) The name and address of the appointee, and any fictitious name currently used by appointee.

(iv) The appointee's certificate number.

(v) The names and certificate numbers of qualifying active partners, if the appointee is a partnership, or qualifying active officers, if the appointee is a corporation.

(vi) The appointee's Social Security number or tax identification number.

(vii) A list of companies and insurer numbers, if fleet appointment.

(4) Appointment activity by an entity for existing certificate holders shall be reported to the Department on a monthly basis. The report shall be in a format approved by the Department. The report shall be filed within 30 days of the end of the month being reported.

(5) Appointment records, including a demonstration of the reasonable inquiry conducted by the entity as required in § 37.62(b)(1) (relating to certification of appointments by entities), shall be made available for Department inspection upon demand. Both the entity and appointee shall maintain records of the appointment during the appointment period and for 5 years following expiration or termination of the appointment. The records may be maintained on a regional basis if the entity designates a single contact person for each reporting region.

(b) An entity may terminate an agent's appointment.

(1) Terminations shall be in writing and sent to the agent prior to notification of termination to the Department.

(2) If an entity has entered into a contract with the agent, the termination date of the appointment shall be the same as the termination date of the contract.

(3) The termination notice to the agent shall contain at least the following:

(i) The name of the entity for which the agent is being terminated.

(ii) The effective date of termination.

(iii) The lines of authority terminated.

(iv) The name and address of terminated appointee, including fictitious names used by appointee.

(v) The certificate number of the terminated appointee.

(vi) The Social Security number or tax identification number of the terminated appointee.

(vii) The names of qualifying active partners or qualifying active officers, if the terminated appointee is a partnership or corporation.

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(4) Termination activity by an entity shall be reported to the Department on a monthly basis. The report shall be in a format approved by the Department. The report shall be filed within 30 days of the end of the month being reported.

(5) Termination initiated by an appointee shall be confirmed by an entity in its termination form and reported to the Department as required by this section.

(6) An entity shall maintain termination records for 5 years after termination is effective.

(7) When a termination of an appointee is for cause, the entity shall document its reasons for termination to the attention of Chief, Bureau of Enforcement, Insurance Department, Harrisburg, Pennsylvania 17120.

(8) If an appointment has been terminated on the records of the Department, it may not be revived. The company shall issue a new appointment with a new effective date in the standard appointment format.

(9) An entity shall file a termination of an appointment when the agent ceases performing the activities of an agent for the entity.

(c) Appointment and termination records required under this section may be maintained in the form of electronic paperless filing systems in accordance with guidelines for record retention developed and distributed by the Department.

Cross References

This section cited in 31 Pa. Code § 37.45 (relating to contractual relationship of brokers and agents); and 31 Pa. Code § 39.6 (relating to sponsors).

Chapter 119. Anti-Fraud—Statement of Policy

GENERAL
119.1. Definitions.

INSURANCE FRAUD REPORTING
119.11. Insurance claims fraud reporting, investigation and prosecution.

ANTI-FRAUD PLANS
119.21. Department referrals to criminal law enforcement authorities.
119.22. Institution and maintenance of anti-fraud plans.
119.23. Anti-fraud plan certification.
119.24. Anti-fraud plan annual reports.
119.25. Reporting of fraud to criminal law enforcement authorities.
119.26. Monitoring of insurer compliance with anti-fraud requirements.

GENERAL
§ 119.1. Definitions.
The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Workers' Compensation Act (77 P. S. §§ 1—1041.4).

Department—The Insurance Department of the Commonwealth.

INSURANCE FRAUD REPORTING
§ 119.11. Insurance claims fraud reporting, investigation and prosecution.
Insurers, as defined in section 1101 of the act (77 P. S. § 1039.1) should report an incidence of workers' compensation insurance fraud to State and local criminal law enforcement agencies.

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(1) Sections 1106 and 1107 of the act (77 P. S. §§ 1039.6 and 1039.7) provide incentives for active reporting of fraud by an express grant of civil and criminal immunity to insurers and their representatives and the opportunity to pursue restitution through judicial proceedings.
(2) Section 1109 of the act (77 P. S. § 1039.9) expressly authorizes district attorneys or the Attorney General, or both, to investigate and prosecute instances of fraud as identified in Article XI of the act (77 P. S. §§ 1039.1— 1039.12).
(3) The Department will look to insurers to report an incidence of fraud directly to district attorneys or the Attorney General, or both, and, when practical, seek court ordered restitution to compensate for fraud-related losses.

ANTIFRAUD PLANS

§ 119.21. Department referrals to criminal law enforcement authorities.

Section 1202 of the act (77 P. S. § 1040.2) authorizes the Department to report to and cooperate with criminal law enforcement agencies with respect to Article XI of the act (77 P. S. §§ 1039.1—1039.12). Department actions under this section will be limited to cases in which the incidence of fraud involves the specific acts of insurers, agents, brokers or other entities required to be licensed to engage in the business of insurance in this Commonwealth. The Department's actions under this section may be in addition to or in lieu of its exercise of its civil jurisdiction over entities engaged in the business of insurance in this Commonwealth. In addition, when an insurer makes a direct case referral involving an agent or broker to a criminal law enforcement authority, the insurer shall also refer the matter to the Department for possible civil action under the insurance laws and regulations of the Commonwealth.

§ 119.22. Institution and maintenance of anti-fraud plans.

(a) Section 1203 of the act (77 P. S. § 1040.3) requires insurers, as defined in section 1101 of the act (77 P. S. § 1039.1), to institute and maintain an insurance anti-fraud plan. This requirement applies to a workers' compensation insurer with workers' compensation premium volume as of August 31, 1993. Workers' compensation insurers which become licensed or commence a writing premium volume, or both, after August 31, 1993, should institute and maintain an antifraud plan within 4 months of commencing to write business. Maintenance of the anti-fraud plan includes its ongoing implementation and operation by insurers. Since a substantial number of workers' compensation insurers also actively write motor vehicle insurance, the Department encourages insurers to merge their workers' compensation anti-fraud initiatives into their established motor vehicle insurance anti-fraud plans established under 75 Pa.C.S. Chapter 18 (relating to motor vehicle insurance fraud). The content of each insurers' workers' compensation anti-fraud plan should reflect the following minimum requirements:

(1) Policies and procedures established by the insurer to prevent workers' compensation insurance fraud. The policies and procedures should cover all aspects of the insurer's operation and recognize the wide variety of potential fraudulent activity. Procedures should address internal fraud, fraud involving the integrity and security of company data including electronic data processed information, fraud involving employes or company representatives, and fraud resulting from misrepresentation on applications and renewals for insurance coverage and claims fraud. Detailed information should be provided describing existing procedure manuals, internal policies, guidelines and employe training programs implemented by the insurer to prevent fraud. It is recommended that specific policies and procedures be either included in the anti-fraud plan or, if the policies and procedures are voluminous, appropriately summarized.
(2) Policies and procedures established by the workers' compensation insurer to detect and investigate possible insurance fraud in the claims process. Reference should be

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made to specific procedure manuals, internal policies, guidelines and training initiatives designed to detect fraud in the claims process.

(3) Policies and procedures established by the insurer to report workers' compensation insurance fraud to appropriate criminal law enforcement agencies, including procedures to cooperate with and monitor progress of the agencies in their fraud cases.

(b) To facilitate the Department's understanding of insurers' administration of their anti-fraud procedures, insurers are encouraged to cover the following areas in their plans:

(1) Organizational components involved in or affected by the policies and procedures, including key positions involved.

(2) Roles and interrelationships of components as they relate to the policies and the procedures described.

(3) Personnel resources involved and budget allocations to implement the anti-fraud policies and procedures.

(4) Extra-company relationships with central claims data bases and criminal law enforcement authorities as they relate to the policies and procedures implemented for anti-fraud plans.

§ 119.23. Anti-fraud plan certification.

Each insurer writing workers' compensation insurance as of August 31, 1993, shall certify in writing to the Department by December 31, 1993, that it has instituted and is maintaining an anti-fraud plan that satisfies the requirements of the act as explained by this chapter. An insurer newly licensed and writing coverage on and after August 31, 1993, shall certify within 4 months of commencement of writing coverage that it has instituted and maintains an anti-fraud plan. Letters of certification should be filed with Dennis C. Shoop, Director, Bureau of Enforcement, Insurance Department, 1321 Strawberry Square, Harrisburg, Pennsylvania, 17120.

§ 119.24. Anti-fraud plan annual reports.

