

Property and Casualty Insurance

Colorado

Effective January 1, 2015

State Law Supplement

Important: Check for Updates

States sometimes revise their exam content outlines unexpectedly or on short notice. To see whether there is an update for this product because of an exam change, go to **www.kaplanfinancial.com** and check the Insurance Licensing Blog. If there is an update, it will be clearly noted in the blog entries for this state.

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At press time, this edition contains the most complete and accurate information currently available. Owing to the nature of license examinations, however, information may have been added recently to the actual test that does not appear in this edition. Please contact the publisher to verify that you have the most current edition.

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COLORADO PROPERTY AND CASUALTY INSURANCE LAW
SUPPLEMENT, EFFECTIVE JANUARY 1, 2015
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Introduction

What is a State Law Supplement?

This book focuses on the state-specific statutes and regulations on the state exam content outline. In order to be fully prepared for the exam, you must understand completely both the national License Exam Manual and this supplement.

How is the supplement organized?

In order to make this book flexible and easy to use, we've divided it into four sections, and are each broken into topic areas as seen below.

Section	Topic Areas
Cram Sheets Cram sheets focus on very specific details for your state. The information is presented in an easy to understand table format primarily highlighting days, dates, and dollars.	■ General Insurance Law ■ Property Insurance Law ■ Casualty Insurance Law
Class Notes The class notes are meant to be a summary of the key topics in the law supplement, and are available to all students—classroom and self-study.	■ General Insurance Law ■ Property Insurance Law ■ Casualty Insurance Law
Detailed Text The text section is the most detailed section of the law supplement. All topics in your state's exam content outline law and regulations section are covered.	■ General Insurance Law ■ Property Insurance Law ■ Casualty Insurance Law
Practice Exams The practice exams test your retention of the law supplement material.	■ General Insurance Law ■ Property Insurance Law ■ Casualty Insurance Law

Do I have to learn everything in this book?

Not necessarily! The table below shows the sections you should study depending on the exam you are preparing for.

State Exam	Sections to Study
Property and Casualty Insurance	General (All Lines), Property, and Casualty Insurance
Property Insurance Only	General (All Lines), and Property Insurance only
Casualty Insurance Only	General (All Lines), and Casualty Insurance only

How should I study this information?

Below is a best study practice for the law and regulations section of your exam.

1. **Law Supplement Cram Sheet:** Your exam will probably ask about specific fine amounts or days' notice requirements (e.g., changing your address).
2. **Law Supplement Class Notes:** Reading the class notes exposes students to the majority of topics covered in the law supplement.
3. **Law Supplement Detailed Text:** Read this text for more in-depth descriptions of the state's insurance laws and regulations.
4. **Law Supplement Practice Exams:** There are two law supplement practice exams. One is in the back of the law supplement. State specific law questions can also be found in the InsurancePro™ QBank at www.kaplanfinancial.com.
5. In your final preparation for the exam take the time to again review the **cram sheet** and **class notes**. Use them as a last-minute refresher of the most important law and regulation testable topics.



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Cram Sheets

HOW TO USE: In your final preparations for your insurance exam use this cram sheet to memorize key days, dates, and dollars. A suggested technique is to cover the left hand column; read the right hand column; then uncover the left hand column to reveal the correct answer.

COLORADO LAWS, RULES, AND REGULATIONS PERTINENT TO ALL LINES

Insurance Commissioner	
30 days	Producer's time to notify the DOI of administrative action taken against the producer in another jurisdiction or by another Colorado government agency, or any criminal prosecutions
June 30	An insurer's certificate of authority must be renewed annually and expires on this date
Five years	The period of time in which the Commissioner must conduct a formal financial examination of every authorized insurer
\$5,000 Imprisonment up to three months	Anyone giving intentional false testimony during an insurance examination is guilty of a misdemeanor and may be fined, imprisoned, or both
\$5,000 Imprisonment Two - 12 months	Anyone who falsifies an insurer's books or documents with the intent to deceive the Commissioner is guilty of a misdemeanor and faces a fine, imprisonment, or both
\$500 - \$5,000 Imprisonment Six - 24 months	Insurer penalty for failure to comply with HIV test result disclosure provisions is guilty of a misdemeanor and faces a fine, imprisonment, or both
\$500 Imprisonment 12 months	Anyone who engages in defamation may be convicted of a misdemeanor punishable by a fine, imprisonment, or both
\$3,000	Fine for violating insurance laws or rules, in addition to license suspension or revocation
\$3,000	Producer per-violation fine for unfair method of competition or an unfair trade practice
\$30,000	Maximum aggregate producer fine for unfair method of competition or an unfair trade practice
\$30,000	Insurer per-violation fine for unfair method of competition or an unfair trade practice
\$750,000	Maximum aggregate insurer fine for unfair method of competition or an unfair trade practice
Up to \$500	Individual per-violation fine for violating a cease and desist order, in addition to suspension or revocation
Up to \$10,000	Insurer per-violation fine for violating a cease and desist order, in addition to suspension or revocation
\$25,000	Per-violation fine for violating an emergency cease and desist order in addition to restitution
Licensing	
Age 18	Applicant's <i>minimum age</i> Complete prelicensing education requirement Pass the licensing examination Pay the required licensing fee
30 days	Producer's time to notify the DOI of <i>name or address change</i>
\$50,000 25	A producer license is not required of a fraternal benefit society representative if the representative did not receive sales compensation, and: <ul style="list-style-type: none"> ■ in the preceding calendar year, the representative sold the society life insurance contracts with a face amount of \$_____ or less; or ■ sold any other kind of insurance on behalf of the society to ___ or fewer individuals and received no compensation from these policies

50 hours 50 hours 100 hours 50 hours 3 hours	Number of Required Prelicensing Education Hours Life insurance producer Accident and health insurance producer Life, accident, and health insurance producer Property and casualty insurance producer Of each 50-hour course ____ hours must cover industry ethics
30 days 15 days 30 days	Appointment Termination When terminating a producer appointment for cause, an insurer must inform the Commissioner within ____ days of the termination. The insurer has an additional ____ days to notify the producer. Within ____ days of notification, the producer may file a written response with the Commissioner.
45 days 30 days	Fiduciary A producer must remit premiums to insurer within ____ days after receipt A producer must return all premium to the insured within ____ days
2 years	Producer's License Renewal Period The license may be continually renewed as long as the proper fees are paid and continuing education requirements are met
24 credit hours 3 hours in ethics 18 hours 3 hours 6 hours 12 hours 1 year 5 years	Continuing Education (CE) Requirements for each two year CE term Number of hours required of ethics CE Number of hours in the lines of insurance for which the producer is licensed Number of hours a property or personal lines producer must complete on homeowners insurance coverage. Number of hours on subjects designated by the Commissioner Number of hours a producer can accumulate and apply to the next CE period Length of CE extension from the commissioner for good cause Length of time a producer must maintain CE completion records
Exceed	Controlled Business A license is deemed to be used for controlled business if, during any 12-month period, the total premiums on controlled business _____ the total premiums on all other business

COLORADO LAWS, RULES, AND REGULATIONS PERTINENT TO PROPERTY AND CASUALTY ONLY

60 days	Insurers must pay first-party claims under P&C policies within ____ days of receiving a complete claim (unless disputed)
Type I	Rate regulation classification for workers compensation pure premium, and assigned risk auto insurance
Type II	Rate regulation classification for fire, casualty, inland marine, title, and credit

Commercial Policy Requirements

45 days	Insurer must give the insured at least ____ days' notice for cancellation, nonrenewal, increasing premiums, or reducing coverage at policy renewal.
90 days	____ days' notice is required to raise premiums or reduce coverage for medical malpractice policies.
10 days	____ days' notice is required when cancelling due to nonpayment of premium.

Use of Credit Information

90 days	Insurer may not take an adverse action based on credit information; unless the insurer uses a credit/insurance score calculated within ____ days before the date the policy is first written
36 months	Insurer may not use credit information, unless the insurer recalculates the consumer's insurance score or obtains an updated credit report, no later than every ____ months

COLORADO LAWS, RULES, AND REGULATIONS PERTINENT TO PROPERTY ONLY

30 days	Insurer must give ___ days notice on homeowners' cancellation or nonrenewal
10 days	Insurer must give ___ days notice on homeowners' cancellation if due to nonpayment of premium

COLORADO LAWS, RULES, AND REGULATIONS PERTINENT TO CASUALTY ONLY

Workers' Compensation Insurance (Benefit amounts subject to state minimums and maximums)

Annually March 30	Self-insurance pools are examined by the commissioner _____, and must file an annual report with the Commissioner by _____ each year
3 days	No <i>disability benefits</i> if disability lasts fewer than ___ days (waiting period)
2 weeks	If disability extends beyond _____, then the above waiting period will be added back
66 ⅔%	<i>Permanent total disability</i> : ___% of the employee's average weekly earnings
66 ⅔%	<i>Temporary, total, and partial disability</i> benefits are ___% of the <u>difference</u> between the employee's weekly earnings at the time of injury, and the employee's actual gross weekly income from employment during the period of temporary partial disability
\$7,000	<i>Burial expenses</i>
66 ⅔%	<i>Death benefits</i> payable to dependents will be based on ___ of the average weekly wage
10 days	Employer must notify the Division and insurance carrier of injury within ___ days

Automobile Insurance

59 days	Within the first ___ days an insurer may cancel for any legal reason
10 Days 30 Days 30 Days	Notice of Cancellation ___ days in advance, if the reason is nonpayment of premium; ___ days in advance, if the policy is being cancelled for any other reason; or ___ days in advance, if raising the premiums on the policy.
30 Days	<i>Notice of nonrenewal</i> must be given at least ___ days in advance
"25/50/15" \$25,000 \$50,000 \$15,000	Financial Responsibility <i>Required limits of liability</i> \$_____ per person for bodily injury or death \$_____ per accident for bodily injury or death \$_____ per accident for property damage
\$100 and \$250 \$5,000 3 years	In addition to other deductible choices, all insurers must offer collision coverage deductibles of \$___ and \$____. Unless rejected, the minimum Medical payment's limit is _____. Proof of medical payment's rejection must be retained for ___ years.
\$25,000/\$50,000	Minimum uninsured/underinsured limits are ___ per person and ___ per occurrence for bodily injury. <i>Uninsured/underinsured motorist</i> coverage may be rejected by the insured.

Bail Bonds

\$50 or 15%	Maximum bail bond commission is the greater of \$___ or ___%.
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Class Notes

HOW TO USE: The class notes are an excellent place to start when studying the state specific laws and regulations. The class notes are a summary of the key law supplement topics. For some students the class notes may be their primary section to study the law and regulation exam material.

Colorado Laws and Regulations

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Colorado Statutes and Regulations

Life, Sickness and Accident, Property, and Casualty Insurance

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Insurance Commissioner

- The Commissioner of Insurance is appointed by the Governor and must have no financial interest in any insurer or agency.
- Insurers must file an annual report with the Commissioner by March 1.
- Insurers must have **certificate of authority** to conduct insurance business in Colorado.
 - A certificate of authority expires on June 30 each year and must be renewed annually.

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Examinations

- The Commissioner must conduct a financial examination of insurers **at least every five years**.
 - The Commissioner may accept an examination report of a foreign or alien insurer prepared by the insurance department for the company's state of domicile.
- If a company or any of its officers, employees, or agents refuses to comply with examiners' written requests, the company could have its license suspended, revoked, denied, or nonrenewed.

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Examinations

- Anyone who intentionally testifies falsely during an examination is guilty of a misdemeanor and may be:
 - fined up to \$5,000;
 - imprisoned for up to three months; or
 - both.
- Anyone who falsifies an insurer's books or documents with the intent to deceive the Commissioner is guilty of a misdemeanor and may be:
 - fined up to \$5,000;
 - imprisoned for between 2 and 12 months; or
 - both.

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Producer Investigations

- The Commissioner may investigate any person applying for or holding an insurance producer license. If the person has violated the insurance laws or rules of the state or any other state, the commissioner may:
 - suspend or revoke the license of the individual;
 - suspend or revoke the insurance agency license if one of the partners, officers, or managers knew or should have known about the individual's violation; or
 - assess a civil fine of no more than \$3,000 for each violation.

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Hearings and Penalties

- The Commissioner may conduct a hearing due to unfair methods of competition or unfair or deceptive acts performed by any person.
- The Commissioner may suspend or revoke the violator's license, and impose a fine of up to \$3,000 per violation, with a maximum aggregate penalty of \$30,000.
 - If the violation was committed by an insurer and they knew or should have known that they were in violation, the Commissioner may fine the insurer up to \$30,000 per violation, with a maximum aggregate penalty of \$750,000 per year.
- If the Commissioner determines that an unfair trade practice resulted in a failure to pay a claim, the insurer may be liable to pay the claim.

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Cease and Desist Order

- The Commissioner may issue a **cease and desist order**. Violation of a cease and desist order may, after notice and hearing, result in license suspension or revocation, and one of the following:
 - Up to \$10,000 fine for each violation (if an insurer)
 - Up to \$500 fine for each violation (if an individual)
- The Commissioner may issue an **emergency cease and desist order** without holding a hearing if a person is engaged in insurance business without being licensed, suspected of fraudulent activity, or endangering the public. If an emergency cease and desist order has been violated, the Commissioner may:
 - impose a civil penalty of \$25,000 for each violation;
 - direct the person to make restitution to all state residents, insureds, and entities; or
 - both.

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License Suspension/Revocation

- In addition to a fine and restitution, the Commissioner may suspend, revoke, or refuse to issue any license if the Commissioner determines that the licensee committed an illegal act, including the following:
 - Making false statements in the license application
 - Violating any insurance law, rule, regulation, or commissioner order of any state
 - Engaging in misrepresentation, fraud, coercion, dishonest practices;
 - Misusing or converting money belonging to policyholders, insurers, beneficiaries, or others to the producer's personal use
 - Misrepresenting the terms of an insurance contract
 - Being convicted of a felony or misdemeanor involving moral turpitude (including any sexual offense against a child)
 - Committing an unfair trade practice or fraud

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License Suspension/Revocation

- Causes of license suspension or revocation include the following (continued):
 - Incompetence, untrustworthiness, or financial irresponsibility
 - License suspended, revoked, or denied in another state
 - Forgery on an insurance application
 - Failing to meet the licensing requirements
 - Cheating on a licensing exam
 - Knowingly accepting insurance business from a person who is not licensed
 - Failing to comply with an administrative or court order imposing a child support obligation
 - Failing to pay state income tax

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Reporting Administrative Actions

- A producer or insurer must report to the Commissioner any **administrative action** taken against the producer in another jurisdiction or by another governmental agency in Colorado or any **criminal prosecution** in any jurisdiction within **30 days** of the action.
- The report must include copies of any relevant legal documents.