(a) Section 1204 of the act (77 P. S. § 1040.4) requires insurers to report annually to the Department a summary of actions taken under their anti-fraud plans to prevent and combat fraud. Annual reports under this section should cover anti-fraud activities for each calendar year. The first annual report should cover the period August 31, 1993, through December 31, 1994, and shall be filed with the Department by March 31, 1995. Thereafter, reports are to be filed by March 31 of each year and cover the previous calendar year's anti-fraud activities. The annual report should provide detailed information on the following:

(1) Specific actions taken by the insurer during the year to prevent and combat insurance fraud. The actions should be thoroughly described in the annual report and should contain statistical information relating to the number of cases of detected fraud, including the status of disposition of those cases, the number of personnel and other resources committed to detecting and combating fraud, the total dollar cost of fraud and the savings attributed to detected fraud or otherwise recovered by the insurer.

(2) Measures implemented throughout the year to provide for the integrity and security of fraud related data and information collected and maintained. The measures apply to data collected and maintained in a manual or automated environment.

(3) Originating sources of the information on the fraudulent activity—for example, an agent, adjuster, employe, policyholder or citizen.

(b) The annual reports should be submitted to the Department in a standard report format, including a table of contents, summary, subdivisions of information in the report, including tables and graphs necessary to clearly illustrate the statistical information. Additionally, insurers should identify the person responsible for preparing and filing the annual report. The Department may

require that the insurer clarify items addressed in the report or provide additional information relative to the annual report.
(c) Workers' compensation insurers which also write motor vehicle insurance may file a single annual report for both motor vehicle and workers' compensation insurance anti-fraud activities. The combined report shall segregate the information reported for both motor vehicle and workers' compensation lines of business. The reports should be sent to the attention of the Insurance Department, Dennis C. Shoop, Director, Bureau of Enforcement, 1321 Strawberry Square, Harrisburg, Pennsylvania, 17120.

§ 119.25. Reporting of fraud to criminal law enforcement authorities.
Consistent with section 1109 of the act (77 P. S. § 1039.9), section 1205 of the act (77 P. S. § 1040.5) authorizes insurers to refer an incidence of fraud to criminal law enforcement agencies. Workers' compensation insurers should refer cases directly to criminal law enforcement authorities and cooperate with and assist those authorities when requested.

§ 119.26. Monitoring of insurer compliance with anti-fraud requirements.
The Department will audit insurers to determine compliance with the anti-fraud provisions of the act as part of financial and market conduct examinations performed under sections 213, 214 and 216 of The Insurance Department Act of 1921 (40 P. S. §§ 51, 53 and 54).

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Purdon's Pennsylvania Statutes and Consolidated Statutes
Title 40 P.S. Insurance (Refs & Annos)
Chapter 1. Insurance Department (Refs & Annos)
Article VI-a. Insurance Producers (Refs & Annos)
Subarticle B. Regulation of Insurance Producers (Refs & Annos)

Division 1. Prohibited Activities
§ 310.42. Theft by insurance producers
(a) Prohibition.--No insurance producer shall sell, solicit or negotiate a contract of insurance and fraudulently appropriate or convert to his own use or, with intent to use or fraudulently appropriate, take, or otherwise dispose of, or withhold, appropriate, lend, invest or otherwise use or apply money or substitutes for money received by him as an insurance producer contrary to the instructions or without the consent of the insurer.
(b) Penalty.--A person that violates this section commits a theft punishable in accordance with 18 Pa.C.S. Ch. 39[1] (relating to theft and related offenses).

Division 2. Regulated Activities
§ 310.78. Licensee reporting of misconduct

(a) Misconduct reporting.--A licensee shall report to the department any administrative action taken against the licensee in another jurisdiction or by another governmental agency in this Commonwealth within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

(b) Criminal conduct reporting.--Within 30 days of being charged with criminal conduct, a licensee shall report the charges to the department. The licensee shall provide the department with all of the following within 30 days of their availability to the licensee:
(1) A copy of the criminal complaint, information or indictment.
(2) A copy of the order resulting from a pretrial hearing, if any.
(3) A report of the final disposition of the charges.

Division 4. Miscellaneous
§ 310.96. Fiduciary capacity of an insurance producer
An insurance producer shall be responsible in a fiduciary capacity for all funds received or collected as an insurance producer and shall not, without the express consent of the insurance entity on whose behalf the funds were received, mingle the funds with the producer's own funds or with funds held by the insurance producer in any other capacity. Nothing in this article shall be deemed to require an insurance producer to maintain a separate bank deposit for the funds of each insurance entity if and as long as the funds of each insurance entity are reasonably ascertainable from the books of account and records of the insurance producer.

Title 40 P.S. Insurance (Refs & Annos)
Chapter 1. Insurance Department (Refs & Annos)
Article XI. Insurance Fraud Prevention Authority (Refs & Annos)
Subarticle B. Insurance Fraud Prevention Authority

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§ 325.21. Establishment of authority

(a) Establishment.--There is hereby established a body corporate and politic to be known as the Insurance Fraud Prevention Authority. The purposes, powers and duties of the authority shall be vested in and exercised by a board of directors.

(b) Composition.--The board of the authority shall consist of seven members composed and appointed in accordance with the following:

(1) The Attorney General or his designee.

(2) A representative of the Philadelphia Federal Insurance Fraud Task Force.

(3) Four representatives of insurers, one of whom shall be appointed by the President pro tempore of the Senate, one of whom shall be appointed by the Minority Leader of the Senate, one of whom shall be appointed by the Speaker of the House of Representatives and one of whom shall be appointed by the Minority Leader of the House of Representatives. Each of the four members shall be, respectively, a representative of an insurer writing workers' compensation, accident and health, automobile or general commercial liability insurance in this Commonwealth.

(4) One representative of purchasers of insurance in this Commonwealth who is not employed by or connected with the business of insurance and is appointed by the Governor.

(c) Terms.--With the exception of the Attorney General and the representative of the Philadelphia Federal Insurance Fraud Task Force, members of the board shall serve for terms of four years.

(d) Compensation.--Members of the board shall serve without compensation but shall receive reimbursement for all reasonable and necessary expenses incurred in connection with their duties in accordance with the rules of the Executive Board.

(e) Quorum.--A majority of the members of the board shall constitute a quorum for the transaction of business at a meeting or the exercise of a power or function of the authority. Notwithstanding any other provision of law, action may be taken by the board at a meeting upon a vote of the majority of its members present in person or through the use of amplified telephonic equipment if authorized by the bylaws of the board. The board shall meet at the call of the chairperson or as may be provided in the bylaws of the board. The board shall meet at least quarterly. Meetings of the board may be held anywhere within this Commonwealth. The board shall elect its own chairperson.

§ 325.22. Powers and duties

The authority shall have the powers necessary and convenient to carry out and effectuate the purposes and provisions of this article and the purposes of the authority and the powers delegated by other laws, including, but not limited to:

(1) Employ administrative, professional, clerical and other personnel as may be required and organize the staff as may be appropriate to effectuate the purposes of this article.

(2) Have a seal and alter the same at pleasure, have perpetual succession, make, execute and deliver contracts, conveyances and other instruments necessary or convenient to the exercise of its powers and make and amend bylaws.

(3) Procure insurance against any loss in connection with its property, assets or activities.

(4) Apply for, solicit, receive, establish priorities for, allocate, disburse, contract for, administer and spend funds in the fund and other funds that are made available to the authority from any source consistent with the purposes of this article.

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(5) Make grants to and provide financial support for the Section of Insurance Fraud, the unit of insurance fraud in the Philadelphia District Attorney's Office, other county district attorneys' offices, other government agencies, community, consumer and business organizations consistent with the purposes of this article and considering the extent of the insurance fraud problem in each county of this Commonwealth.
(6) Advise the State Treasurer in relation to the investment of any money held in the fund and any funds held in reserve or sinking funds and any money not required for immediate use or disbursement and to advise the State Treasurer in relation to the use of depositories for moneys of the fund.
(7) Assess the scope of the problem of insurance fraud, including areas of this Commonwealth where the problem is greatest, and review State and local criminal justice policies, programs and plans dealing with insurance fraud.
(8) Develop and sponsor the implementation of Statewide plans, programs and strategies to combat insurance fraud, improve the administration of the insurance fraud laws and provide a forum for identification of critical problems for those persons dealing with insurance fraud.
(9) Coordinate the development, adoption and implementation of plans, programs and strategies relating to interagency and intergovernmental cooperation with respect to insurance fraud law enforcement.
(10) Promulgate rules or regulations related to the expenditure of moneys held in the fund in order to assist and support those agencies, units of government, county district attorneys' offices and other organizations charged with the responsibility of reducing insurance fraud or interested and involved in achieving this goal.
(11) Audit at its discretion the plans and programs that it has funded in whole or in part in order to evaluate the effectiveness of the plans and programs and withdraw funding should the authority determine that a plan or program is ineffective or is no longer in need of further financial support from the fund.
(12) Report annually on or before the first day of April to the Governor and the General Assembly on the authority's activities in the preceding period of operation.
(13) Meet with the Section of Insurance Fraud on at least a quarterly basis in order to advise and assist it in implementing its statutory mandate.
(14) Advise the General Assembly on matters relating to insurance fraud and recommend to the General Assembly on an annual basis any changes to the operation of the Section of Insurance Fraud. The report shall be available for public inspection.
(15) Establish either alone or in cooperation with authorized insurance companies and licensed agents and producers a fund to reward persons not connected with the insurance industry who provide information or furnish evidence leading to the arrest and conviction of persons responsible for insurance fraud.
(16) Require as a condition of every application and request for financial support, including every application for ongoing renewal of a multiyear grant under section 1123(f),[1] that the applicant describe both the nature of and the amount of funding for the activities, if any, devoted to the investigation and prosecution of insurance fraud at the time of the application or request.
(17) Require as a condition of every application and request for financial support that every recipient of funding report annually within four months of the close of each funding cycle to the authority on the use of the funds obtained from the authority during the previous year, including a description of programs implemented and results obtained. The authority will include this information on the use of funds by grantees in its annual report under paragraph (12) and send a copy specifically to the chairman and the minority chairman of the standing committees of the Senate and the chairman and the minority chairman of the standing committees of the House of Representatives with jurisdiction over insurance matters.

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§ 325.23. Insurance Fraud Prevention Trust Fund

(a) Establishment.--There is hereby established a separate account in the State Treasury to be known as the Insurance Fraud Prevention Trust Fund. This fund shall be administered by the State Treasurer with the advice of the authority. All interest earned from the investment or deposit of moneys accumulated in the fund shall be deposited in the fund for the same use.

(b) Funds.--All moneys deposited into the fund shall be held in trust and shall not be considered general revenue of the Commonwealth but shall be used only to effectuate the purposes of this article as determined by the authority and shall be subject to audit by the Auditor General.

(c) Assessment.--

(1) Annually on or before the first day of April, each insurer engaged in the writing of the insurance coverages listed below, as a condition of its authorization to transact business in this Commonwealth, shall pay into the fund in trust an amount equal to the product obtained by multiplying $8,000,000 by a fraction, the numerator of which is the direct premium collected for those coverages listed below by that insurer in this Commonwealth during the preceding calendar year and the denominator of which is the direct premium written on such coverages in this Commonwealth by all insurers in the same period.

(2) The following coverages, as listed in the Annual Statistical Report of the Insurance Department, shall be considered in determining assessments: all fire and casualty direct business written and accident and health and credit accident and health written under life/annuity/accident and health direct business written. Assessments made under this section shall not be considered burdens and prohibitions under section 212.[1]

(3) Assessments for health plan corporations and professional health services plan corporations when added together shall not be more than 10% of the total assessment authorized by this subsection. If the total assessment for these organizations is more than 10%, such organizations will share the assessment up to the 10% limit among themselves in the same proportion as they would otherwise have shared their calculated assessment absent this limit. Any deficiency in the total assessment caused by the application of this limit will be shared by all other entities being assessed in the same proportions as they are sharing the rest of the assessment.

(d) Base amount.--In succeeding years the authority may vary the base amount of $8,000,000, provided, however, that any increase which on an annual basis exceeds the increase in the Consumer Price Index for this Commonwealth must be approved by three of the four insurance representatives on the board.

(e) Expenditures.--Moneys in the fund may be expended by the authority for the following purposes:

(1) Effectuate the powers, duties and responsibilities of the authority as set forth in this article.

(2) Pay the costs of administration and operation of the Section of Insurance Fraud and the unit for insurance fraud in the Philadelphia District Attorney's Office.

(3) Provide financial support to law enforcement, correctional agencies and county district attorneys' offices for programs designed to reduce insurance fraud and to improve the administration of insurance fraud laws.

(4) Provide financial support for other governmental agencies, community, consumer and business organizations for programs designed to reduce insurance fraud and to improve the administration of insurance fraud laws.

(5) Provide financial support to programs designed to inform insurance consumers about the costs of insurance fraud to individuals and to society and to suggest methods for preventing insurance fraud.

(6) Provide financial support for reward programs leading to the arrest and conviction of persons and organizations engaged in insurance fraud.

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(7) Provide financial support for other plans, programs and strategies consistent with the purposes of this article.

(f) Multiyear grants.--In funding the Section of Insurance Fraud, the Unit for Insurance Fraud in the Philadelphia District Attorney's Office and in funding grant requests, the authority may consider and approve requests for multiyear grants of not more than four years in length, although extensions of such multiyear commitments may be renewed from year to year. No funding reduction under subsection (d) can be imposed by the authority in any given year which would operate to reduce funding for any multiyear approved program for which persons have been hired for full-time positions to a funding level where such positions must be terminated unless the organization employing such persons certifies either that other equivalent positions are available or that such positions with the antifraud program can be funded from other sources.

(g) Dissolution.--In the event that the trust fund is discontinued or the authority is dissolved by operation of law, any balance remaining in the fund, after deducting administrative costs for liquidation, shall be returned to insurers in proportion to their financial contributions to the fund in the preceding calendar year.

§ 325.24. Immunity

In the absence of malice, no board member and no employee of the authority shall be subject to any civil or criminal liability for receiving or disclosing information related to insurance fraud or the activities of the authority. In the absence of malice, persons or organizations shall not be subject to civil or criminal liability for providing information relating to insurance fraud to the authority, its employees, agents or designees. This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person.

Subarticle C. Section of Insurance Fraud

§ 325.41. Establishment

(a) Establishment.--There is hereby established within the Office of Attorney General a Section of Insurance Fraud to investigate and prosecute insurance fraud in accordance with jurisdictional mandates as specified by the act of October 15, 1980 (P.L. 950, No. 164),[1] known as the Commonwealth Attorneys Act, and 18 Pa.C.S. § 4117 (relating to insurance fraud).

(b) Funding.--All costs of administration and operation of the section shall be borne by the fund. Any moneys or other property awarded to the section as costs of investigation or as a fine shall be credited to the fund.

§ 325.42. Powers and duties

The section shall have the powers necessary and convenient to carry out and effectuate the purposes and provisions of this article and the powers delegated by other laws, including, but not limited to, the power:

(1) To employ administrative, professional, clerical and other personnel as may be required and organize the staff as may be appropriate to effectuate the purposes of this article.

(2) To initiate inquiries and conduct investigations when the section has reason to believe that insurance fraud may have been or is being committed.

(3) To respond to notifications or complaints of suspected insurance fraud generated by State and local police, other law enforcement authorities, governmental units, including the Federal Government, and the general public.

(4) To review notices and reports of insurance fraud submitted by authorized insurers, their employees and licensed insurance agents or producers and to select those incidents of suspected fraud as, in its judgment, require further investigation and undertake such investigation.

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(5) To conduct independent examination of insurance fraud, conduct studies to determine the extent of insurance fraud, deceit or intentional misrepresentation of any kind in the insurance process and publish information and reports on such examinations or studies.
(6) To prosecute both on its own and in conjunction with other sections and divisions within the Office of Attorney General any incidents of insurance fraud involving more than one county of this Commonwealth or involving any county of this Commonwealth and another state disclosed by its investigations and to assemble evidence, prepare charges, bring charges or, upon request of any other prosecutorial authority, otherwise assist that prosecutory authority having jurisdiction over such incidents.
(7) To report incidents of insurance fraud disclosed by its investigations to any other appropriate law enforcement, administrative, regulatory or licensing agency.
(8) To pay over all civil and criminal fines and penalties collected for violations and acts subject to investigation and prosecution into the fund.
(9) To undertake programs to investigate insurance fraud and to meet, at least on a quarterly basis, with the Insurance Fraud Prevention Authority.
(10) To employ investigators trained in accordance with the act of June 18, 1974 (P.L. 359, No. 120),[1] referred to as the Municipal Police Education and Training Law. The laws applicable to law enforcement officers of this Commonwealth shall be applicable to the investigators. Investigators of the section shall have the following additional powers:

(i) To make arrests in accordance with existing jurisdictional rules for criminal violations established as a result of their investigations.
(ii) To execute arrest and search warrants in accordance with existing jurisdictional rules for the same criminal violations.