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Licensing

- It is illegal for anyone to transact insurance (other than reinsurance or surplus lines insurance) for an insurer that is not authorized to do business in Colorado.
- An insurance producer is a person who solicits, negotiates, effects, procures, delivers, renews, continues, or binds:
 - insurance policies for risks located in Colorado;
 - membership in certain health care prepayment plans; or
 - membership enrollment in certain health care plans.
- Insurance producers who are agents of an insurer represent the insurer, not the insured, in any controversy.

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Licensing

- An insurance producer may receive qualification for a license to include one or more of the following lines:
 - Life
 - Accident and health
 - Variable life and annuities
 - Property
 - Casualty
 - Limited lines credit
 - Crop hail
 - Title
 - Surplus lines
 - Travel ticket selling
 - Personal lines
- An insurance producer who uses an **assumed name** to conduct business must register the name with the Commissioner before using it.

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Licensing

- An individual seeking an insurance producer's license must file an application with the Commissioner, and must:
 - be at least 18 years old;
 - be competent, trustworthy, and of good moral character and good business reputation;
 - be a resident of Colorado or a resident of a state that has a reciprocal agreement with Colorado;
 - have not committed any act that is grounds for license denial, suspension, or revocation;
 - have fulfilled the prelicensing education requirement (unless the applicant is exempt);
 - have passed the licensing examination; and
 - have paid the required license fee.

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Insurance Agency

- An **insurance agency** is a corporation, partnership, association, or other legal entity that transacts insurance business and must obtain a Colorado insurance producer's license. The agency must:
 - file a license application with the Commissioner;
 - disclose the names of all the officers, partners, and directors of the agency (whether they are licensed insurance producers or not);
 - designate a licensed officer, partner, or director to be responsible for the agency's compliance with Colorado's insurance laws and rules;
 - register with the Commissioner the name of each officer, director, partner, owner, or member who is licensed as an insurance producer; and
 - paid the required license fee.

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Nonresident Licensing

- To obtain a nonresident license, the applicant must:
 - be currently licensed in good standing in the home state for the same lines of authority;
 - submit an application and pay the required fee;
 - file a current certification of license status; and
 - submit the license application that was used in the home state or a completed uniform application.
- A nonresident licensee has the same rights and privileges as a resident licensee.
- Resident and nonresident producers who move from one state to another state must file a change of address and provide certification from the new resident state within 30 days.

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Fraternal Benefit Societies

- Persons representing fraternal benefit societies who solicit and negotiate insurance contracts are considered insurance producers and are subject to the same licensing requirements as other insurance producers.
- However, a producer license is not required of any agent, representative, or member of a fraternal benefit society who, in the preceding calendar year:
 - sold life insurance contracts on behalf of any society with a face amount of \$50,000 or less (or, in the case of any other kind of insurance the society may write, sold insurance on behalf of 25 or fewer individuals);
 - received no compensation from these policies; and
 - does not reasonably expect to sell insurance on behalf of more than 25 individuals in the current year.

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Prelicensing Education

- Applicants seeking producer licenses in the life line, accident and health line, or the property and casualty line, must complete prelicensing education in the applicable line of authority.
 - Life insurance: 50 hours
 - Accident and health insurance: 50 hours
 - Life & accident and health insurance: 100 hours
 - Property and casualty insurance: 50 hours
- At least three hours of each 50-hour course must cover industry ethics.
- The prelicensing education requirement is waived for nonresidents if they met the prelicensing education requirements of their home state and were exempted in Colorado due to a reciprocal agreement.

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Producer Appointment

- An insurance producer may not act as an agent of an insurer unless the producer is appointed by the insurer.
- This rule does not prohibit a producer from showing the benefits, rates, and features of an insurer's products, even though he has not been appointed by the insurer.

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Producer Appointment

- When terminating a producer appointment **for cause**, an insurer must inform the Commissioner within 30 days of the termination.
- The insurer has an additional 15 days to notify the producer.
 - Within 30 days of receiving the notification, the producer may file a written response with the Commissioner and give a copy to the insurer.
- In the absence of willful and wanton behavior, persons cannot be sued as a result of any information provided during an investigation of a terminated producer.
- All documents and information furnished by anyone during an investigation of a producer are confidential.

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Change of Address

- Producers (whether individuals or insurance agencies) must inform the Commissioner in writing of any change in address within 30 days of the change.
- Failure to do so may result in a fine.

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License Renewal

- Producer licenses are renewable biannually and subject to the payment of a renewal fee and completion of continuing education courses by the end of the producer’s birth month.
 - If the renewal fee is not paid, the license is not valid.
 - If a producer has paid the fee but not completed the education credits, the producer may apply for an extension to finish his course work.

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Continuing Education (CE)

- Unless exempt, all producers must complete **24** hours of approved continuing education instruction every two years.
 - At least **3** of these hours must be in approved courses in ethics.
 - At least **18** of these hours must be in approved courses in the lines of insurance for which the producer is licensed.
 - All producers licensed to sell property or personal lines insurance must complete **3** hours of continuing education on **homeowners** insurance coverage.
 - A maximum of **6** of the 24 hours shall be on subjects designated by the Commissioner as subjects needed to protect insurance consumers.

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Continuing Education (CE)

- For good cause, the Commissioner can grant licensees up to a **one-year** extension to comply with the requirements.
- Producers can accumulate no more than **12** credit hours to apply to the next continuing education period if the courses are taken within the final 120 days of the 24-month license continuation period.
- The requirements do not apply to the following:
 - Any person holding a license who the Commissioner exempts from the requirements
 - A nonresident who complies with the continuing education requirements of his state of residence (if the state of residence has a continuing education reciprocity agreement with Colorado)
- Documentation of CE hours must be maintained by the producer for **five** years following license continuation.

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Commissions and Fees

- Insurers and producers may not pay fees or commissions for services as an insurance producer to any person who was not properly licensed at the time.
- It is illegal for anyone to accept fees or commissions for such services unless they were properly licensed.

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Commissions and Fees

- Insurance producers **may not** charge fees in addition to those included in their commissions for soliciting and procuring insurance or for servicing policyholders.
- Insurance producers **may** charge fees for specific services (such as financial planning and estate planning) that are beyond their normal duties.
 - The client must sign a proper disclosure statement informing the client that he is not obligated to purchase any insurance product through the producer in exchange for the services.
 - It must be clear from the outset that no insurance product sale related to the services will occur.
 - Insurance producers must retain a copy of any such disclosure statements for at least **three** years after completion of the services.

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Fiduciary Responsibility

- A fiduciary responsibility is one of special trust and confidence in which a person is entrusted with the funds of another person.
 - All premiums belonging to insurers and insureds' unearned premiums received by a producer are held in a fiduciary capacity.
 - All premiums a producer receives, minus authorized commissions, must be remitted to the insurer by the contractual due date, or if there is no contractual due date, within 45 days after receipt.
 - All returned premiums received from insurers to a producer's account must be credited to the insured's account within 30 days.
- An insurer must return unearned premiums to the insured as soon as possible after a right of refund is established.
 - In all cases, this must happen within 45 days.

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Separate Accounts

- Producers must treat each insurance policy and the premiums received on each as a separate account of the insured.
 - Premiums and refunds that producers receive in connection with a policy may not be credited to any other obligation owed to the producer by the insured unless the insured gives written consent.
- A producer must use a separate insurance trust account if she is going to deposit any premium or returned premium funds into a bank account until remitting the funds to the insurer or person entitled to the funds.

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Unauthorized Entities

- The failure of an insurer to obtain a Colorado certificate of authority will not impair the validity of any act or contract of the company.
 - In the event that any unauthorized insurer fails to pay a claim or loss, any person who assists in the procurement of the insurance contract is also liable to the insured for the full amount of the covered claim.

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Unfair Competition

- It is illegal to enter into any agreement to commit an act of **boycott**, **coercion**, or **intimidation** that results in unreasonable restraint or monopoly in the insurance business.
- **Misrepresentation**—It is illegal to make any written or oral statement, sales presentation, or comparison that:
 - misrepresents the dividends, benefits, advantages, conditions, or terms of any policy;
 - uses a name of any insurance policy that misrepresents its true nature; and
 - is a misrepresentation for the purpose of inducing the lapse, forfeiture, exchange, conversion, policy loan, or surrender of any insurance policy.

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Unfair Competition

- **Unfair Discrimination**—It is illegal to:
 - unfairly discriminate between individuals of the same class and equal life expectancy in the rates, dividends, benefits, or terms of any life or life annuity contract;
 - unfairly discriminate between neighborhoods within a municipality and of essentially the same hazard; and
 - use sexual orientation in the underwriting process or in the determination of insurability.

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Unfair Competition

- No insurer shall require an applicant to submit to an **HIV-related test** unless the insurer:
 - obtains the applicant's prior written **informed consent**;
 - reveals and explains, in the written consent form, how the HIV-related test result will be used and the entities to whom test results may be disclosed; and
 - administers the HIV-related test using certain test protocol.
- An insurer who violates the HIV test result disclosure provisions is guilty of a misdemeanor and is subject to:
 - a fine between \$500 and \$5,000;
 - imprisonment in the county jail for six to 24 months; or
 - both.

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Unfair Competition

- Insurance written in the licensee's own interests or the interests of his spouse or employer is called **controlled business**.
 - A license is deemed to be used for controlled business if, during any 12-month period, the total premiums on controlled business exceed the total premiums on all other business.
 - The Commissioner will not grant or renew any license if he discovers it is being used to write controlled business.

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Unfair Competition

- Making oral or written statements that are false, maliciously critical, or derogatory to the financial condition of an insurer or are intended to injure anyone in the insurance business is known as **defamation** and is illegal.
 - Anyone who engages in defamation may be convicted of a misdemeanor punishable by:
 - a fine of up to \$500;
 - imprisonment for up to 12 months; or
 - both.

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Unfair Competition

- **Rebating** is the illegal practice of giving something of value to a prospective insurance applicant in exchange for the purchase of, or as an inducement to, purchase a policy, including:
 - offering a rebate of premiums;
 - offering any special favor or advantage in the dividends or other benefits of an insurance policy that is not specified in the policy; and
 - giving, selling, or purchasing securities as an inducement to purchase the insurance.

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Unfair Competition

- **Unfair claims practices** are illegal and include the following:
 - Misrepresenting provisions of coverage
 - Failing to adopt fair standards for investigating claims and handle claims promptly
 - Failing to affirm or deny coverage within a reasonable time after submission of proof of loss
 - Compelling insureds to start litigation to recover on claims by offering substantially less than the amount ultimately recovered by legal action
 - Failing to pay claims promptly under one portion of a policy to influence settlement under other portions
 - Settling a claim based on an application that was altered without the insured's consent

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Unfair Competition

- **Unfair claims practices** are illegal and include the following (continued):
 - Excluding medical benefits under health care coverage based solely on an individual's nonprofessional participation in motorcycling, snowmobiling, off-highway vehicle riding, skiing, or snowboarding
 - Publicizing a policy of appealing arbitration awards that are in favor of insureds or claimants in an effort to compel insureds to accept settlements for less than the amount awarded in arbitration
 - Requiring preliminary claim reports that replicate formal proof of loss forms to delay claim payment
 - Failing to adopt standards to resolve medical payment claims promptly
- **Payment of benefits:** Insurers must pay property and casualty first-party claims within **60 days** of receiving a valid and complete claim, unless there is a reasonable dispute between the insurer and insured.

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Colorado Fraud Statutes

- A person commits a fraudulent insurance act if, for policy issuance, rating, or claim payment, he knowingly and with intent to defraud presents a written false statement.
- When an insurer obtains an insurance fraud judgment or settlement against a person licensed in Colorado, it must notify the appropriate Colorado state licensing board.
 - If the guilty party is a producer or insurer, notification may also be sent to the Colorado Division of Insurance.
- Every licensed insurer doing business in Colorado (except reinsurance companies) must prepare and follow an insurance anti-fraud plan and pay an annual tiered fee used to fund and prosecute investigations.

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Surplus Lines

- Surplus line coverage may be obtained from nonadmitted insurers, provided that:
 - the insurance is obtained through a licensed broker;
 - after a diligent effort has been made, the insurance cannot be obtained from admitted insurers; and
 - placing the insurance in a nonadmitted insurer is not being done to secure a lower premium, unless the premium rate quoted by the admitted insurer is more than 10% higher than that quoted by the nonadmitted insurer.
- An affidavit stating the above facts must be executed by the broker and filed with the Commissioner within 30 days after the insurance is procured.

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Surplus Lines

- **Surplus Lines Tax:** Each surplus lines broker and every person that enters into an independent procurement for nonadmitted insurance must remit to the Division of Insurance a tax on the net premiums.
- All Colorado surplus lines insurance contracts must include the following statement:
 - *“This policy is issued by an insurance company that is not regulated by the Colorado Division of Insurance. The insurance company may not provide claims service and may not be subject to service of process in Colorado. If the insurance company becomes insolvent, insureds or claimants will not be eligible for protection under Colorado insurance law.”*

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Colorado Statutes and Regulations

Property and Casualty Insurance Only

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Rate Regulation

- Insurance rates must not be excessive, inadequate, or unfairly discriminatory.
- The Commissioner of Insurance is responsible for executing rate regulations.
- These rate regulations apply to all kinds of insurance except:
 - reinsurance other than joint reinsurance;
 - life insurance and annuities;
 - sickness and accident insurance;
 - nonprofit hospital and health services;
 - health maintenance organization services; and
 - surplus lines insurance.

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Rate Regulation

- Rate regulations are divided into two classes.
- The rating information for Type I kinds of insurance must be filed and approved by the Commissioner before they can be used. Type I insurance includes:
 - workers' compensation and employer's liability for any pure premium rate filed by a rating organization;
 - assigned risk motor vehicle insurance; and
 - other kinds of insurance classified as Type I by the Commissioner.

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Rate Regulation

- Type II kinds of insurance are regulated by open competition between insurers. Type II insurance includes the following kinds of insurance:
 - Fire
 - Casualty
 - Inland marine
 - Title
 - Credit
 - All other kinds of insurance that are not considered Type I (including the expense and profit components of workers' compensation insurance)

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Rate Regulation

- Type II insurers must file rating data with the Commissioner at the same time as the effective date of the new rates.
- Forms for Type II policies are not filed with the Commissioner.
- Type II insurers do **not** need prior approval for forms, rates, rating plans, rating classifications and territories, rating rules, or rate manuals.
 - Type II insurers are subject to rules regarding the availability and review of their rates, and regarding hearings and judicial review.

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Summary Disclosure Form

- Every insurer in Colorado that issues dwelling fire insurance, homeowners insurance, or automobile insurance policies must have on file at the Division of Insurance a summary disclosure form.
 - The form must contain a simple explanation of the policies' major coverages, exclusions, and general factors considered in cancellation, nonrenewal, and premium increases.
- Every insurer or its designated producer must furnish the required disclosure form at the time of the initial insurance purchase and on any renewal policy when there are major changes thereafter.
- Homeowners insurance policyholders must receive the disclosure at least annually.

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Commercial Policy Requirements

- **Cancellation and nonrenewal:** An insurer must give an insured at least a 45-day notice before canceling or refusing to renew commercial policies, unless the policy has been in effect for less than 60 days.
- The insurer only needs to give a 10-day notice when canceling for nonpayment of premium.
- If an insurer intends to unilaterally increase premiums or reduce coverage at policy renewal, it must provide at least a 45-day notice.
 - For medical malpractice policies, a 90-day notice is required.

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Commercial Policy Requirements

- Cancellation or decrease in coverage is only valid if it is based on one or more of the following reasons:
 - Nonpayment of premium
 - The insured knowingly making a false statement on the application
 - A substantial change in the exposure or risk

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Commercial Policy Requirements

- **Construction professionals:** Policies issued to a construction professional may exclude or limit coverage for bodily injury, property damage, advertising injury, or personal injury that occurs before the policy's inception date.
 - However, these exclusions do not apply if the injury or damage was unknown to the insured at the policy's inception date. This applies only to policies covering damage or injury during the policy period and insuring a construction professional for liability arising from construction-related work.

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Use of Credit Information

- A personal lines insurer must disclose at the time of application that it may obtain credit information in connection with such application. The insurer may not:
 - use an insurance score that is calculated using income, gender, address, U.S. postal ZIP code, ethnic group, religion, marital status, or nationality of the consumer; or
 - deny, nonrenew, or rate a personal lines policy on the basis of credit information without consideration of any other applicable underwriting factor that is independent of credit information.

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Use of Credit Information

- An insurer may not consider an absence of credit information or an inability to calculate an insurance score in personal lines underwriting or rating, unless the insurer:
 - treats the consumer as if she had neutral credit information, as defined by the insurer; or
 - excludes the use of credit information as a factor and uses only other underwriting criteria.
- An insurer may not take adverse action based on credit information unless the information is within 90 days of application or renewal.
- Credit scores or information must be updated not later than every 36 months.

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Use of Credit Information

- The following may not be used negatively in underwriting or rating:
 - Credit inquiries not initiated by the consumer
 - Inquiries relating to insurance coverage
 - Collection accounts with a medical industry code
 - Multiple lender inquiries for automobile loans or mortgage loans
 - Inquiries within 30 days of another must be treated as one
 - Identity theft
 - Adverse credit information due to divorce or former spouse

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Colorado Statutes and Regulations

Property Insurance Only

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Insurance and Real Estate Loans

- A lender may not require a borrower under a real estate loan to provide property insurance in excess of the replacement value of the property.

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Homeowners Cancellation

- An insurer may not cancel or nonrenew a homeowners insurance policy unless the insurer gives the insured at least a 30-day advance notice, which specifically states the reason for cancellation or nonrenewal.
- If the cancellation is due to nonpayment of premium, the insurer must give at least a 10-day notice along with the reasons for the cancellation.

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Availability of Fire Insurance

- The purpose of this regulation is to provide a rule to implement standards concerning the availability of fire insurance during wildfires within a federally designated disaster area in Colorado.
- Unless the property is located in an immediately threatened area, insurers shall not refuse to issue a fire insurance policy for a property based on the property's ZIP code, county, or distance from any wildfire.
- Insurers shall not refuse to renew a fire insurance policy for a property located within an immediately threatened area for any reason that is related to existing wildfires.

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Colorado Statutes and Regulations

Casualty Insurance Only

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Workers' Compensation

- **Exceptions to the definition of employer**—The following are not subject to the Colorado workers' compensation laws:
 - Employees of charitable, fraternal, religious, or social employers who are elected or appointed to serve in an advisory capacity and receive less than \$750 in annual compensation
 - An employer who has no other employees subject to the workers' compensation laws, and
 - the employment is casual (repair, maintenance, yard work);
 - not within the course of the employer's business; and
 - the wages do not exceed \$2,000 for any calendar year

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Workers' Compensation

- To prove that an individual is an independent contractor (not an employee), the employing entity must not:
 - require the individual to work exclusively for him;
 - establish a quality standard for the individual;
 - pay a salary or an hourly rate instead of a fixed or contract rate;
 - terminate the service provider during the contract period unless the provider violates the terms of the contract or fails to produce a result that meets the specifications of the contract; *(continued on next slide)*

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Workers' Compensation

- To prove that an individual is an independent contractor (not an employee), the employing entity must not (continued):
 - provide more than minimal training for the individual;
 - provide tools or materials to the individual;
 - dictate the hours during which the individual must work;
 - pay the service provider personally instead of making checks payable to the trade or business name of the service provider; and
 - combine the business operations of the contracted person with the business operations of any other service provider instead of maintaining all operations separately.

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Workers' Compensation

- Employers insure benefits for their employees through the following means:
 - Pinnacol Assurance fund
 - An authorized workers' compensation insurer
 - Self-insurance
- Employers cannot require employees to pay any part of the cost of workers' compensation insurance.

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Workers' Compensation

- Public entities and employer groups may form **self-insurance pools** to provide workers' compensation benefits.
 - Before forming a pool, the group must submit a written proposal to the Commissioner.
 - The Commissioner will approve or disapprove the proposal within 30 days (45 days for employer groups).
 - If approved, the Commissioner will issue a certificate of authority.
 - Self-insurance pools must file an annual report with the Commissioner by March 30 each year.
 - The Commissioner will examine self-insurance pools at least once a year.

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Workers' Compensation

- If the disability lasts fewer than **three days**, disability benefits are not recoverable.
- If the disability lasts longer than **two weeks**, disability benefits are recoverable from the day the injured employee leaves work.
- **Permanent total disability** benefits are 66²/₃% of employee's average weekly wage (subject to a weekly maximum) and payable until death.
- **Temporary partial disability:** The employee will receive 66²/₃% of the difference between the employee's average weekly wage and the employee's average weekly wage during disability, not to exceed 91% of the state average weekly wage.
- **Funeral and burial expenses:** Maximum lump sum of \$7,000

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Workers' Compensation

- **Coordination of benefits:** Workers' compensation payments are generally lowered if an individual also receives disability payments from another source, for example
 - If an individual receives Social Security disability benefits, the total workers' compensation disability benefits will be reduced by approximately one-half of the Social Security benefits (but not below zero)
 - Unemployment compensation benefits
- Insurers and employers can ask employees to apply for Social Security or other periodic benefits
 - Employees who don't may have their benefits suspended

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Workers' Compensation

- An employer must notify the Division and insurance carrier of any injury for which workers' compensation benefits are payable within **10 days** after the injury.
- If an employee dies from an injury or if there is an accident in which three or more employees are injured, the employer must **immediately** notify the Commissioner.
- An injured employee or their dependents (if deceased) must file a workers' compensation claim within **two years** after the injury or death occurred.

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Automobile Insurance

- Cancellation
 - An insurer may cancel a new auto insurance policy within the first 59 days for any legal reason.
 - An insurer may only cancel a policy that has been in effect for 60 days or more for:
 - nonpayment of premium;
 - the suspension or revocation of driver's license or motor vehicle registration of the insured or operator during the policy period or, if the policy is a renewal, during its policy period or the 180-day period before its effective date;
 - the applicant knowingly making a false statement on the insurance application; and
 - an insured knowingly and willfully making a false material statement on a claim submitted under the policy.

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Automobile Insurance

- Cancellation (continued)
 - Notice of cancellation must be at least **30 days** prior to the date of cancellation (or **10 days** for nonpayment of premium).
 - Cancellation notice must include the reason for cancellation or be provided if requested by the policyholder.
- An insurer may not refuse to write a policy solely because of the claim or driving record of one or more but fewer than all of the persons residing in the insured's household.
 - An insurer may offer to exclude any person in a household by name if his driving record and claim experience would justify refusal by the insurer.

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Automobile Insurance

- **Refusal to renew (nonrenewal):** An insurer cannot refuse to renew an automobile insurance policy unless it gives the insured at least a **30-day** written notice.
 - The insurer must provide the reasons for nonrenewal within 20 days after receiving the insured's written request.
- An insurer cannot refuse to renew or write an automobile insurance policy solely because of the insured's:
 - age;
 - race;
 - gender;
 - national origin;
 - residence;
 - marital status; or
 - lawful occupation, including military service.

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Automobile Insurance

- The cancellation or nonrenewal notice must state:
 - the right of the insured to insurance through an assigned risk plan; and
 - that the insured has a right to file a complaint with the Division of Insurance.

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Automobile Insurance

- Exclusion of named driver
 - If one person insured under an automobile liability insurance policy has a claim experience or driving record that justifies policy cancellation or nonrenewal, the insurer can exclude the one individual from coverage by name, instead of canceling, refusing to renew, or increasing the premium on the policy.
 - The insurer will not be liable for claims arising out of the excluded individual's operation of the insured motor vehicle, even if the individual had the insured's permission to operate the vehicle.

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Automobile Insurance

- **Uninsured motorist/underinsured motorist:** All Colorado automobile and motor vehicle liability policies must provide coverage for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.
- The minimum limits required are \$25,000 per person and \$50,000 per occurrence for bodily injury.
 - However, the named insured may reject uninsured motorist coverage in writing.
- The insured may obtain higher policy limits up to the insured's bodily injury liability limits.
- Uninsured motorists property damage coverage must be provided if it is requested by the insured.
 - Covers the vehicle's actual cash value, or the cost to repair or replace, whichever is less, subject to a deductible

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Automobile Insurance

- **Financial responsibility:** It is illegal for the owner of a motor vehicle to operate the vehicle on the public highways of Colorado without automobile insurance.
- Unless specifically exempt, an operator or owner named in an accident report must file with the Commissioner:
 - proof of financial responsibility; or
 - security, in an amount specified after reviewing the accident report, that is sufficient to satisfy any judgments for damages or injuries resulting from the accident as may be recovered against the operator or owner (up to \$35,000).

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Automobile Insurance

- **Financial Responsibility** required minimum liability limits are 25/50/15
 - \$25,000 because of bodily injury to or death of one person in any one accident
 - \$50,000 because of bodily injury to or death of two or more persons in any one accident
 - \$15,000 because of injury to or destruction of property in any one accident
- Insurers must offer collision coverage deductibles of \$100 and \$250, in addition to other deductible choices.
- Auto liability policies must provide \$5,000 of medical payments coverage unless the insured rejects this coverage in writing.
 - The requirement does not apply to policies on motorcycles, low-power scooters, toy vehicles, snowmobiles, or off-road vehicles.

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Colorado Auto Insurance Plan

- The Colorado Auto Insurance Plan (AIP) equitably apportions among insurers auto insurance applicants who are entitled to but unable to purchase auto insurance through ordinary methods.
- All authorized/admitted insurers must participate in the AIP.

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Bail Bonds

- An insurance producer who posts a bail bond with the court on behalf of a defendant must provide required documentation.
- An insurance producer who writes bail bonds cannot charge a premium/commission of more than the greater of \$50 or 15% of the amount of bail furnished.
- The producer must maintain records for three years after the bail bond has been discharged.

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Bail Bonds

- The following are unfair and prohibited marketing practices related specifically to bail bonds:
 - As a result of writing a bail bond, paying a fee, rebate, or anything of value to a peace officer, clerk, employee of a court, district attorney, or any person who has power to arrest or to hold a person in custody
 - Unless the indemnitor consents in writing otherwise, failure to post a bail bond within 24 hours after receipt of full payment or a signed contract for payment
 - Failure to report, preserve without use, retain separately, or return after payment in full, collateral taken as security on any bail bond to the principal, indemnitor, or depositor of the collateral
 - Soliciting bail bond business in or about any place where prisoners are confined, arraigned, or in custody
 - Failure to pay a final, nonappealable judgment award for failure to return or repay collateral received to secure a bond

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3

Detailed Text

HOW TO USE: All state specific topics in your state's exam content outline law and regulation section are covered in this detailed text. Students are encouraged to read the text for in-depth descriptions of the state's insurance laws and regulations. In addition, some topics are not covered in the Cram Sheets and Class Notes, and are only covered in the Detailed Text.

I. ETHICS

A. INTRODUCTION Studying ethics helps producers make the right decision when they find themselves, as they often do, in ambiguous, confusing, or otherwise difficult situations. These situations may present producers with conflicts of interest or situations that may be perfectly legal but not necessarily ethical. Such situations are so common that many clients say ethical behavior is the number one characteristic they want in their insurance producer. Because strong ethical behavior is such an invaluable characteristic to an insurance producer's success, ethical insurance producers quickly gain the trust, respect, and loyalty of their clients. Such clients not only provide additional business, but also provide valuable referrals. Ethical behavior is a key ingredient of success in the insurance industry.