(11) To designate, if evidence, documentation and related materials sought are located outside of this Commonwealth, representatives, including officials of the state where the matter is located, to secure the matter or inspect the matter on its behalf. The person so requested shall either make the matter available to the section or shall make the matter available for inspection or examination by a designated representative of the section.

§ 325.43. Document confidentiality and immunity from subpoena
(a) General rule.--Papers, records, documents, reports, materials or other evidence relative to the subject of an insurance fraud investigation shall remain confidential and shall not be subject to public inspection for so long as the section deems it reasonably necessary to complete its investigation or for so long as the section deems it reasonably necessary to protect the privacy of the person investigated, to protect the person furnishing the matter or to be in the public interest.
(b) Subpoena.--

(1) Papers, records, documents, reports, materials or other evidence relative to the subject of an insurance fraud investigation shall not be subject to subpoena until opened for public inspection by the section unless the Office of Attorney General consents or until, after notice to the section and a hearing, a court of record determines that the section will not be unnecessarily hindered by compliance with a subpoena.
(2) Investigators employed by the section shall not be subject to subpoena in civil actions by any court in this Commonwealth to testify concerning any matter of which they have knowledge pursuant to a pending or continuing insurance fraud investigation being conducted by the section unless the Office of Attorney General consents or until, after notice to the Office of Attorney General and a hearing, a court of record determines that the investigation will not be hindered by the appearance.

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§ 325.44. Duties of insurers, employees, agents and brokers
Every insurer, every employee of an insurer and every licensed agent or broker shall cooperate fully with the section. Where an insurer, agent or broker who believes that an insurance fraud has been or is being committed notifies the section, the notification shall toll any applicable time period in the act of July 22, 1974 (P.L. 589, No. 205),[1] known as the Unfair Insurance Practices Act, or any other law or regulation.

§ 325.45. Persons not connected with insurance industry
Any person having knowledge of or who believes that an insurance fraud is being or has been committed may send to the section a report or information pertinent to the knowledge and belief.

§ 325.46. Refusal to cooperate with investigation
It is unlawful for any person to resist an arrest authorized by this article or in any manner to interfere either by abetting or assisting such resistance or otherwise interfere with section investigators in the duties imposed upon them by this article or by any other applicable law.

§ 325.47. Immunity
(a) General rule.--In the absence of malice, persons or organizations providing information to or otherwise cooperating with the section, its employees, agents or designees shall not be subject to civil or criminal liability for supplying the information.
(b) Civil and criminal liability.--
(1) In the absence of malice, persons or organizations shall not be subject to civil or criminal liability for complying with an order issued by a court of competent jurisdiction acting in response to a request by the section.
(2) In the absence of malice, the Attorney General and any employee, agent or designee of the Office of Attorney General and the section shall not be subject to civil or criminal liability for the execution of official activities or duties of the section by virtue of the publication of any report or bulletin related to the official activities or duties of the section.
(c) Construction of section.--This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person.

Title 40 P.S. Insurance (Refs & Annos)
Chapter 1. Insurance Department (Refs & Annos)
Article XII. Automobile Theft Prevention Authority

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§ 326.1. Scope
This article deals with automobile theft prevention.

§ 326.2. Purpose
The purpose of this article is to establish, coordinate and fund activities in this Commonwealth to prevent, combat and reduce automobile theft, to improve and support automobile theft law enforcement and administration and to improve and support automobile theft prosecution.

§ 326.3. Definitions
The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Authority." The Automobile Theft Prevention Authority established under this article.
"Automobile." A private passenger four-wheel motor vehicle, except recreational vehicles not intended for highway use, which is insured.
"Board." The board of directors of the Automobile Theft Prevention Authority.
"Fund." The Automobile Theft Prevention Trust Fund created under section 1206.[1]
Footnotes: 1 40 P.S. § 326.6.

§ 326.4. Automobile Theft Prevention Authority
(a) Establishment.--There is hereby established a body corporate and politic to be known as the Automobile Theft Prevention Authority. The purposes, powers and duties of the authority shall be vested in and exercised by the board of directors thereof as provided for in this article.
(b) Composition.--The board of the authority shall consist of seven members composed and appointed in accordance with the following:
(1) The Attorney General or his designee.
(2) Three representatives of insurers authorized to write automobile insurance doing business in this Commonwealth.
(3) Three at-large members who are not employed by the insurance industry.
(c) Appointment.--With the exception of the Attorney General, all board members shall be appointed by the Governor from names submitted to the Governor by the Pennsylvania Anti-Car Theft Committee.
(d) Terms.--With the exception of the Attorney General, members of the board shall serve for terms of four years.
(e) Compensation.--Members of the board shall serve without compensation, except that members of the board shall receive reimbursement for all reasonable expenses incurred in connection with their duties, in accordance with the rules of the board.
(f) Quorum and meetings.--A majority of the members of the board shall constitute a quorum for the transaction of business at a meeting or the exercise of a power or function of the authority. Notwithstanding any other provision of law, action may be taken by the board at a meeting upon a vote of the majority of its members present in person or through the use of amplified telephonic equipment if authorized by the bylaws of the board and provided a quorum is present by such means. The board shall meet at the call of the chairperson or as may be provided in the bylaws of the board. The board shall meet at least quarterly. Meetings of the board may be held anywhere within this Commonwealth. The board shall elect its own chairperson.

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§ 326.5. Powers and duties

The authority shall have the powers necessary and convenient to carry out and effectuate the purposes and provisions of this article and the purposes of the authority and the powers delegated by other laws, including, but not limited to, the power to:

(1) Employ administrative, professional, clerical and other personnel as may be required and organize the staff as may be appropriate to effectuate the purposes of this article.

(2) Have a seal and alter the same at pleasure, have perpetual succession, make, execute and deliver contracts, conveyances and other instruments necessary or convenient to the exercise of its powers and make and amend bylaws.

(3) Procure insurance against any loss in connection with its property, assets or activities.

(4) Apply for, solicit, receive, establish priorities for, allocate, disburse, contract for, administer and spend funds in the fund and other funds that are made available to the authority from any source consistent with the purposes of this article.

(5) Make grants to and provide financial support for government agencies, community, consumer and business organizations consistent with the purposes of this article.

(6) Invest any money held in the fund and any funds held in reserve or sinking funds and any money not required for immediate use or disbursement at its discretion and to name and use depositories for its money.

(7) Assess the scope of the problem of automobile theft, including identification of those areas of this Commonwealth where the problem is greatest, and review State and local criminal justice policies, programs and plans dealing with automobile theft.

(8) Develop and sponsor the implementation of Statewide plans, programs and strategies to combat automobile theft, improve the administration of the automobile theft laws and provide a forum for identification of critical problems for those persons dealing with automobile theft.

(9) Coordinate the development, adoption and implementation of plans, programs and strategies relating to interagency and intergovernmental cooperation with respect to automobile theft law enforcement.

(10) Promulgate rules or regulations related to the expenditure of moneys held in the fund in order to assist and support those agencies, units of government and other organizations charged with the responsibility of reducing automobile theft or interested and involved in achieving this goal.

(11) Audit at its discretion the plans and programs that it has funded in whole or in part in order to evaluate the effectiveness of the plans and programs and withdraw funding should the authority determine that a plan or program is ineffective or is no longer in need of further financial support from the fund.

(12) Report annually on or before the first day of April to the Governor and the General Assembly on the authority's activities in the preceding period. The report shall be available for public inspection.

§ 326.6. Automobile Theft Prevention Trust Fund

(a) Creation.--A separate account in the State Treasury is hereby established to be known as the Automobile Theft Prevention Trust Fund. The fund shall be administered by the authority. All interest earned from the investment or deposit of moneys accumulated in the fund shall be deposited in trust in the fund.

(b) Funds.--All moneys deposited into the fund shall not be considered general revenue of this Commonwealth but shall be used only to effectuate the purposes of this article as determined by the authority and shall be subject to audit by the Auditor General.

(c) Assessment.--Annually on or before the first day of April, each insurer engaged in the writing of automobile insurance coverages, as a condition of its authorization to transact automobile insurance business in this Commonwealth, shall pay into the fund in trust an amount equal to the product obtained by multiplying $4,000,000 by a fraction, the numerator of which is

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the total private passenger and commercial automobile physical damage insurance premiums written in this Commonwealth by that insurer during the preceding calendar year and the denominator of which is the total private passenger and commercial automobile physical damage insurance premiums written in this Commonwealth by all insurers in the same period. Assessments made under this section shall not be considered burdens and prohibitions under section 212.[1]

(d) Base amount.--In succeeding years the authority may vary the base amount of $4,000,000, provided, however, that any increase which on an annual basis exceeds the increase in the Consumer Price Index for this Commonwealth must be approved by five of seven members of the board.