1. Overview of ethics and the insurance producer

- a. Good ethics is good business. Ethical behavior helps insurance producers gain professional satisfaction and the respect and loyalty of clients. A code of ethics also helps a producer avoid controversy, misunderstandings, and legal entanglements, and increases personal efficiency as an insurance producer. Good clients usually refer other good clients to ethical producers.
- b. Under the law, ethical conduct is generally defined as conduct that a reasonable person is expected to do under any circumstances. However, not all actions that are unethical (such as selling a prospect more life insurance than they can afford) are illegal. A producer must pay attention to both the "have-to" legal requirements and the "choose-to" ethical standards of business.
- c. Insurance producers have ethical responsibilities to insurers, policyowners, the public, and the state. The duties of an insurance producer to the insurer are established by the concept of agency. This concept is tangibly represented by the agency contract, which both parties agree to and sign. As the insurer's producer, the producer owes an insurer honesty, good faith, and loyalty. As the insurer's representative, the producer's day-to-day activities are a reflection of the insurer's image within the community.

2. Compliance and market conduct The principles of ethics are related to those of compliance and market conduct. Because these terms are in such common use, it's important to understand the distinction between them.

- a. **Compliance** Compliance means conducting business in accordance with current rules and laws set by government regulatory agencies and the courts. It means following the rules and making sure insurance producers and companies go by the book when conducting business. Laws and regulations set the minimum standard by which producers are expected to behave. Laws and regulations tell us what we *must* do.

- b. Ethics** Ethics are standards of conduct and moral judgment. Ethics are about what we *should* do. Codes of ethics identify and encourage desirable activities by formally establishing a high standard against which each individual may measure behavior. Characteristics of an ethical insurance producer are:
- honesty;
 - integrity;
 - loyalty;
 - fairness;
 - compassion;
 - respect for others;
 - personal responsibility; and
 - accountability.
- c. Market conduct** Market conduct is a combination of both ethics and compliance. Market conduct refers to how insurance companies and producers conduct themselves in accordance with ethical standards and in compliance with rules and laws governing insurance policy sales, marketing, and underwriting practices as well as policy issuance, service, complaints, and terminations. Market conduct is synonymous with professional behavior.

B. THE PRODUCER'S ETHICAL RESPONSIBILITIES TO THE INSURER

- 1. Agency** The relationship between an insurance producer and the insurance company is governed by the concept of agency. Agency is a legal term that describes the relationship between two parties. One of the parties (the principal) has authorized the other (the producer) to perform certain legally binding acts on the principal's behalf. The key principles of agency law are as follows.
- The acts of the producer (within the scope of the producer's authority) are the acts of the principal.
 - A contract completed by a producer on behalf of the principal is a contract of the principal.
 - Payments made to a producer on behalf of the principal are payments to the principal.
 - Knowledge of the producer regarding business of the principal is presumed to be knowledge of the principal.
- a.** The essence of an agency relationship is power. In the case of an insurer and a producer, this power is granted through an **agency contract**, which is how an insurer appoints an individual to act on its behalf.
 - b.** The agency contract gives the producer the power to act on behalf of the principal and, at the same time, describes the actions the producer is authorized to take. Practically and legally, however, a producer's authority can be quite broad.
 - c.** The limits to a producer's authority are spelled out in the agency agreement, and a producer must act within those limits. The ethical significance of the

agency contract is that producers must, first and foremost, serve the insurer, live up to the contract, and operate within the scope of their authority. However, a producer's duty to the insurer goes far beyond the wording of the contract. By entering into this contractual relationship, a producer also enters into a **fiduciary relationship**.

- 2. The producer as fiduciary** A **fiduciary** is an individual whose position and responsibilities involve a high degree of trust and confidence. Trustees, guardians, and executors, by virtue of their responsibilities, are fiduciaries, as are insurance producers.
 - a. Authority** Through appointment, an insurance producer generally is given the power and express authority to act for the insurer by:
 - soliciting applications for coverage;
 - describing coverage and policies to prospects and applicants and explaining how such policies can be purchased;
 - collecting premiums (or, in some cases, only initial premiums); and
 - providing service to prospects and the insurer's policyholders.
 - b. Loyalty to the insurer** The primary ethical responsibility a producer owes to the insurer is loyalty—producers must act in the insurer's best interest in every matter involving the insurer's business. Producers are also charged with conforming to the limits of their authority and staying within the guidelines of the agency contract.
 - c. Care and skill** A producer has a duty to act with the utmost care and skill. In some cases, this means the producer must refer business to others who are more qualified.
 - d. Full disclosure** A producer is obligated to fully disclose all information that may affect the insurer and its ability to conduct business. Practically speaking, full disclosure is most significant during the application and claims-handling process. A producer must complete all application and claims forms as accurately and completely as possible. It is the producer's responsibility to see that the answers to questions on the application are recorded fully and accurately.
 - e. Prompt action and follow-up** A producer has the obligation to act promptly in all matters regarding the insurer's business. The responsibility to transmit completed applications and notice of premium receipts as quickly as possible is most important. The insurer cannot begin the process of issuing insurance until it has received an application, and unless the applicant has been given a receipt, he remains at risk until a policy is issued. If the applicant is given a receipt at the time of application, the insurer is obligated to provide coverage until the applicant is formally rejected. In either event, a delay by the producer in turning over an application or notice of premium receipt may place the applicant or the insurer in jeopardy.
 - f. Handling premiums** By law, payment of premiums to a producer is payment to the insurer. The producer has the fiduciary duty to account for all funds he

receives in connection with the insurer's business and to turn these funds over promptly. Even if there is no illegal intent, it is unethical to delay or withhold premium payments. In many states, it is illegal to combine premium monies with personal funds, and rarely would it be ethical to do so, whether or not such a specific law exists.

g. Avoiding conflicts of interest

- 1.)** Ethically, an insurance producer who has signed an exclusive contract with his insurer cannot serve two principals at the same time. As a captive producer, he owes a singular loyalty to that insurer. It would be unethical for that producer to represent two insurance companies selling the same policies. In addition, a producer has the ethical obligation to inform the company about any other related service he provides and receives payment for (e.g., doing part-time preparation and filing or consulting for a local business).
- 2.)** Independent producers also face this issue when they attempt to serve their clients while being contracted to an insurer. Conflicts can be avoided if the producer represents his client only during the process of helping the client select the insurance plan best suited to the client's needs and represents the insurer at all other times.

h. Careful solicitation A producer has the ethical duty to protect the insurer's interests by soliciting business that appears to be good and profitable for the insurer.

i. Competitive integrity As a duty to his insurer and the industry itself, a producer must resist the temptation to misrepresent or defame a competitive producer or insurer. Ethics requires that a producer acknowledge the worth of other producers and their policies and compete only on the basis of the value of the products and services that he can provide.

3. Duties of the principal to the producer A rule of agency law is that the principal is responsible for all of a producer's acts when the producer is acting within the scope of his authority. This responsibility includes fraudulent acts, omissions, and misrepresentations.

- a.** The principal must select honest, loyal, and hard-working producers to protect itself from potential liability. In return, the principal gives the producer compensation for the business he brings in and reimbursement for any damages or expenses incurred in defending against claims for which the producer may be held liable in the course of fulfilling agency obligations.

- b. Perhaps the greatest source of ethical concern for many producers is the feeling that they are caught in the middle between two parties who have conflicting interests. On one hand, a producer's primary responsibility is to serve the insurer. On the other hand is the consumer, to whom the producer also owes dedication, loyalty, and service. How can a producer reconcile this conflict? Actually, it's quite simple. By acting in the best interests of the insurer, the producer best serves the consumer.

C. THE PRODUCER'S ETHICAL RESPONSIBILITIES TO THE POLICYOWNERS

1. **Needs selling** A producer must sell the kind of policies that best fit the prospect's needs and in amounts that the prospect can afford. **Needs selling** involves problem analysis, action planning, product recommendation, and plan implementation. This requires two important commitments on the producer's part:
 - a commitment to obtain and maintain the knowledge and skills necessary to perform those tasks; and
 - a commitment to educating the prospect or client about the products and plans that may be implemented on the producer's recommendation.
 - a. The policyowner must rely on the producer to provide informed options and must trust that the producer's recommendations for insurance are in his best interest. To ensure that this trust is justified, a producer has an ethical responsibility to obtain the knowledge and skills needed to evaluate and serve the insurance needs of clients and to keep his base of knowledge and skills current by committing to a program of continuing education.
 - b. Client trust must be earned, nurtured, and constantly reinforced. The producer who remembers this basic rule is the producer who communicates to his client the reasons why a particular insurance policy or program is being recommended and how it will serve.
 - c. This communication and education continues long after the particular policy or program is sold and becomes part of the overall insurance program designed for that client. The professional producer will review each client's needs annually and meet with the client to explain and discuss the programs put in place to meet those needs.
 - d. Insurance producers who engage in unethical behavior risk losing both clients and prospects. One study showed that a customer who has had a problem with a business will tell 9 or 10 people about it, and 13% of people who have a problem with a business will then repeat the incident to more than 20 people.
 - e. One unethical act, then, can tarnish a sterling reputation. Although unethical practices, such as misrepresentation, may win a producer a sale in the short run, it's only a matter of time until a producer's unethical behavior—and reputation—loses both prospects and clients.

- 2. Service** Service—during and after the sale—is just as important as selling to needs in meeting a producer’s ethical responsibilities. One of the most important aspects of business ethics is that the characteristics associated with an ethical person—such as fairness, honesty, and personal responsiveness—also affect the level of service that a company provides. For the purposes of this discussion, service is defined to mean:
- educating the client before, during and after the sale, ensuring that he or she fully understands the application and underwriting processes, the policy purchased, and any attached rider;
 - treating all information with confidentiality;
 - disclosing all information so that the policyowner or applicant can make an informed decision;
 - keeping the prospect or client informed of any rejection, exclusion, or cancellation of coverage; and
 - showing loyalty to prospects and clients.
- a. The application** A producer’s primary responsibility in the application process is to the insurer. However, he also has an ethical duty to educate the prospective insured about the application process, including:
- why the information is required;
 - how it will be evaluated;
 - the need for accuracy and honesty in answering all questions; and
 - the meaning of important terms, such as *waiver of premium*, *automatic premium loan*, *nonforfeiture options*, *policy loans*, and *conditional receipt*.
- b. A conditional receipt** normally is given when the applicant pays the initial premium at the time the application for a policy is signed. This means that the applicant and the company have formed what might be called a conditional contract—that is, one contingent upon conditions that existed at the time of application or when a medical examination is completed. It provides that the applicant is covered immediately from the date of application as long as he passes the insurer’s underwriting requirements. It is the producer’s ethical responsibility to explain that the applicant is covered on the condition that he proves to be insurable and passes the medical exam, if required.
- 1.)** Another ethical responsibility the producer owes the client is to briefly explain the underwriting process that the application will undergo. This explanation should include a description of the checks and balances that apply to underwriting a risk, such as the Medical Information Bureau, the inspection report, and the credit report.
 - 2.)** Insurance producers are privy to a client’s personal and financial information. Ethics require that the producer respect the sensitive nature of this information and keep it confidential. Personal information about a client should never be released without proper approval from the client.

c. Full disclosure In this context, **full disclosure** means informing the prospect or client of all facts involving a specific policy or plan so that an informed decision can be made. Two forms that many producers use as educational tools and in sales presentations are *The NAIC Buyer's Guide* and *The Policy Summary*.

d. Policy delivery

- 1.) Most policies are issued as applied for. In such cases, the producer owes the new policyowner prompt delivery of the policy, as well as a review of its features and benefits. Not only does this help solidify the sale, it represents a step toward making the policyowner a lasting client.
- 2.) Once the policy is issued and an applicant becomes a policyowner and client, service becomes more than the producer's ethical responsibility—service now forms the foundation on which the producer and the client form a lasting relationship. All policyowners should receive periodic reviews to ensure that their insurance programs are in step with their plans and objectives. Service after the sale is more than a responsibility; rather, it is a critical part of a life insurance industry tradition. Through the years, producers have helped build that tradition, and their future success depends on continuing that tradition.

D. THE PRODUCER'S ETHICAL RESPONSIBILITIES TO THE PUBLIC An insurance producer represents his insurance company to the general public—to prospective insureds. A producer's actions help shape the public's perceptions of the insurance industry. A producer's primary ethical duty to the public and to each prospective insured is to provide accurate information regarding insurance policies and benefits in a fair and unbiased manner. That information should be complete in every way, providing the prospect with the details of any deductibles, waiting periods, benefit limitations, exclusions, or qualification requirements for the policy.

1. **Unfair Trade Practices Act** The **Unfair Trade Practices Act** is a model act originally created by the National Association of Insurance Commissioners (NAIC) in the 1940s to deal with the inappropriate use of advertising. It has since been expanded to include all major deceptive or unfair trade practices. Most states have adopted all or portions of the model act. Unfair practices are discussed in more detail later in this unit.
2. **Insurance Marketplace Standards Association (IMSA)** The capstone of the renewed commitment to ethical sales and marketing practices in the insurance industry was the formation of the **Insurance Marketplace Standards Association (IMSA)** in 1996. IMSA acted as a watchdog group whose member companies agreed to adhere to and enforce ethical principles. The Compliance and Ethics Forum for Life Insurers (CEFLI) is the successor organization to the IMSA and currently works with regulators and insurers to promote sound ethical practices in the marketplace.
3. **Complete and honest representation** It is a producer's duty to present each policy with complete honesty and objectivity. This means pointing out any limitations or drawbacks the product may have, along with its features and benefits.

- 4. Selling to fit needs** A prime violation of a producer's ethical duty to a prospect is deliberately selling to fit the needs of the producer rather than the needs of the prospect. The typical result is a prospect being sold insurance with the highest premium (and the greatest commission) instead of the proper coverage. The answer to this problem can be found in the CLU® pledge:

In all my professional relationships, I pledge myself to the following rule of ethical conduct: I shall, in light of all conditions surrounding those I serve, which I shall make every conscientious effort to ascertain and understand, render that service which, in the same circumstances, I would apply to myself.

- E. THE INSURANCE PRODUCER'S RESPONSIBILITIES TO THE STATE** The responsibility to regulate the insurance industry is shared jointly by the federal government and the various state governments. States carry the major burden of regulating insurance affairs, including the ethical conduct of producers licensed to conduct business within their borders. This regulation of ethical conduct is called **marketing ethics**.

- 1. Unauthorized insurers** By law, only insurers that have been authorized or licensed by a state may issue policies in that state. Consequently, a producer must make sure that the insurers he represents are licensed to do business where solicitation is made. Generally, a state's guaranty fund only covers the liabilities of authorized insurers, so anyone purchasing policies from unauthorized or unlicensed companies would be at risk if those insurers could not meet their claims.
- 2. Misrepresentation** Any written or oral statement that does not accurately describe a policy's features, benefits, or coverage is considered a **misrepresentation**. It is unlawful to make any misleading representations or comparisons of companies or policies to insured persons to induce them to forfeit, change, or surrender that insurance.
- 3. Defamation** **Defamation** is any false, maliciously critical, or derogatory communication—written or oral—that injures another's reputation, fame, or character. Individuals and companies both can be defamed. Unethical producers practice defamation by spreading rumors or falsehoods about the character of a competing producer or the financial condition of another insurance company.
- 4. Rebating** Rebating occurs if the buyer of an insurance policy receives any part of the producer's commission or anything else of significant value as an inducement to purchase a policy.
Examples of rebating include:
 - offering, paying, or allowing any rebate or other inducement not specified in the policy, or any special favor or advantage concerning the dividends or other benefits that will accrue, in order to place, negotiate or renew the policy;
 - offering, selling, or purchasing anything of value not specified in the policy; and
 - offering, paying, or allowing any rebate of any premium on any insurance policy or annuity contract.

5. **Twisting** Twisting is the unethical act of persuading a policyowner to drop a policy solely for the purpose of selling another policy without regard to possible disadvantages to the policyowner. By definition, twisting involves some kind of misrepresentation by the producer to convince the policyowner to switch insurance companies and/or policies.
6. **Solicitation and disclosure** Producers must provide certain disclosure documents when they solicit any insurance sale. These documents are intended to help the consumer make an informed decision about what plan of insurance is the best buy.
7. **License suspension/termination** When it comes to the law, an unethical act can have severe repercussions. This is because what states consider unethical, they have usually made illegal. In most states a producer's license can be suspended or terminated for violating marketing ethics.

F. CODE OF ETHICS The following is the Code of Ethics for the National Association of Insurance and Financial Advisors, a federation of nearly 1,000 state and local associations representing tens of thousands of insurance agents.

Helping my clients protect their assets and establish financial security, independence and economic freedom for themselves and those they care about is a noble endeavor and deserves my promise to support high standards of integrity, trust and professionalism throughout my career as an insurance and financial professional. With these principles as a foundation, I freely accept the following obligations:

- *To help maintain my clients' confidences and protect their right to privacy.*
- *To work diligently to satisfy the needs of my clients.*
- *To present, accurately and honestly, all facts essential to my clients' financial decisions.*
- *To render timely and proper service to my clients and ultimately their beneficiaries.*
- *To continually enhance professionalism by developing my skills and increasing my knowledge through education.*
- *To obey the letter and spirit of all laws and regulations which govern my profession.*
- *To conduct all business dealings in a manner which would reflect favorably on NAIFA and my profession.*
- *To cooperate with others whose services best promote the interests of my clients.*
- *To protect the financial interests of my clients, their financial products and my profession, through political advocacy.*

II. COLORADO STATUTES, RULES, AND REGULATIONS COMMON TO LIFE, SICKNESS AND ACCIDENT, PROPERTY (FIRE) AND CASUALTY INSURANCE

A. INSURANCE COMMISSIONER [SEC. 10-1-104] The Commissioner of Insurance is appointed by and serves at the will of the governor. The Commissioner must be well versed in insurance and have no financial interest in any insurer or agency.

1. Power and duties [Secs.10-1-104; 10-1-108; 10-1-109; 10-1-201 to 204; 10-3-105; 10-3-208; 10-3-1106; 10-4-401]

a. The Commissioner's duties include:

- maintaining records that insurers are required by law to file in the Commissioner's office, including a statement of the condition of each insurer examined by the Commissioner and the annual report insurers are required to file each year by March 1 (property and casualty insurers are required to include the total amount of business written in Colorado for personal auto, commercial auto, homeowners, farmowners, commercial multi-peril, medical malpractice, and other liability coverage);
- requiring domestic insurers to keep adequate records so the Commissioner can verify annual statements and confirm that a company is solvent and complies with the law;
- examining applications for licenses or certificates of authority and issuing or refusing to issue licenses or certificates of authority;
 - A **certificate of authority** is an insurer's license to transact insurance business in Colorado. An insurer may not conduct insurance business in Colorado without first receiving a certificate of authority from the Commissioner. A certificate of authority expires on June 30 each year and must be renewed annually.
 - A company that has a certificate of authority is referred to as an **authorized insurer**. A company that has not been issued a certificate of authority is referred to as a **nonadmitted insurer**.
- investigating violations of insurance laws and, when appropriate, presenting the findings to the appropriate district attorney or attorney general;
- overseeing the insurance business in Colorado to ensure that it is conducted according to state law and in the best interests of the public;
- transmitting funds collected by the Division of Insurance to the state Department of the Treasury;
- evaluating long-term care insurance policies to determine their compliance with insurance law and providing insurers with a written statement of the results;
- overseeing the operation of electronic data interchange projects for purposes of uniform billing and electronic data exchange for health benefit coverages in the state;
- adopting rules and regulations to carry out his duties; and
- determining whether rates are excessive, inadequate, or unfairly discriminatory.

- b. The Commissioner cannot perform all these duties alone, so he hires employees to help carry them out. For example, the deputy commissioner performs the Commissioner's duties in the Commissioner's absence.
- c. **Examinations [Sec.10-1-203; 204]** The Commissioner or a qualified examiner working on the Commissioner's behalf will conduct a formal financial examination of every insurer licensed in this state at least every five years. In lieu of a financial examination of any foreign or alien insurer licensed in this state, the Commissioner may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port-of-entry state.
 - 1.) In determining their nature, scope, and frequency, the Commissioner will consider standard financial criteria including, but not limited to, those set forward in the most recent examiner's handbook adopted by the NAIC.
 - 2.) If a company or any of its officers, directors, employees, or agents refuses to comply with examiners' written requests, the company could have its license suspended, revoked, denied, or nonrenewed.
 - 3.) The costs of examinations that must be conducted out of state will be paid by the insurance company.
- d. **Investigating possible violations** The Commissioner has the power to examine the affairs of any person doing insurance business in Colorado to determine whether that person has engaged in any unfair method of competition or any unfair or deceptive act.
- e. The Commissioner may also examine the affairs of any insurer doing business in Colorado. The Commissioner, or the assigned examiner, is allowed free access to books and documents relating to the insurer's business and may subpoena witnesses and administer oaths during an investigation.
- f. Anyone who intentionally testifies falsely during an examination is guilty of a misdemeanor and may be fined up to \$5,000, imprisoned for up to three months, or both. Anyone who falsifies an insurer's books or documents with the intent to deceive the Commissioner is guilty of a misdemeanor and faces a fine of up to \$5,000, imprisonment for between two and 12 months, or both.
- g. The Commissioner may also examine companies upon the request of five or more policyholders who have at least \$100,000 worth of insurance in force. The policyholders must specify in writing their reasons for believing the company is unsound or insolvent.
- h. **Investigation by Commissioner [Sec. 10-2-804]** The Commissioner may examine and investigate any person applying for or holding an insurance producer license to determine whether such person has violated the insurance laws or rules of the state or any other state.

- 1.) If the Commissioner receives information regarding a possible violation, the person may be required to appear at a hearing to explain why the Commissioner should not revoke, suspend, or refuse to issue or renew that person's license.
- 2.) If an individual's conduct merits such punishment, the Commissioner may suspend or revoke the license of that individual's insurance agency if one of the partners, officers, or managers knew or should have known about the individual's violation.
- 3.) A civil fine of no more than \$3,000 is also a possible punishment for each violation.

2. Hearings and penalties [Secs. 10-2-801; 10-2-804; 10-3-1104; 10-3-1107; 10-3-1108; 10-3-1109; 10-3-1111] The Commissioner may suspend an insurance agency's license if he finds, after a hearing, that any of the agency's partners, officers, or managers knew or should have known of an individual licensee's violation and failed to report it to the Division of Insurance or to take corrective action.

a. Hearings on unfair trade practices The Commissioner may conduct a hearing if he believes any person has engaged in an unfair method of competition or an unfair or deceptive act.

b. Cease and desist orders [Sec. 10-3-1108] The Commissioner may issue a cease and desist order if, after a hearing, she determines that the person charged has engaged in an unfair method of competition or an unfair trade practice.

- 1.) The Commissioner may also:
 - impose a fine of up to \$3,000 per violation, with a maximum aggregate penalty of \$30,000;
 - if the violation was committed by an insurer and it knew or should have known that it violated this chapter, the Commissioner may fine the insurer up to \$30,000 per violation, with a maximum aggregate penalty of \$750,000 per year; and
 - suspend or revoke the violator's license if he knew or should have known that he violated this chapter.
- 2.) If the Commissioner determines that an unfair trade practice resulted in a failure to pay a claim, the insurer may be liable to pay the claim. The Commissioner determines the proper amount at the hearing.

c. Violation of cease and desist orders [Sec. 10-3-1109] Any person who violates a cease and desist order may, after notice and hearing, be fined up to \$10,000 for each violation (if an insurer) or up to \$500 for each violation (if an individual). The violator's license may also be suspended or revoked.

d. Emergency cease and desist orders [Secs. 10-3-904.5, 10-3-904.6, 10-3-904.7] The Commissioner may issue an emergency cease and desist order without holding a hearing if:

- he believes that an unauthorized person is engaged in insurance business without being licensed or is in violation of a rule passed by the Commissioner; and
 - it appears to the Commissioner that the alleged conduct is
 - fraudulent,
 - creates an immediate danger to public safety, or
 - is causing or is about to cause significant, imminent, and irreparable public injury.
- 1.)** An unauthorized person is any individual, corporation, association, partnership, or natural or artificial person who transacts insurance business without a license.
- a.)** If the Commissioner determines that an emergency cease and desist order should be issued, he will serve the order on the person.
 - b.)** The order will contain a statement of the charges and will require the person to immediately cease and desist from the acts, methods, or practices stated in the order.

- 2.)** Any person who is the subject of an emergency cease and desist order may contest such order by requesting an immediate hearing before the Commissioner. If, after a hearing, the Commissioner determines that an emergency cease and desist order has been violated, he may:
- impose a civil penalty of \$25,000 for each violation;
 - direct the person violating the order to make complete restitution to all state residents, insureds, and entities operating in Colorado that were damaged by the person's actions; or
 - impose both a civil penalty and restitution.
- 3.)** If a person fails to pay a penalty or to make complete restitution, the Commissioner may refer the matter to the attorney general for enforcement or may revoke any license, certificate of authority, or other authorization issued to the person.

3. License suspension and revocation [Secs. 10-2-801; 10-2-803] The Commissioner may suspend, revoke, or refuse to continue, renew, or issue any license if, after notice to the licensee and a hearing, the Commissioner determines that the licensee committed an illegal act. The Commissioner may also impose a fine or order the violator to pay restitution.

- a.** An individual would be subject to a license suspension or revocation who:
- made a false statement in the license application;

- harbored any cause for which the license would have been refused had it existed and had the Commissioner known about it at the time the license was issued;
- violated any insurance law, rule, regulation, or order of the insurance Commissioner of any state;
- obtained or attempted to obtain a license through misrepresentation or fraud;
- improperly withheld, misused, or converted to his own use (or an applicant's own use) money received in the course of business that belonged to policyholders, insurers, beneficiaries, or others;
- misrepresented the terms of an insurance contract;
- was convicted of a felony or misdemeanor involving moral turpitude (including any sexual offense against a child);
- committed an unfair trade practice or fraud;
- used fraudulent, coercive, or dishonest practices;
- acted in an incompetent, untrustworthy, or financially irresponsible manner;
- had a license suspended, revoked, or denied in another state;
- forged another person's name on an insurance application;
- failed to meet the licensing requirements;
- cheated on a licensing exam;
- knowingly accepted insurance business from a person who is not licensed;
- failed to comply with an administrative or court order imposing a child support obligation; or
- failed to pay state income tax or comply with any administrative or court order directing payment of state income tax.

In addition to license denial, suspension, or revocation, a violator may be subject to a civil penalty of up to \$3,000 per violation.

b. Notice of penalty, suspension, termination, revocation, or denial [Sec. 10-2-803]

- 1.) The Commissioner must notify an applicant or licensee of the reasons for denial, suspension, revocation, or nonrenewal of a license in writing.
- 2.) Upon assessment of a penalty, suspension, revocation, or termination of the license of a resident licensee, the Commissioner must notify the central office of the National Association of Insurance Commissioners or its affiliate or subsidiary.

- c. Reporting administrative actions** A producer or insurer must report to the Commissioner any administrative action taken against the producer in another jurisdiction, or by another governmental agency in Colorado, or any criminal prosecution in any jurisdiction within 30 days of the action. The report shall include copies of any relevant legal documents.

d. Transaction of insurance defined [Sec. 10-3-903] The transaction of insurance includes the following activities:

- Making, or proposing to make, an insurance contract as an insurer
- Making, or proposing to make, as a guarantor or surety, any contract of guaranty of suretyship as a business
- Taking or receiving an application for insurance
- Receiving or collecting premiums, commissions, or other consideration for insurance
- Issuing or delivering insurance contracts to Colorado residents or to persons authorized to do business in Colorado
- Acting as an agent for or otherwise representing any person or insurer in the solicitation, negotiation, or effectuation of insurance or renewals of insurance; providing information about coverage or rates; forwarding applications; delivering policies; inspecting risks and setting rates

Full-time salaried employees of a corporation who manage or buy insurance on behalf of their employer are not transacting insurance. Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses are not transacting insurance.