(e) Expenditures.--Moneys in the fund shall be expended by the authority for the following purposes:

(1) To effectuate the powers, duties and responsibilities of the authority as set forth in section 1205.[2]

(2) To provide financial support to law enforcement, correctional agencies and prosecutors for programs designed to reduce automobile theft and to improve the administration of automobile theft laws.

(3) To provide financial support for other governmental agencies, community, consumer and business organizations for programs designed to reduce automobile theft and to improve the administration of automobile theft laws.

(4) To provide financial support to programs designed to inform owners of automobiles about the costs of automobile theft to individuals and to society and to suggest methods for preventing automobile theft.

(5) To provide financial support for reward programs leading to the arrest and conviction of persons and organizations engaged in automobile theft.

(6) To provide financial support for other plans, programs and strategies consistent with the purposes of this article.

(f) Dissolution.--In the event that the trust fund is discontinued or the authority is dissolved by operation of law, any balance remaining in the fund, after deducting administrative costs for liquidation, shall be returned to insurers in proportion to their financial contributions to the fund in the preceding calendar year.

§ 326.7. Immunity

In the absence of malice, no board member and no employee, agent or designee of the authority shall be subject to civil or criminal liability for receiving or disclosing information related to automobile theft or the activities of the authority. In the absence of malice, persons or organizations shall not be subject to civil or criminal liability for providing information to the authority or its employees relating to automobile theft. This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person.

Title 40 P.S. Insurance (Refs & Annos)
Chapter 2. Insurance Companies (Refs & Annos)
Article III. General Provisions Relating to Insurance Companies, Associations, and Exchanges

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§ 474.1. Immunity from liability

(a) In the absence of fraud or bad faith, no person or his employes or agents shall be subject to civil liability and no civil cause of action shall arise against any of them for any of the following:

(1) Information relating to suspected fraudulent insurance acts or persons suspected of engaging in such acts furnished by them to or received from Federal, State or local law enforcement officials, their agents and employes and designees.

(2) Information relating to suspected fraudulent insurance acts or persons suspected of engaging in such acts furnished by them to or received from other persons subject to the provisions of this act.

(3) Information furnished by them or received from a Federal, State or local agency, the National Association of Insurance Commissioners or another organization established to detect and prevent fraudulent insurance acts, their agents, employes or designees or a recognized comprehensive database system approved by the Insurance Department.

(a.1) In the absence of fraud or bad faith, the immunity granted in subsection (a) shall also apply to persons identified as designated employes of insurers, self-insurers or insurance licensees whose responsibilities include the investigation and disposition of claims relating to suspected fraudulent insurance acts when sharing information on such acts or persons suspected of engaging in such acts with other designated employes of the same or other insurers, self-insurers or insurance licensees whose responsibilities include the investigation or disposition of claims relating to suspected fraudulent insurance acts.

(b) State agencies and their employes and designees, in the absence of fraud or bad faith, shall not be subject to civil liability for sharing information identified in subsection (a). No civil cause of action shall arise against any of them by virtue of the publication of a report or bulletin related to the official activities of the State agency.

(c) Nothing in this section is intended to abrogate or modify a common law or statutory immunity heretofore enjoyed by any person.

(d) As used in this section the following words and phrases shall have the meanings given to them in this subsection:

“Absence of bad faith” means without serious doubt that the information furnished or received, or the report or bulletin published, is not true.

“Absence of fraud” means without knowledge that the information furnished or received, or the report or bulletin published, is not true.

“Fraudulent insurance act” means an act committed by a person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer or broker, or an agent of an insurer, purported insurer or broker, information as part or in support of an application for the issuance or rating of an insurance policy for commercial or personal

insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which he knows to contain materially false information concerning a fact material to the statement or claim or to conceal, for the purpose of misleading, information concerning a fact material to the statement or claim.

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“Insurer” means an insurance company, association, exchange, interinsurance exchange, health maintenance organization, preferred provider organization, professional health services plan corporation subject to 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations), a hospital plan corporation subject to 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations), fraternal benefit society, beneficial association, Lloyd's insurer or health plan corporation.

Title 40 P.S. Insurance (Refs & Annos)
Chapter 2. Insurance Companies (Refs & Annos)
Article IV-A. Life and Endowment Insurance and Annuitites
Viatical Settlements Act

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§ 636.10. Fraud Prevention and control

(a) Fraudulent viatical settlement acts, interference and participation of convicted felons prohibited.—

(1) A person shall not commit a fraudulent viatical settlement act.

(2) A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this act or investigations of suspected or actual violations of this act.

(3) A person in the business of viatical settlements shall not knowingly or intentionally permit any person convicted of a felony to effectuate the business of viatical settlements.

(b) Fraud warning required.—

(1) Viatical settlement contracts and applications for viatical settlements, regardless of the form of transmission, shall contain the following statement: Any person who knowingly and with the intent to defraud another presents or causes to be presented any statement forming a part of or in support of an application for insurance or viatical settlement contract any false, incomplete or misleading information concerning any fact or thing material to the insurance policy or viatical settlement contract, or any claim thereunder, commits a fraudulent viatical settlement act and is subject to civil and criminal penalties.

(2) The lack of a statement as required in paragraph (1) does not constitute a defense in any prosecution for a fraudulent viatical settlement act.

(c) Mandatory reporting.—

(1) Any person engaged in the business of viatical settlements having knowledge or a reasonable belief that a fraudulent viatical settlement act is being, will be or has been committed shall within 30 days make a written report of that information to a Federal, State or local criminal law enforcement agency and provide to the commissioner that information in a manner prescribed by the commissioner.

(2) Any other person having knowledge or a reasonable belief that a fraudulent viatical settlement act is being, will be or has been committed may provide to the commissioner the information required by and in a manner prescribed by the commissioner.

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(d) Immunity from liability.—

(1) No civil liability shall be imposed on and no cause of action shall arise from a person's furnishing information concerning suspected, anticipated or completed fraudulent viatical settlement acts or suspected or completed fraudulent insurance acts if the information is provided to or received from:

(i) the commissioner or the commissioner's employees, agents or representatives;

(ii) Federal, State or local law enforcement or regulatory officials or their employees, agents or representatives;

(iii) a person involved in the prevention and detection of fraudulent viatical settlement acts or that person's agents, employees or representatives;

(iv) the National Association of Insurance Commissioners (NAIC), National Association of Securities Dealers (NASD), the North American Securities Administrators Association (NASAA) or the United States Securities and Exchange Commission or their employees, agents or representatives, or other regulatory body overseeing life insurance, viatical settlements, securities or investment fraud; or

(v) the life insurer that issued the life insurance policy covering the life of the insured.

(2) Paragraph (1) shall not apply to statements made with actual malice.

(3) A person identified in paragraph (1) shall be entitled to an award of attorney fees and costs if he or she is the prevailing party in a civil cause of action for libel, slander or any other relevant tort arising out of activities in carrying out the provisions of this act and the party bringing the action was not substantially justified in doing so. For the purpose of this section, a proceeding is “substantially justified” if it had a reasonable basis in law or fact at the time that it was initiated.

(4) This section does not abrogate or modify common law or statutory privileges or immunities enjoyed by a person described in paragraph (1).

(e) Confidentiality.—

(1) The documents and evidence provided pursuant to subsection (c) or obtained by the commissioner in an investigation of suspected or actual fraudulent viatical settlement acts shall be privileged and confidential and shall not be a public record and shall not be subject to discovery or subpoena in a civil action.

(2) Paragraph (1) does not prohibit release by the commissioner of documents and evidence obtained in an investigation of suspected or actual fraudulent viatical settlement acts:

(i) in administrative or judicial proceedings to enforce laws administered by the commissioner;

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(ii) to Federal, State or local law enforcement or regulatory agencies, to an organization established for the purpose of detecting and preventing fraudulent viatical settlement acts or to the NAIC;

(iii) at the discretion of the commissioner, to a person in the business of viatical settlement that is aggrieved by a fraudulent viatical settlement act.

(3) Release of documents and evidence under paragraph (2) does not abrogate or modify the privilege granted in paragraph (1).

(f) Other law enforcement or regulatory authority.--This act shall not:

(1) preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine and prosecute suspected violations of law;

(2) prevent or prohibit a person from voluntarily disclosing information concerning viatical settlement fraud to a law enforcement or regulatory agency other than the insurance department; or

(3) limit the powers granted elsewhere by the laws of this Commonwealth to the commissioner, the department or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action against wrongdoers.