B. LICENSING AND PRODUCER'S LEGAL RESPONSIBILITY

1. Persons required to be licensed [Sec. 10-2-401, Reg. 1-2-10] It is illegal for anyone to transact insurance (other than reinsurance or surplus lines insurance) for an insurer that is not authorized to do business in Colorado.

a. Insurance producer [Secs. 10-2-103(6); 10-2-401] Colorado has switched to a single-producer system. Rather than separate agent and broker licenses, the state now issues an insurance producer's license.

- 1.)** An insurance producer is a person who solicits, negotiates, effects, procures, delivers, renews, continues, or binds:
 - insurance policies for risks located in Colorado;
 - membership in certain health care prepayment plans; or
 - membership enrollment in certain health care plans.
- 2.)** Insurance producers who solicit or negotiate insurance applications on behalf of an insurer represent the insurer, not the insured, in any controversy.
- 3.) Lines of authority [Sec. 10-2-407]** An insurance producer must be qualified and licensed in any line for which he applies for, procures, or negotiates insurance on behalf of others. An insurance producer may receive qualification for a single license to include one or more of the following lines:
 - Life
 - Accident and health

- Variable life and annuities
- Property
- Casualty
- Limited lines credit
- Crop hail
- Title
- Surplus lines
- Travel ticket selling
- Personal lines

4.) Variable contracts Resident producers applying for or renewing the variable life and variable annuity line of authority, in addition to holding the life authority, must furnish evidence that they are currently registered with a broker-dealer through Financial Industry Regulatory Authority (FINRA). Nonresident producers applying for the variable life and variable annuity product line of authority must meet the requirements of their resident state to include training and licensure and have a current registration with a broker-dealer through FINRA.

5.) General licensing qualifications [Sec. 10-2-404] An individual seeking an insurance producer's license must file an application with the Commissioner; before approving the application, the Commissioner must verify that the applicant:

- is at least 18 years old;
- is competent, trustworthy, of good moral character and good business reputation;
- is a resident of Colorado or a resident of a state that has a reciprocal agreement with Colorado (if the applicant is a nonresident, the applicant must furnish the Commissioner with a current certification of license status);
- has not committed any act that is grounds for license denial, suspension, or revocation;
- has fulfilled the prelicensing education requirement (unless the applicant is exempt);
- has passed the examination (or satisfied the examination qualification requirements) covering the line or lines of insurance for which the applicant is seeking a license; and
- has paid the required license fee.

6.) Assumed name [Sec. 10-2-701] An insurance producer who uses an assumed name under which he conducts business must register the name with the Commissioner before using it. The Commissioner will not accept registration of the name if it would mislead the public or if it is the same or a similar name of a producer whose license was revoked or suspended.

b. Insurance agency [Secs. 10-2-103(5), 10-2-404(2)] An insurance agency is a corporation, partnership, association, or other legal entity that transacts insurance business and must obtain an insurance producer's license to transact business in Colorado.

- 1.) The agency must file an application with the Commissioner who then must verify that the agency has:
 - disclosed to the Commissioner the names of all the officers, partners, and directors of the agency (whether they are licensed insurance producers or not);
 - officers, partners, and directors who are trustworthy, of good moral character, and of good business reputation;
 - paid the required license fee;
 - designated a licensed officer, partner, or director to be responsible for the agency's compliance with Colorado's insurance laws and rules;
 - registered with the Commissioner the name of each person who, as an officer, director, partner, owner, or member of the agency, is acting as and is licensed as an insurance producer; and
 - registered with the Commissioner the name of at least one individual who holds a valid insurance producer's license for the line or lines of insurance requested in the application.
- 2.) Nonresident agencies must also file a certification of license status with the Commissioner. The Commissioner may require the filing of any documents reasonably necessary to verify the information contained in the application.

c. Nonresident licensing [Sec. 10-2-502]

- 1.) Individuals, business entities, and agencies may obtain nonresident producer licenses. To obtain a nonresident license, the applicant must:
 - be currently licensed in good standing in the home state for the same lines of authority;
 - submit an application and pay the required fee;
 - file a current certification of license status; and
 - submit the license application that was used in the home state or a completed uniform application.
- 2.) The Commissioner may verify the producer's licensing status through the NAIC's producer database.
- 3.) A nonresident licensee has the same rights and privileges as a resident licensee.

- 4.) A nonresident producer who moves from one state to another state, or a resident producer who moves from Colorado to another state, must file a change of address and provide certification from the new resident state within 30 days. No fee or license application is required.
- 5.) If a producer's license is suspended, terminated, or revoked in his home state, he must notify the Commissioner and return the Colorado nonresident license.

d. Exception to license requirements [Sec. 10-2-105] In general, people may not act as insurance producers unless they are licensed as such. However, the following people do not need to be licensed:

- Any regular salaried employee of a licensed producer who performs only clerical or administrative services in the employer's office, including the incidental taking of insurance applications, and who does not receive commissions on such applications
- Any regular salaried officer or employee of an insurance company who does not solicit or write insurance and who receives no commission or compensation for business obtained
- Anyone who helps administer group or wholesale life insurance or annuities or group, blanket, or franchise health insurance and who is not paid a commission for this service
- Employers (including their officers and employees) and trustees of any employee trust plan who administer any employee benefit program for their own employees involving insurance issued by a licensed insurer, provided the employees or trustees are not compensated by the insurer
- Employees of insurance companies or organizations hired by an insurance company who are engaging in the inspection, rating, or classification of risks or who are supervising the training of insurance producers and who are not individually engaged in the solicitation or negotiation of insurance policies or contracts
- Management associations, partnerships, or corporations that do not solicit insurance from the public

e. Fraternal benefit societies [Sec. 10-2-401(3)] Generally, persons representing fraternal benefit societies who solicit and negotiate insurance contracts are considered insurance producers and are subject to the same licensing requirements as other insurance producers. However, a license is not required of:

- any officer, employee, or secretary of a fraternal benefit society who devotes almost all of his time to activities other than soliciting or negotiating insurance and receives no compensation directly dependent on insurance sales; or
- any agent, representative, or member of a fraternal benefit society who in the preceding calendar year sold life insurance contracts on behalf of any society with a face amount of \$50,000 or less (or in the case of any other kind of insurance the society may write, sold insurance on behalf of 25 or fewer individuals) and received no compensation from these policies and who does not reasonably expect to sell insurance on behalf of more than 25 individuals in the current year.

- f. Prelicensing education [Sec. 10-2-201]** Applicants seeking licenses in the life, accident, and health line or the property and casualty line must prove to the Commissioner that they have completed a prelicensing education course or program.
- 1.)** An individual seeking an insurance producer's license in life insurance must complete at least 50 hours of an approved course for certification in life insurance; applicants seeking an insurance producer's license for accident and health insurance must complete at least 50 hours for certification in accident and health insurance.
 - 2.)** An applicant seeking a life and health license must complete 100 hours of prelicensing education.
 - 3.)** An individual seeking an insurance producer's license in property and casualty insurance must complete at least 50 hours of an approved course for certification in property and casualty insurance.
 - 4.)** At least three hours of each 50-hour course must cover industry ethics.
 - 5.)** There are exceptions to the prelicensing education requirement, dealing with applicants who are or were licensed in another state, met the prelicensing education requirements of that state, and were exempted in Colorado due to a reciprocal agreement with their home state.
- g. Appointment by insurer** No insurance producer may claim to be a representative or agent of a particular insurer (or accept applications on behalf of the insurer) unless the producer is appointed by the insurer to act as its agent.
- 1.)** This rule does not prohibit a producer from showing the benefits, rates, and features of an insurer's products, even though the producer has not been appointed by the insurer.
 - 2.)** Similarly, if a producer is unable to place a risk or policy with the insurer that appointed him, then the producer may attempt to place the risk with another insurer doing the same type of business.
- h. Terminating an appointment [Sec. 10-2-416]** When terminating a producer appointment, an insurer must inform the Commissioner within 30 days of the termination. The insurer has an additional 15 days to notify the producer. If the Commissioner requests, the insurer must provide additional information, documents, records, or other data pertaining to the termination or activity of the producer.
- 1.)** Within 30 days of receiving the notification, the producer may file a written response with the Commissioner and simultaneously send a copy of the comments to the reporting insurer. The comments will become a part of the Commissioner's file and accompany every report about the producer that is sent from the Commissioner's office.

2.) Immunities In the absence of willful and wanton behavior, an insurer, its representative, a producer, the Commissioner, or any organization to which the Commissioner belongs cannot be sued as a result of any information provided during an investigation of a producer who is being terminated.

3.) Confidentiality All documents, materials, or other information in the possession of the Division of Insurance that was furnished by anyone during an investigation of a producer must be kept confidential.

- a.)** Neither the Commissioner nor any person who received confidential documents or information will be required to testify in any private civil action about the information contained in them.
- b.)** If all parties agree to protect the confidential nature of the documents and material, the Commissioner has the authority to share the information with state, federal, or international regulatory agencies; the NAIC; and state, federal, and international law enforcement authorities. These parties must also agree to keep all information received from the Commissioner's office confidential.
- c.)** The Commissioner has the authority to release final disciplinary actions or closed files to public inspection or to a database maintained by the NAIC.
- d.)** The Commissioner has the right to disclose any information to any law enforcement agency to use in any criminal or civil investigation or prosecution.
 - This information will not be considered privileged and confidential in any criminal or civil matter, investigation, or prosecution by a government agency, except as provided by regulation.
 - However, any interested party may request that the Commissioner not disclose confidential information if it may cause substantial injury to the public interest.
 - If the Commissioner finds that disclosure will cause such injury, the Commissioner may apply to the district court for an order to restrict the disclosure.

4.) Penalties for failing to report An insurer, its representative, or producer who fails to report as required or is found to have reported with actual malice by a court may, after notice and hearing, have the producer's license or insurer's certificate of authority suspended or revoked and be fined.

i. Change of address [Sec. 10-2-412] Producer licensees (whether individuals or insurance agencies) must inform the Commissioner in writing of any change in address within 30 days of the change. Failure to do so may result in a penalty.

j. License expiration [Sec. 10-2-408] Generally, all producer licenses are renewable biannually, subject to the payment of a renewal fee and completion of continuing education courses, by the last day of the producer's birth month.

- 1.) If the renewal fee is not paid, the license is not valid.
- 2.) A producer who fails to comply with license continuation or renewal procedures due to military service, long-term medical disability, or any other condition the Commissioner deems appropriate may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with continuation or renewal procedures.

2. Surplus lines [Sec. 10-2-408, 10-5-103, 10-5-111; Reg. 2-4-1]

- a. Certain insurance coverages that cannot be procured from admitted insurers, called surplus lines, may be obtained from nonadmitted insurers, provided:
 - the insurance is obtained through a licensed broker;
 - the insurance cannot be obtained, after diligent effort has been made, from insurers authorized to transact that kind of insurance in the state; and
 - placing the insurance in a nonadmitted insurer is not being done to secure a lower premium, unless the premium rate quoted by the admitted insurer is more than 10% higher than that quoted by the nonadmitted insurer.
 - 1.) An affidavit setting forth the above facts must be executed by the broker and filed with the Commissioner within 30 days after the insurance is procured.
 - 2.) The diligent effort requirements do not apply to transactions with exempt commercial policyholders.
- b. **Tax [Sec. 10-5-111]** Each surplus lines broker and every person that enters into an independent procurement for nonadmitted insurance must remit to the Division of Insurance a tax on the net premiums, exclusive of sums collected.
 - 1.) This tax covers federal and other state taxes and examination fees on nonadmitted insurance transacted by the broker during the preceding reporting period as shown by the statement filed with the Commissioner. Net premiums are taxed at the new rates set by HB 12-1215 Ch 104, effective August 2012.
 - 2.) If a surplus lines or independently procured policy covers an insured whose home state is Colorado and that policy covers risks or exposures outside of Colorado, the tax due must be computed using the new allocation method in Section 10-5-111.5, generally a rate of 3% on the net premiums (unless there is another tax-sharing agreement between states).

- c. All surplus lines insurance contracts procured or delivered in Colorado must include the following statement: “This policy is issued by an insurance company that is not regulated by the Colorado Division of Insurance. The insurance company may not provide claims service and may not be subject to service of process in Colorado. If the insurance company becomes insolvent, insureds or claimants will not be eligible for protection under Colorado insurance law.”
 - 1.) If the policy is written on a claims-made basis, the following must also appear on the policy: “This policy is a claims-made policy that provides liability coverage only if a claim is made during the policy period or any applicable extended reporting period.”
 - 2.) If an automobile policy does not provide the basic complying policy coverages, the following must appear on the policy: “This policy does not meet the statutory requirements of this state’s financial responsibility laws. It does not provide liability coverage for bodily injury and property damage.”
 - 3.) These required disclosures shall be affixed to the declaration page of the contract given to the insured. A copy, bearing the disclosures, must also be maintained by the broker. If a binder is issued prior to the formal policy, such disclosure must also appear on the binder.

3. Payment and acceptance of commissions or fees [Secs. 10-2-401, 10-2-702; Reg. 1-2-9] Insurers and producers may not pay fees or commissions for services as an insurance producer to any person who was not properly licensed at the time.

- a. It is illegal for anyone to accept fees or commissions for such services unless they were properly licensed.
- b. Insurance producers may not charge fees in addition to those included in their commissions for soliciting and procuring insurance or for servicing existing policyholders.
- c. Insurance producers may charge fees for specific services (such as financial planning and estate planning) that are beyond their normal duties if:
 - the client signs a proper disclosure statement informing the client that he is not obligated to purchase any insurance product through the producer in exchange for the services; or
 - it is clear from the outset that no insurance product sale related to the services will occur.
- d. Insurance producers must retain a copy of any such disclosure statements for at least three years after completion of the services.
- e. Copies of these statements must be available to the Commissioner upon request.
- f. Insurance producers may not condition the placement of insurance on the provision of other services for which fees may be charged.