(g) Viatical settlement antifraud initiatives.—

(1) Viatical settlement providers shall within 60 days of licensure and annually by March 31 of each year thereafter certify to the department implementation of antifraud initiatives reasonably calculated to detect, investigate, prevent and report fraudulent viatical settlement acts. Antifraud initiatives shall include:

(i) Hiring of individuals qualified by experience and education for the investigation of fraudulent viatical settlement acts, including the viatical settlement provider's criteria and rationale for securing the services of such individuals.

(ii) An antifraud plan that includes:

(A) A description of the procedures for detecting and investigating actual or possible fraudulent viatical settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications.

(B) A description of the procedures for reporting possible fraudulent viatical settlement acts to the department and any appropriate law enforcement agency.

(C) Procedures to prevent fraudulent viatical settlement acts, including fraud awareness, detection and antifraud education and training of underwriters and other personnel.

(D) A description of the viatical settlement provider's organizational structure and key personnel, including antifraud personnel who are responsible for the investigation and reporting of possible fraudulent

viatical settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

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(2) A statistical reporting on the number of viatical settlement applications, viatical settlement contracts and actual or potential viatical settlement fraudulent acts that relate to the business of viatical settlements occurring within this Commonwealth. This statistical reporting shall accompany the initial and annual antifraud initiative certification submitted to the department.

(h) Antifraud plan confidential.--Antifraud certifications, plans and reports submitted to the department shall be privileged and confidential and shall not be a public record and shall not be subject to discovery or subpoena in a civil or criminal action.

Purdon's Pennsylvania Statutes and Consolidated Statutes
Title 40 P.S. Insurance (Refs & Annos)
Chapter 7A. Arson Reporting Immunity (Refs & Annos)

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§ 1610.1. Short title
This act shall be known and may be cited as the "Arson Reporting Immunity Act."

§ 1610.2. Definitions
The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:
"Action." Includes nonaction or the failure to take action.
"Authorized agencies."
(1) For the purposes of this act shall include:
(i) the State Police Commissioner and other police officers charged with the investigation of fires at the place where the fire actually took place;
(ii) the fire commissioner or fire chief of all first, second, second class A and third class cities;
(iii) the Attorney General;
(iv) the prosecuting attorney responsible for prosecutions in the county where the fire occurred;
(v) the Federal Bureau of Investigation;
(vi) the Federal Bureau of Alcohol, Tobacco and Firearms;
(vii) the United States Attorney when authorized or charged with investigation or prosecution of the fire in question;
(viii) Department of Environmental Resources Bureau of Forestry; or
(ix) the fire marshal of a second class county.
(2) Solely for the purposes of section 3(b),[1] an appropriate authorized agency is:
(i) the State Police Commissioner or his authorized representative;
(ii) the fire commissioner or fire chief of all first, second, second class A and third class cities and the fire chief of any other municipality with a paid fire department when that municipality is not serviced by the State Police Commissioner or his authorized representative for the purpose of investigating fires; or
(iii) the fire marshal of a second class county.
"Insurance company." Any insurance company authorized to transact the business of insurance in this Commonwealth and empowered to issue policies of insurance against loss by the perils of fire or explosion, including the Pennsylvania Fair Plan created pursuant to the act of July 31, 1968 (P.L. 738, No. 233), known as "The Pennsylvania Fair Plan Act."[2]
"Fire loss." Shall include loss by explosion.
"Relevant." Any information having a tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more or less probable than it would be without the information.

§ 1610.3. Disclosure of information
(a) Fire loss information.--Any authorized agency may, in writing, require any insurance company at interest to release to the requesting authorized agency any or all relevant information or evidence deemed important to the authorized agency which the insurance company may have in its possession relating to a fire loss under investigation by the authorized agency. Relevant information may include, without limitation herein:
(1) pertinent policy information relevant to a fire loss under investigation, including any application for such a policy;
(2) underwriting information or risk inspection reports;

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(3) policy premium payment records which are available;
(4) history of previous claims made by the insured; and
(5) material relating to the investigation of the loss, including statements of any person, proof of loss, and any other information relevant to the investigation by the authorized agency.

(b) Notification for investigation.--

(1) Whenever the investigation of a fire loss by an insurance company insuring the loss indicates that the probable cause of the fire loss was arson, then the company shall notify, in writing, the appropriate authorized agency and upon the request of any authorized agency, shall provide the requesting authorized agency with such fire loss information developed from the company's inquiry into the fire loss as may be requested by the authorized agency and the insurance company may provide to any authorized agency any information it may have relating to a fire loss;
(2) Nothing in this subsection shall abrogate or impair any rights or duties created under subsection (a).

(c) Repealed by 2010, Oct. 27, P.L. 952, No. 97, § 2(2), effective in 60 days [Dec. 27, 2010].

(d) Release of information.--An authorized agency that is provided with information pursuant to subsection (a) or (b) may, at its discretion, in good faith, release or provide orally or in writing such information that it may possess in whole or in part to any other authorized agency or insurance company in furtherance of the authorized agency's own investigative purposes.

§ 1610.4. Immunity

Any insurance company, or person designated to act in its behalf; or any authorized agency or person authorized to act on its behalf, who shall release information, whether oral or written, pursuant to section 3(a), (b) or (d) shall be immune from liability arising out of a civil action and from criminal prosecution with respect to the release of such information, unless there be actual malice.

§ 1610.5. Evidence

Except as provided in section 3(d),[1] any authorized agency or insurance company defined in section 2[2] who receives any information furnished pursuant to this act, shall hold the information in strict confidence until such time as its release is required pursuant to a criminal or civil proceeding.

1610.6. Penalty

(a) Disclosure of information.--Any person who shall fail or refuse to release any information required to be released under this act or who discloses information required to be held in confidence, or who otherwise violates any provision of this act (except section 3(c)(1) and (2)) shall, upon conviction thereof, be guilty of a misdemeanor of the third degree.

(b) Immunity from liability.--Any person who shall release or disclose information required to be held in confidence pursuant to section 5[1] (other than as provided under section 3(a), (b) or (d)) shall not be afforded the protection of immunity from liability arising out of a civil action or criminal prosecution as provided in section 4.[2]

Footnotes:

1 40 P.S. § 1610.5.
2 40 P.S. § 1610.4.

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§ 1795. Insurance fraud reporting immunity.

(a) General rule.--An insurance company, and any agent, servant or employee acting in the course and scope of his employment, shall be immune from civil or criminal liability arising from the supply or release of written or oral information to any duly authorized Federal or State law enforcement agency, including the Insurance Department, upon compliance with the following:

(1) The information is supplied to the agency in connection with an allegation of fraudulent conduct on the part of any person relating to the filing or maintenance of a motor vehicle insurance claim for bodily injury or property damage.

(2) The insurance company, agent, servant or employee has probable cause to believe that the information supplied is reasonably related to the allegation of fraud.

(b) Notice to policyholder.--The insurance company shall send written notice to the policyholder or policyholders about whom the information pertains unless the insurance company receives notice that the authorized agency finds, based on specific facts, that there is reason to believe that the information will result in any of the following:

(1) Endangerment to the life or physical safety of any person.
(2) Flight from prosecution.
(3) Destruction of or tampering with evidence.
(4) Intimidation of any potential witness or witnesses.
(5) Obstruction of or serious jeopardy to an investigation.

The insurance company shall send written notice not sooner than 45 days nor more than 60 days from the time the information is furnished to an authorized agency except when the authorized agency specifies that a notice should not be sent in accordance with the exceptions enumerated in this subsection in which event the insurance company shall send written notice to the policyholder not sooner than 180 days nor more than 190 days following the date the information is furnished.

(c) Immunity for sending notice.--An insurance company or authorized agency and any person acting on behalf of an insurance company or authorized agency complying with or attempting in good faith to comply with subsection (b) shall be immune from civil liability arising out of any acts or omissions in so doing.

(d) Applicability.--Nothing in this section shall be construed to create any rights to privacy or causes of action on behalf of policyholders that are not in existence as of the effective date of this section.

(Feb. 12, 1984, P.L.53, No.12, eff. Oct. 1, 1984)

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SUBCHAPTER B
ANTIFRAUD PLANS

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Sec.

§ 1811. Filing of plans.
Each insurer licensed to write motor vehicle insurance in this Commonwealth shall institute and maintain a motor vehicle insurance antifraud plan. The antifraud plan of insurers licensed on the effective date of this subchapter shall be filed with the department on or before December 31, 1990. All insurers licensed after the effective date of this chapter shall file within six months of licensure. All changes to the antifraud plan shall be filed with the department within 30 days after it has been modified.

§ 1812. Content of plans.
The antifraud plans of each insurer shall establish specific procedures:
(1) To prevent insurance fraud, including internal fraud involving employees or company representatives, fraud resulting from misrepresentation on applications for insurance coverage, and claims fraud.
(2) To review claims in order to detect evidence of possible insurance fraud and to investigate claims where fraud is suspected.
(3) To report fraud to appropriate law enforcement agencies and to cooperate with such agencies in their prosecution of fraud cases.
(4) To undertake civil actions against persons who have engaged in fraudulent activities.
(5) To report fraud-related data to a comprehensive database system.
(6) To ensure that costs incurred as a result of insurance fraud are not included in any rate base affecting the premiums of motor vehicle insurance consumers.

§ 1813. Review by commissioner.
Antifraud plans shall be filed with the department. If, after review, the commissioner finds that the antifraud plan does not comply with section 1812 (relating to content of plans), the antifraud plan may be disapproved. Notice of disapproval shall include a statement of the specific reasons for such disapproval. Any plan disapproved by the commissioner must be refiled within 60 days of the date of the notice of disapproval. The commissioner may audit insurers to ensure compliance with antifraud plans as a part of the examinations performed under sections 213, 214 and 216 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of one thousand nine hundred and twenty-one.

§ 1814. Report on antifraud activities.
All insurers shall annually provide to the department a summary report on actions taken under the plan to prevent and combat insurance fraud, including, but not limited to, measures taken to protect and ensure the integrity of electronic data-processing-generated data and manually

compiled data, statistical data on the amount of resources committed to combating fraud, and the amount of fraud identified and recovered during the reporting period.

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§ 1815. Penalties.
Insurers that fail to file timely antifraud plans as required by sections 1811 (relating to filing of plans) and 1813 (relating to review by commissioner) are subject to the penalty provisions of section 320 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921. Insurers that do not make a good faith attempt to file an antifraud plan which complies with section 1812 (relating to content of plans) shall also be subject to the penalty provisions of section 320 of The Insurance Company Law of 1921, provided that no penalty may be imposed for the first filing made by an insurer under this subchapter. Insurers that fail to follow the antifraud plan shall be subject to a civil penalty for each violation, not to exceed $10,000, at the discretion of the commissioner after consideration of all relevant factors, including the willfulness of any violation.

§ 1816. Confidentiality of plans and reports.
The antifraud plans and reports which insurers file with the department and any reports or materials related to such reports are not public records and shall not be subject to public inspection.

§ 1817. Reporting of insurance fraud.
Every insurer licensed to do business in this Commonwealth, and its employees, agents, brokers, motor vehicle physical damage appraisers and public adjusters, or public adjuster solicitors, who has a reasonable basis to believe insurance fraud has occurred shall be required to report the incidence of suspected insurance fraud to Federal, State or local criminal law enforcement authorities. Licensed insurance agents and physical damage appraisers may elect to report suspected fraud through the affected insurer with which they have a contractual relationship. All reports of insurance fraud to law enforcement authorities shall be made in writing. Where insurance fraud involves agents, brokers, motor vehicle physical damage appraisers, public adjusters or public adjuster solicitors, a copy of the report shall also be sent to the department.

§ 1818. Civil immunity.
No person shall be subject to civil liability for libel, violation of privacy, or otherwise by virtue of the filing of reports or furnishing of other information, in good faith and without malice, required by this subchapter.

TITLE 75
SUBCHAPTER C
COMPREHENSIVE DATABASE SYSTEM

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Sec.

Chapter Heading. The heading of Subchapter C was amended December 18, 1992, P.L.1411, No.174, effective immediately.

§ 1821. Membership in system.
(a) General rule.--Each motor vehicle insurer shall, as a condition of authority to transact the business of insurance in this Commonwealth, obtain and maintain membership in one or more comprehensive database systems for the purpose of reporting and accessing motor vehicle insurance claims data and information.

(b) Requirements for selection.--Any comprehensive database system selected for membership by a motor vehicle insurer shall meet the following minimum qualifications:
(1) Have and maintain a computerized database.
(2) Have and maintain the capacity to interact with other comprehensive database systems or have and maintain a substantial insurer membership.
(3) Have the ability to service the insurance industry, insurance regulators or law enforcement authorities on an interstate basis.

(c) Claims information.--Each motor vehicle insurer shall report and access data and information relating to motor vehicle insurance claims to its comprehensive database systems in accordance with the systems' reporting procedures.

(d) Availability to law enforcement officials.--Any data and information reported to a comprehensive database system may be made available to law enforcement officials.

(e) Payment of expenses.--Each motor vehicle insurer shall be liable for its share of expenses incurred by any Pennsylvania-specific data index of which the insurer was a member prior to the effective date of this act.

§ 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 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.

§ 1823. Rules and regulations.
The department may promulgate such rules and regulations as may be necessary to carry out this chapter.

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§ 1824. Civil immunity.

No person shall be subject to civil liability for libel, violation of privacy or otherwise by virtue of the filing of reports or furnishing of other information in good faith and without malice required by this subchapter.

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Purdon's Pennsylvania Statutes and Consolidated Statutes
Title 77 P.S. Workers' Compensation (Refs & Annos)
Chapter 7F. Insurance Fraud

§ 1039.1. Definitions
The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Attorney” means an individual admitted by the Pennsylvania Supreme Court to practice law in this Commonwealth.

“Health care provider” means a person licensed or certified pursuant to law to perform health care activities.

“Insurance claim” means a claim for payment or other benefits pursuant to an insurance policy for workers' compensation.

“Insurance policy” means a document setting forth the terms and conditions of a contract of insurance or agreement for workers' compensation.

“Insurer” means a company, association or exchange defined by section 101 of the Insurance Company Law of 1921 and the State Workmen's Insurance Fund, an unincorporated association of underwriting members, a hospital plan corporation, a professional health services plan corporation, a health maintenance organization, a fraternal benefit society, and a self-insured health care entity under the act of October 15, 1975 (P.L. 390, No. 111), known as the “Health Care Services Malpractice Act.”

“Person” means an individual, corporation, partnership, association, joint-stock company, trust or unincorporated organization. The term includes any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, beneficial association and any other legal entity engaged or proposing to become engaged, either directly or indirectly, in the business of insurance, including agents, brokers, adjusters and health care plans as defined in 40 Pa.C.S. Chs. 61 (relating to hospital plan corporations), 63 (relating to professional health services plan corporations), 65 (relating to fraternal benefit societies) and 67 (relating to beneficial societies) and the act of December 29, 1972 (P.L. 1701, No. 364), known as the “Health Maintenance Organization Act.” For purposes of this article, health care plans, fraternal benefit societies and beneficial societies shall be deemed to be engaged in the business of insurance.

“Statement” means any oral or written presentation or other evidence of loss, injury or expense, including, but not limited to, any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X-ray, test result or computer-generated documents.

§ 1039.2. Offenses
A person, including, but not limited to, the employer, the employe, the health care provider, the attorney, the insurer, the State Workmen's Insurance Fund and self-insureds, commits an offense if the person does any of the following:

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(1) Knowingly and with the intent to defraud a State or local government agency files, presents or causes to be filed with or presented to the government agency a document that contains false, incomplete or misleading information concerning any fact or thing material to the agency's determination in approving or disapproving a workers' compensation insurance rate filing, a workers' compensation transaction or other workers' compensation insurance action which is required or filed in response to an agency's request.

(2) Knowingly and with intent to defraud any insurer presents or causes to be presented to any insurer any statement forming a part of or in support of a workers' compensation insurance claim that contains any false, incomplete or misleading information concerning any fact or thing material to the workers' compensation insurance claim.

(3) Knowingly and with the intent to defraud any insurer assists, abets, solicits or conspires with another to prepare or make any statement that is intended to be presented to any insurer in connection with or in support of a workers' compensation insurance claim that contains any false, incomplete or misleading information concerning any fact or thing material to the workers' compensation insurance claim.

(4) Engages in unlicensed agent or broker activity as defined by the act of May 17, 1921 (P.L. 789, No. 285), known as “The Insurance Department Act of 1921,” knowingly and with the intent to defraud an insurer or the public.

(5) Knowingly benefits, directly or indirectly, from the proceeds derived from a violation of this section due to the assistance, conspiracy or urging of any person.

(6) Is the owner, administrator or employe of any health care facility and knowingly allows the use of such facility by any person in furtherance of a scheme or conspiracy to violate any of the provisions of this section.

(7) Knowingly and with the intent to defraud assists, abets, solicits or conspires with any person who engages in an unlawful act under this section.