- 4. Fiduciary/commingling [Sec. 10-2-704; Reg. 1-2-1]** A fiduciary responsibility is one of special trust and confidence in which a person is entrusted with the funds of another person.
- a.** All premiums belonging to insurers and all unearned premiums belonging to insureds received by a licensee are held in a fiduciary capacity.
 - b.** All premiums a producer receives, minus authorized commissions, must be remitted to the insurer by the contractual due date or if there is no contractual due date, within 45 days after receipt.
 - c.** All returned premiums received from insurers or credited by insurers to a producer's account must be credited to the insured's account within 30 days.
 - d.** If a licensee does not account for a collected premium to the insurer within 45 days after the contractual due date (or 90 days after receipt if there is no contractual due date), the insurer must report this failure to the Commissioner.
 - e.** An insurer must return unearned premiums to the insured or credit the producer's account as soon as possible after a right of refund is established.
 - 1.)** In all cases, this must happen within 45 days.
 - 2.)** If a licensee has knowledge of an insurer's failure to remit unearned premiums within 45 days, he must report it to the Commissioner.
 - f. Separate accounts** Producers must treat each insurance policy and the premiums received on it as a separate account of the insured.
 - 1.)** Premiums and refunds that producers receive in connection with a policy may not be credited to any other obligation owed to the producer by the insured unless the insured gives written consent.
 - 2.)** When dealing with funds from the insured or insurer, producers must:
 - treat all premiums and return premiums as trust funds and keep them separate from their own funds;
 - keep accurate records of all fiduciary funds;
 - not treat premiums or return premiums as personal or business assets or income on financial statements; and
 - not use fiduciary funds as collateral for personal or business loans, although producers may receive interest on the funds and use them as a compensation balance with the financial institution.
 - 3.)** If a producer is going to deposit any premium or returned premium funds into a bank or savings account (until remitting the funds to the insurer or person entitled to the funds), he must use a separate insurance trust account. Any such deposits are subject to Colorado fiduciary law.

- 5. Continuing education [Sec. 10-2-301; Reg. 1-2-4]** Unless exempt, all producers must complete 24 hours of approved continuing education instruction every two years.
- a.** At least three of the 24 hours of continuing education must be for courses in ethics.
 - b.** At least 18 of these hours must be in approved courses in the lines of insurance for which the producer is licensed.
 - c.** All producers licensed to sell property or personal lines insurance must complete three hours of continuing education on homeowners insurance coverage. A maximum of six of the 24 hours shall be in approved courses on subjects designated by the Commissioner whenever the Commissioner determines that continuing education in such subjects is needed to protect insurance consumers.
 - d.** Anyone who holds more than one license only needs to fulfill the requirement once (which must be within 24 months after the date the first license must be renewed).
 - e.** For good cause, the Commissioner may grant licensees up to a one-year extension to comply with the requirements.
 - f.** Producers can accumulate no more than 12 credit hours to apply to the next continuing education period if the courses are taken within the final 120 days of the 24-month license continuation period.
 - g.** The continuing education requirements apply to all residents and nonresidents licensed to sell the following types of insurance in Colorado:
 - life insurance and annuity contracts (including variable life and annuity contracts);
 - accident and health insurance;
 - property and casualty insurance; and
 - any other type of insurance for which the state requires a licensing examination.
 - h.** Each producer is responsible for paying to the continuing education administrator a reasonable biennial fee for operation of continuing education programs.
 - i.** The requirements do not apply to:
 - any person holding a license whom the Commissioner exempts from the requirements; and
 - a nonresident who complies with the continuing education requirements of his state of residence (if the state of residence has a continuing education reciprocity agreement with Colorado).

- j. Licensees who fail to comply with the continuing education requirements or who submit false or fraudulent certificates of compliance to the Commissioner will have their licenses suspended until the requirements are met.
- k. It is the responsibility of the producer to maintain records sufficient to document successful completion of 24 credit hours on a biennial basis. Supporting documentation must be maintained by the producer for five years following license continuation, and it must be available for audit by the Division of Insurance.

6. Unauthorized entities [Secs. 10-3-903 to 10-3-904.5, 10-3-906;

10-3-908] The failure of a company transacting insurance business in Colorado to obtain a certificate of authority will not impair the validity of any act or contract of the company and will not prevent the company from defending itself in a court.

- a. In the event that any unauthorized insurer fails to pay a claim or loss, any person who assisted or aided in the procurement of the insurance contract is also liable to the insured for the full amount of the claim or loss in the manner provided by the provisions of the insurance contract.
- b. Anyone investigating or adjusting a loss or claim must immediately report to the Commissioner any policy that has been issued by an insurer not authorized in Colorado.
- c. Every insurance adviser, counselor, or analyst must report to the Commissioner every insurance policy covering a risk in Colorado that has been issued by an insurer not authorized to transact insurance in Colorado.
- d. This does not apply to insurance transactions involving a policy lawfully solicited, written, and delivered outside of Colorado, covering only subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of the policy.
- e. Other exceptions to the definition of transacting insurance (to which the law regarding unauthorized entities does not apply) include:
 - surplus lines;
 - reinsurance;
 - transactions involving Colorado certificateholders under a master group or blanket policy issued in another state (such health policies must include mammography benefits meeting Colorado requirements);
 - charitable gift annuities;
 - limited sales of insurance by motor vehicle rental agents; and
 - preowned home warranty service contracts.

C. UNFAIR COMPETITION AND DECEPTIVE PRACTICES

- 1. Coercion [Secs. 10-3-1104 (1)(d); 10-3-1105]** It is illegal to enter into any agreement to commit an act of boycott, coercion, or intimidation that results in unreasonable restraint or monopoly in the insurance business.
 - a.** No person may require a debtor to acquire, finance, or negotiate an insurance contract as a condition of receiving a loan, credit, or lease.
 - b.** No person may unreasonably disapprove the insurance policy provided by a debtor for the protection of the property securing the leased property.
 - c.** No person may require another to pay a separate charge in connection with an insurance policy required as security for a real estate loan.
 - d.** The Commissioner may investigate any apparent violations and mete out appropriate penalties if a violation is found.

- 2. Misrepresentation [Sec. 10-3-1104(1)(a)]** Insurance producers are expected to represent honestly their policies and the policies against which they compete.
 - a.** It is illegal to make, issue, circulate, or use any written or oral statement, sales presentation, or comparison that:
 - misrepresents the benefits, advantages, conditions, or terms of any policy;
 - misrepresents the dividends or share of the surplus to be received on any insurance policy;
 - makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy;
 - misleads or misrepresents the financial condition of any person or the legal reserve system of a life insurer;
 - uses any name or title of any insurance policy or class of insurance policies that misrepresents its true nature;
 - is a misrepresentation for the purpose of inducing the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy;
 - is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; and
 - misrepresents any insurance policy as being a security.
 - b.** It is not misrepresentation to make a written comparison of policies that factually discloses relevant features and benefits to help a consumer make an informed decision.

3. Unfair discrimination [Secs. 10-3-1104(1)(f); 10-3-1104.5]

- a. In Colorado, it is illegal to do any of the following:
- Make or permit any unfair discrimination between individuals of the same class and equal life expectancy in the rates, dividends, benefits, or terms of any life or life annuity contract
 - Make or permit unfair discrimination between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any insurance policy or contract or in the benefits, terms, or conditions of the contract
 - Make or permit any classification to be made solely on the basis of marital status or sex, unless the classification is for the purpose of insuring family units or is justified by actuarial statistics
 - Make or permit any classification to be made on the basis of blindness, partial blindness, or a specific physical disability unless the classification is based on an unequal life expectancy or an expected risk of loss that is different from that of other individuals
 - Inquire about or investigate an applicant's, insured's, or beneficiary's sexual orientation in connection with an application for coverage
 - Use information about gender, marital status, medical history, occupation, residential living arrangements, beneficiaries, ZIP codes, or other territorial designations to determine sexual orientation
 - Use sexual orientation in the underwriting process or in the determination of insurability
 - Make adverse underwriting decisions because an applicant or insured has demonstrated concerns related to AIDS by seeking counseling from health care professionals
 - Make or permit any unfair discrimination between individuals of the same class and hazard in the premiums, fees, rates, benefits, or terms of any accident and health insurance policy
 - Refuse to insure a person solely because another insurer has refused to write a policy, or has canceled or not renewed an existing policy, in which the person was the named insured
 - Make adverse underwriting decisions on the basis of the existence of nonspecific blood code information received from the Medical Information Bureau
- b. No insurer shall require an applicant to submit to an HIV-related test unless that person:
- obtains the applicant's prior written informed consent;
 - reveals, in the written consent form, and explains how the HIV-related test result will be used and the entities to whom test results may be disclosed;
 - provides the applicant with
 - printed material prior to testing which describes AIDS; its causes, symptoms, and transmission; the tests used to detect HIV infection; and what a person should do if the test result is positive; or

- information on how to obtain relevant counseling from a qualified practitioner having extensive training and experience in addressing the fears, questions, and concerns of persons tested for HIV infection; and
 - administers the HIV-related test using certain test protocol.
- c.** If an applicant gives his written informed consent, an insurer may disclose an applicant's HIV test results to its reinsurers or to medical personnel, laboratories, and insurance affiliates, excluding agents and brokers, which are involved in underwriting decisions regarding the individual's application if disclosure is necessary to make underwriting decisions regarding the application.
- d.** Any insurer who fails to comply with the HIV test result disclosure provisions is guilty of a misdemeanor and, upon conviction, will be punished by a fine between \$500 and \$5,000, imprisonment in the county jail for no less than six months nor more than 24 months, or both a fine and imprisonment.
- 4. Controlled business [Sec. 10-2-401(4)]** Insurance written in the licensee's own interests or the interests of his spouse or employer is called **controlled business**.
- a.** A license is deemed to be used for controlled business if, during any 12-month period, the total premiums on controlled business exceed the total premiums on all other business.
- b.** The Commissioner will not grant or renew any license if he discovers it is being used to write controlled business.
- 5. Defamation [Secs. 10-1-116; 10-3-1104(1)(c)]** Making oral or written statements that are false, maliciously critical, or derogatory to the financial condition of an insurer or are intended to injure anyone in the insurance business is known as **defamation** and is illegal. Anyone who engages in defamation may be convicted of a misdemeanor punishable by a fine of up to \$500, imprisonment for up to 12 months, or both.
- 6. Rebates [Sec. 10-3-1104(1)(g)]** Rebating is the practice of giving something of value to a prospective insurance applicant in exchange for the purchase of or as an inducement to purchase a policy.
- a.** In Colorado, rebating is considered an unfair method of competition.
- b.** The law also identifies the following as illegal inducements to buy policies:
- offering a rebate of premiums;
 - offering any special favor or advantage in the dividends or other benefits of an insurance policy that is not specified in the policy;
 - offering anything of value not specified in the policy;

- giving, selling, or purchasing any stocks, bonds, or other securities as an inducement to purchase the insurance; and
- making or offering to make any contract of insurance (or agreement as to such insurance) other than as plainly expressed in the contract.

7. Unfair claims practices [Sec. 10-3-1104(1)(h)] Colorado law protects insurance consumers by clearly identifying certain illegal claim settlement practices.

- a.** As a result, the following practices are illegal:
- Misrepresenting provisions of coverage
 - Failing to acknowledge or handle claims promptly
 - Failing to adopt fair standards for investigating claims
 - Refusing to pay claims without conducting investigations
 - Failing to affirm or deny coverage within a reasonable time after submission of proof of loss
 - Failing to achieve a prompt and fair settlement after liability has become reasonably clear
 - Compelling insureds to start litigation to recover on claims by offering substantially less than the amount ultimately recovered by legal action
 - Failing to pay claims promptly under one portion of a policy to influence settlement under other portions
 - Settling a claim based on an application that was altered without the insured's consent
 - Settling a claim for less than a reasonable person would believe he was entitled to according to the advertising materials accompanying the application
 - Paying or denying a claim without a statement explaining the coverage or laws on which the payment or denial is based
 - Publicizing a policy of appealing arbitration awards that are in favor of insureds or claimants in an effort to compel insureds to accept settlements for less than the amount awarded in arbitration
 - Requiring preliminary claim reports that replicate formal proof of loss forms to delay claim payment
 - Raising comparative negligence as a defense in a third-party claim without substantial evidence
 - Excluding medical benefits under health care coverage based solely on an individual's nonprofessional participation in motorcycling, snowmobiling, off-highway vehicle riding, skiing, or snowboarding
 - Failing to adopt standards to resolve medical payment claims promptly
- b. Payment of benefits [Reg. 5-1-14]** Unless there is a reasonable dispute between the insurer and insured, insurers must pay first-party claims under property and casualty policies within 60 days of receiving a valid and complete claim.
- 1.)** If the Commissioner discovers that an insurer has failed to do so, he may order the insurer to pay a monetary penalty to the insured.

- 2.) The penalty may not exceed \$20 on claims of \$100 or less; on claims of \$100 or more, the penalty is 8% annual interest on the amount of the claim from the date the claim is received until the date the claim is paid.

8. Colorado fraud statute [Secs. 10-1-128; 10-1-129; Reg. 6-5-1] In

Colorado, a person commits a fraudulent insurance act if he knowingly and with intent to defraud prepares or presents a written statement for the issuance of the rating or for claim of payment that contains false information.

- a. The state will fight insurance fraud because it is expensive, raises premiums, and places businesses at risk.
- b. When an insurance company obtains a judgment or settlement against an insurance producer in an insurance fraud lawsuit, it must notify the state licensing board.
- c. When a person obtains a judgment or settlement in an insurance fraud lawsuit against a producer or insurer licensed by the state of Colorado, the person may also notify the state licensing board.
- d. Every licensed insurance company doing business in Colorado (except reinsurance companies) must prepare and follow an insurance antifraud plan.
 - 1.) The plan must include specific procedures to prevent, detect, and investigate all forms of insurance fraud, educate employees about the plan, provide for the hiring of one or more fraud investigators, and report insurance fraud to the proper state officials.
 - 2.) All insurance applications, policies, and claim forms must bear a warning against insurance fraud.
- e. The attorney general and the district attorneys of Colorado have concurrent jurisdiction to investigate and prosecute allegations of insurance fraud.

III. COLORADO STATUTES, RULES, AND REGULATIONS PERTINENT TO PROPERTY AND CASUALTY INSURANCE ONLY

A. RATE REGULATIONS [Secs. 10-4-401; 10-4-403] Colorado laws regarding policy rates were created to protect the public by ensuring that insurance rates are not excessive, inadequate, or unfairly discriminatory.