(8) Makes or causes to be made any knowingly false or fraudulent statement with regard to entitlement to benefits with the intent to discourage an injured worker from claiming benefits or pursuing a claim.

(9) Knowingly and with the intent to defraud makes any false statement for the purpose of avoiding or diminishing the amount of the payment in premiums to an insurer or self-insurance fund.

(10) Knowingly and with intent to defraud, fails to make the report required under section 311.1.

(11) Knowingly and with intent to defraud, receives total disability benefits under this act while employed or receiving wages.

(12) Knowingly and with intent to defraud, receives partial disability benefits in excess of the amount permitted with respect to the wages received.

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§ 1039.3. Compensation paid by lawyers or health care providers to secure employment

(a) A lawyer may not compensate or give anything of value to a nonlawyer to recommend or secure employment by a client or as a reward for having made a recommendation resulting in employment by a client, except that the lawyer may pay:

(1) the reasonable cost of advertising or written communication as permitted by the rules of professional conduct; or

(2) the usual charges of a not-for-profit lawyer referral service or other legal service organization.

Upon a conviction of an offense under this clause, the prosecutor shall certify the conviction to the disciplinary board of the Supreme Court for appropriate action, including suspension or disbarment.

(b) With respect to a workers' compensation insurance benefit or claim, a health care provider may not compensate or give anything of value to a person to recommend or secure the provider's service to or employment by a patient or as a reward for having made a recommendation resulting in the provider's service to or employment by a patient, except that the provider may pay the reasonable cost of advertising or written communication as permitted by rules of professional conduct. Upon a conviction of an offense under this subsection, the prosecutor shall certify the conviction to the appropriate licensing board in the Department of State which shall suspend or revoke the health care provider's license.

(c) A lawyer or health care provider may not compensate or give anything of value to a person for providing names, addresses, telephone numbers or other identifying information of individuals seeking or receiving medical or rehabilitative care for accident, sickness or disease, except to the extent a referral and receipt of compensation is permitted under applicable professional rules of conduct. A person may not knowingly transmit such referral information to a lawyer or health care professional for the purpose of receiving compensation or anything of value. Attempts to circumvent this subsection through use of any other person, including, but not limited to, employes, agents or servants, shall also be prohibited.

§ 1039.4. Electronic submission of claims

If an insurance claim is made by means of computer billing tapes or other electronic means, it shall be a rebuttable presumption that the person knowingly made the claim if the person has advised the insurer in writing that claims will be submitted by use of computer billing tapes or other electronic means.

§ 1039.5. Punishment for offenses

(a) A person who violates section 1102 shall be guilty of a felony of the third degree and, upon conviction thereof, shall be sentenced to pay a fine of not more than fifty thousand dollars ($50,000) or double the value of the fraud or to undergo imprisonment for a period of not more than seven years, or both.

(b) A person who violates section 1103 shall be guilty of a misdemeanor of the first degree and, upon conviction thereof, shall be sentenced to pay a fine of not more than twenty thousand dollars ($20,000) or double the amount of the fraud, or both.

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(c) A health care provider or lawyer who is guilty of an offense under section 1102 while acting on behalf of others shall be subject to disciplinary action, including suspension or revocation of a license or certificate or recommendation for suspension or disbarment to the Supreme Court, on the same basis as a health care provider or lawyer who is guilty of an offense under section 1103.

§ 1039.6. Restitution

The court may, in addition to any other sentence authorized by law, sentence a person convicted of violating this section to make restitution under 18 Pa.C.S § 1106 (relating to restitution for injuries to person or property).

§ 1039.7. Immunity from liability for supplying information in connection with allegations of fraud

An insurer and any agent, servant or employe thereof acting in the course and scope of his employment shall be immune from civil or criminal liability arising from the supply or release of written or oral information to any entity duly authorized to receive such information by Federal or State law or by Insurance Department regulations only if the information is supplied to the agency in connection with an allegation of fraudulent conduct on the part of any person relating to a violation of this article and the insurer, agent, servant or employe has reason to believe that the information supplied is related to the allegation of fraud.

§ 1039.8. Permitted conduct; attorneys and health care providers

Nothing in this article shall be construed to prohibit any conduct by an attorney or law firm which is expressly permitted by the Rules of Professional Conduct of the Supreme Court, by statute or by regulation, or prohibit any conduct by a health care provider which is expressly permitted by law or regulation.

§ 1039.9. Criminal proceedings

(a) The district attorneys of the several counties shall have authority to investigate and to institute criminal proceedings for any violation of this article.

(b) In addition to the authority conferred upon the Attorney General by the act of October 15, 1980 (P.L. 950, No. 164), known as the “Commonwealth Attorneys Act,” the Attorney General shall have the authority to investigate and to institute criminal proceedings for any violation of this section or any series of such violations involving more than one county of this Commonwealth or involving any county of this Commonwealth and another state. No person charged with a violation of this article by the Attorney General shall have standing to challenge the authority of the Attorney General to investigate or prosecute the case, and, if any such challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of the Commonwealth to the person making the challenge.

(c) Nothing in this act shall prevent prosecution under 18 Pa.C.S. § 4117 (relating to insurance fraud) or any other provision of law.

§ 1039.10. Authority of Commonwealth departments and agencies

Nothing contained in this article shall be construed to limit the regulatory or investigative authority of any department or agency of the Commonwealth whose functions might relate to persons, enterprises or matters falling within the scope of this article.

§ 1039.11. Fines and penalties

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(a) A person found by a court of competent jurisdiction, pursuant to a claim initiated by a prosecuting authority, to have violated any provision of section 1102 shall be subject to civil penalties of not more than five thousand dollars ($5,000) for the first violation, ten thousand dollars ($10,000) for the second violation and fifteen thousand dollars ($15,000) for each subsequent violation. The penalty shall be paid to the prosecuting authority to be used to defray the operating expenses of investigating and prosecuting violations of this article. The court may also award court costs and reasonable attorney fees to the prosecuting authority.

(b) If a prosecuting authority has probable cause to believe that a person has violated this section, nothing in this clause shall be construed to prohibit the prosecuting authority and the person from entering into a written agreement in which that person does not admit or deny the charges but consents to payment of the civil penalty. A consent agreement may not be used in a subsequent civil or criminal proceeding, but notification thereof shall be made to the licensing authority if the person is licensed by a licensing authority of the Commonwealth so that the licensing authority may take appropriate administrative action.

(c) All fines and penalties imposed following a conviction for a violation of this article shall be collected in the manner provided by law and shall be paid in the following manner:

(1) If the prosecutor is a district attorney, the fines and penalties shall be paid into the operating fund of the county in which the district attorney is elected.

(2) If the prosecutor is the Attorney General, the fines and penalties shall be paid into the State Treasury and appropriated to the Office of Attorney General.

§ 1039.12. Limitations for prosecutions of offenses

A prosecution for an offense under this act must be commenced within five years after commission of the offense.

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§ 1040.1. Definitions

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Antifraud plan" means the insurance antifraud plan required to be filed and maintained pursuant to this article.

"Commissioner" means the Insurance Commissioner of the Commonwealth.

"Department" means the Insurance Department of the Commonwealth.

§ 1040.2. Department referral of violations to law enforcement officials

(a) The department is authorized to refer to the appropriate law enforcement official violations of Article XI[1] if the department has reason to believe that a person has engaged in or is engaging in an act or practice that violates Article XI.

(b) The department shall furnish all papers, documents, reports, complaints or other facts or evidence to any police, sheriff or other law enforcement agency or governmental entity duly authorized to receive such information, when so requested, and shall assist and cooperate with those agencies.

§ 1040.3. Insurance antifraud plan

A workers' compensation insurer shall institute and maintain an insurance antifraud plan.

§ 1040.4. Annual summary report

All workers' compensation insurers shall annually provide to the department a summary report on actions taken under an antifraud plan to prevent and combat insurance fraud, including, but not limited to, measures taken to protect and ensure the integrity of electronic data processing-generated data and manually compiled data, statistical data on the amount of resources committed to combating fraud and the amount of fraud identified and recovered during the reporting period.

§ 1040.5. Insurer referral of violations to law enforcement officials

(a) Every workers' compensation insurer and its employes, agents and brokers are authorized to refer to the appropriate law enforcement official violations of Article XI if the insurer, employe, agent or broker has reason to believe that a person has engaged in or is engaging in an act or practice that violates Article XI.[1]

(b) The insurer, its employes, agents and brokers, shall furnish all papers, documents, reports, complaints or other facts or evidence to any police, sheriff or other law enforcement agency or governmental entity duly authorized to receive such information, when so requested, and shall assist and cooperate with those agencies.