1. The laws were also created to:
 - prohibit price-fixing agreements and other anticompetitive behavior by insurers;
 - provide rates that are responsive to competitive market conditions; and
 - improve the availability and reliability of insurance.

2. The Division of Insurance and the Commissioner of Insurance are responsible for executing these regulations.
3. These rate regulations apply to all kinds of insurance except:
 - reinsurance, other than joint reinsurance;
 - life insurance and annuities;
 - sickness and accident insurance;
 - nonprofit hospital and health services;
 - health maintenance organization services; and
 - surplus lines insurance.
4. The kinds of insurance subject to these rate regulations are divided into two classes.
 - a. The rating information for Type I kinds of insurance must be filed and approved by the Commissioner before they can be used. Type I insurance includes:
 - workers' compensation and employer's liability incidental thereto, for any pure premium rate filed by a rating organization;
 - assigned risk motor vehicle insurance; and
 - other kinds of insurance classified as Type I by the Commissioner.
 - b. Type II kinds of insurance are regulated by open competition between insurers. Type II insurance includes the following kinds of insurance:
 - Fire
 - Casualty
 - Inland marine
 - Title
 - Credit
 - All other kinds of insurance subject to the rate regulations that are not considered Type I (including the expense and profit components of workers' compensation insurance)
5. Type II insurers must file rating data with the Commissioner at the same time as the effective date of the new rates.
 - a. Forms for Type II policies are not filed with the Commissioner.
 - b. Type II insurers do not need to receive the Commissioner's prior approval for forms, rates, schedules of rates, rating plans, rating classifications and territories, rating rules, or rate manuals.
 - c. However, Type II insurers are subject to rules regarding the availability and review of their rates and regarding hearings and judicial review.

- 6.** Rates must not be excessive, inadequate, or unfairly discriminatory.
 - a.** Rates are excessive if they are likely to produce a long-run profit that is unreasonably high for the insurance provided or if expenses are unreasonably high in relation to services rendered.
 - b.** Rates are not inadequate unless they are clearly insufficient to sustain projected losses and expenses or if the use of such rates will tend to create a monopoly in the market if they are continued.
 - c.** Unfair discrimination exists if the difference in prices does not fairly reflect the difference in expected losses and expenses. A rate is not unfairly discriminatory if different premiums result for policyholders with like loss exposures but different expenses (or like expenses but different loss exposures) as long as the rate reflects the differences with reasonable accuracy.
 - d.** The following criteria apply when determining whether a rate is excessive, inadequate, or unfairly discriminatory.
 - 1.)** Consideration for the basic rate factors must be given to past and prospective loss and expense experience, catastrophic hazards, and contingencies, trends or events, loadings for leveling premium rates over time, or for dividends or savings to be allowed or returned to policyholders, and to all other relevant factors, including judgment.
 - 2.)** The expense provisions included in the insurer's rates must reflect the insurer's operating methods and expense experience.
 - 3.)** The rates must contain provisions for contingencies and an allowance permitting a reasonable profit.
 - 4.)** When setting rates, insurers must consider past and prospective loss experience and catastrophic hazards, solely within the state of Colorado.
 - a.)** However, if there is insufficient experience within Colorado on which a rate can be based, the insurer may consider experiences within other states that have similar claim costs and frequency.
 - b.)** In its rate filing or records, the insurer must show what rate experience it is using.
 - c.)** The rates must allow a reasonable margin for profit and contingencies.
- 7.** Medical malpractice insurance rates must not be excessive, inadequate, or unfairly discriminatory.

- a. Medical malpractice insurers must consider the impact of the following on medical malpractice rates:
 - tort reform legislation;
 - risk management activities;
 - underwriting standards and practices; and
 - any other activity designed to reduce rates or rate increases or reduce the cost of administration and determination of claims.
- 8. Risks may be grouped by classifications when establishing rates and minimum premiums.
 - a. Classification rates may be modified to produce rates for individual risks in accordance with rating plans that establish standards for measuring variations in hazard, provisions, expense provisions, or both.
 - b. Such standards may measure any difference among risks that can be demonstrated to have a probable effect on losses or expenses.
- 9. The Commissioner may order that the rates for certain territories or classes of insurance be regulated if, after a hearing, he determines that the following exist in the territory or class of insurance.
 - a. Competition is insufficient to ensure that rates will not be excessive.
 - b. Current rates are destroying competition or are detrimental to the solvency of insurers.
 - c. Such an order will only last for one year but may be renewed by the Commissioner on appropriate findings.

10. Prohibiting changes in rates or coverages [Sec. 10-4-416]

When an insured has prepaid a premium, the insurer may not unilaterally increase the rate or decrease the coverage during the policy period unless there is a change in risk attributable to any act of the insured (or it is discovered that the risk was misrepresented by the insured).

B. SUMMARY DISCLOSURE FORM [SECS. 10-4-111, 10-4-636, REG. 5-2-16]

As a condition of doing business in Colorado, every insurer that issues dwelling fire insurance, homeowners insurance, or automobile insurance policies must have on file at the Division of Insurance a summary disclosure form.

- 1. The summary disclosure form must contain a:
 - simple explanation of the policies' major coverages and exclusions; and
 - list of general factors considered in cancellation, nonrenewal, and premium increases.
- 2. Each summary disclosure form must provide notice in boldface letters that the policyholder should read the policy for complete details and that the form does not replace any provision of the policy itself.

3. Any insurer that is required to, but does not have, the appropriate disclosure form on file is considered to have engaged in an unfair or deceptive act or practice.
4. All of these insurers must update their disclosure forms periodically, subject to:
 - changes in major coverages;
 - exclusions of insurance policies; and
 - changes in factors considered in cancellation, nonrenewal, and premium increases.
5. Every insurer or its designated producer must furnish the required disclosure form to insurance applicants at the time of the initial insurance purchase and thereafter on any renewal policy when there are changes in major coverages and exclusions or changes in factors considered in cancellation, nonrenewal, and premium increases. Homeowners insurance policyholders must receive the disclosure at least annually.

C. COMMERCIAL POLICY REQUIREMENTS [SECS. 10-4-109.7, 10-4-110; 10-4-1401 TO 10-4-1404; 10-4-110.4; 13-20-808; REG. 5-1-13] Commercial exposures include general comprehensive liability, municipal liability, automobile liability and physical damage, fidelity and surety, fire and allied lines, inland marine, errors and omissions, excess liability, products liability, police liability, professional liability, or false arrest insurance.

1. **Cancellation and nonrenewal [Secs. 10-4-109.7, 10-4-110]** An insurer must give an insured at least 45 days' notice before cancelling or refusing to renew policies that provide coverage on commercial exposures.
 - a. The insurer only needs to give 10 days' notice, accompanied by the reason for cancellation, when cancelling for nonpayment of premium.
 - b. The 45-day notice for nonrenewal does not apply if:
 - the insured fails to pay any premium deposit required by the insurer for renewal; or
 - the policy has been in effect for less than 60 days (unless it is a renewal policy).
 - c. A notice of cancellation or decrease in coverage is only valid if it is based on one or more of the following reasons:
 - Nonpayment of premium
 - The insured knowingly making a false statement on the application
 - A substantial change in the exposure or risk, other than that indicated in the application and underwritten as of the effective date of the policy, unless the insured notifies the insurer of the change and the insurer accepts the change
2. **Increasing premiums or reducing coverage for commercial policies [Sec. 10-4-109.5, 110.5]** If an insurer intends to unilaterally increase premiums or reduce coverage at policy renewal, it must provide at least 45 days' notice to the insured. For medical malpractice policies, 90 days' notice is required. The notice must include the reasons for the change, the renewal terms, and the amount of premium due.

- a. If the insurer fails to furnish the renewal terms and a statement of the amount of premium due at least 45 days before the policy expiration date, the insurer must automatically extend the existing policy for 45 days.
- b. The premium for this extended period must be prorated based on the premium applicable to the existing policy.
- c. If the insurer fails to meet these requirements before the expiration date of the existing policy, the insurer will be deemed to have renewed the insured's policy for the same policy period at the same terms, conditions, and premiums as the existing policy.
- d. A decrease in coverage during the term of a policy shall be valid only if it sets forth the reason for the decrease and is based on one or more of the following reasons:
 - nonpayment of premium;
 - a false statement knowingly made by the insured on the application for insurance; and
 - a substantial change in the exposure or risk insured unless the insured notified the insurer of the change and the insurer accepted the change.
- e. This section does not apply to companies authorized to write surplus lines insurance in Colorado.

3. Exemption from rate filing and form certification requirements [Secs. 10-4-1401 to 1404; Reg. 5-1-13(4)] Because commercial entities often use personnel who are trained in risk management, insurance coverage issues, and insurance industry knowledge and are capable of negotiating and entering into insurance contracts, the state has decided that there is no need for state regulation in this area. Therefore, insurers negotiating with and insuring sophisticated commercial entities are exempt from rate filing and form certification requirements. This exemption allows for competitive underwriting and rating of policies.

- a. The Commissioner will determine the definition of what organizations and entities qualify as exempt commercial policyholders.
- b. The definition will require these organizations to be those purchasing Type II kinds of insurance.
- c. The purchasers of title insurance will not be included within the definition of an exempt commercial policyholder.
- d. The Commissioner requires that an exempt commercial policyholder procure its insurance through the use of a risk manager employed or retained by the exempt commercial policyholder.
- e. The definition of an exempt commercial policyholder will be reviewed periodically by the Commissioner with the recommendations from risk manage-

ment professionals, insurer representatives, producers, buyers, qualified insurance consultants, consumers of insurance products, and any other person the Commissioner selects.

- f. The Commissioner will establish the disclosure requirements for insurance policies issued to exempt commercial policyholders.
 - g. Each insurance policy issued to this policyholder must contain a conspicuous disclaimer printed in at least 10-point, boldfaced type that states that the policy is exempt from the rate filing and approval and the form filing and certification requirements.
 - h. The Division will determine the type of data, documents, reports, rate and form information, and any other information the Commissioner considers necessary, to be collected from an insurer providing coverage to an exempt commercial policyholder when the Division has received a complaint that an insurer is anticompetitive or not adequately servicing the needs of the exempt commercial policyholder.
4. If the Commissioner determines, after providing an opportunity for comment and a public hearing, that a line of insurance is anticompetitive or is not being adequately serviced by insurers, the Commissioner may require that the rate for that particular line of insurance no longer be exempt from the filing requirements.
 5. The Commissioner will review annually any line of insurance found previously to be anticompetitive to determine whether rate filing and approval requirements may again be eliminated because the line has subsequently become competitive. The review will include the opportunity for a public hearing.
 6. If the exempt commercial policyholder operates in more than one state, the policy may include provisions that determine disputes arising from claim handling and procedures, cancellation of the policy, or nonrenewal of the policy will be governed by the state with the largest percentage of premiums charged under the policy.
 7. **Construction professionals [Secs. 10-4-110.4; 13-20-808]** Policies issued to a construction professional may exclude or limit coverage for bodily injury, property damage, advertising injury, or personal injury that occurs before the policy's inception date. However, these exclusions do not apply if the injury or damage was unknown to the insured at the policy's inception date. This applies only to policies covering damage or injury during the policy period and insuring a construction professional for liability arising from construction-related work.
 - a. Colorado favors the interpretation of insurance coverage broadly for the insured, especially when it comes to construction insurance. However, construction professionals should have a reasonable expectation that an insurer would defend a claim.
 - b. In interpreting a liability insurance policy issued to a construction professional, a court shall presume that the work of a construction professional that results in

property damage, including damage to the work itself or other work, is an accident unless the property damage is intended and expected. However, there is no requirement for coverage for damage to an insured's own work.

- c. Upon finding an ambiguity in an insurance policy, a court may consider a construction professional's objective, reasonable expectations, and the purpose of purchasing the insurance policy, as well as whether the construction defect resulted in bodily injury, property damage, or loss of use of the property.
- d. An insurer's duty to defend a construction professional is triggered by the following:
 - A notice of claim
 - A complaint, crossclaim, counterclaim, or third-party claim filed in an action against the construction professional concerning a construction defect
- e. The insurer must:
 - reasonably investigate the claim; and
 - reasonably cooperate with the insured in the notice of claims process.

D. USE OF CREDIT INFORMATION [SEC. 10-4-116] If an insurer offering personal lines of property and casualty coverage uses credit-based insurance scores in underwriting or rating a consumer, the insurer or the producer shall disclose, either on the insurance application or at the time the insurance application is taken, that it may obtain credit information in connection with such application. An insurer that offers personal lines of property and casualty insurance shall not:

- use an insurance score that is calculated using income, gender, address, U.S. postal ZIP code, ethnic group, religion, marital status, or nationality of the consumer;
- deny, cancel, or fail to renew a policy of personal lines of property and casualty insurance on the basis of credit information, without consideration of any other applicable underwriting factor that is independent of credit information;
- base an insured's renewal rates for personal lines of property and casualty insurance upon credit information, without consideration of any other applicable factor independent of credit information;
- take an adverse action against a consumer because he or she does not have a credit card account, without consideration of any other applicable factor independent of credit information;
- consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating personal lines of property and casualty insurance issued in this state, unless the insurer does one of the following:
 - Treats the consumer in a manner otherwise approved by the Commissioner, if the insurer presents information that such an absence or inability relates to the risk for the insurer
 - Treats the consumer as if he or she had neutral credit information, as defined by the insurer
 - Excludes the use of credit information as a factor and uses only other underwriting criteria;

- take an adverse action against a consumer based on credit information, unless the insurer obtains and uses a credit report issued or an insurance score calculated within 90 days before the date the policy is first written or renewal is issued;
- use credit information unless, not later than every 36 months following the last time that the insurer obtained current information for the consumer, the insurer recalculates the consumer's insurance score or obtains an updated credit report; or
- use the following as a negative factor in an insurance scoring methodology or for the purpose of underwriting or rating a policy of personal lines of property and casualty insurance:
 - Credit inquiries not initiated by the consumer
 - Inquiries relating to insurance coverage
 - Collection accounts with a medical industry code
 - Multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the motor vehicle lending industry and made within 30 days after one another, unless only one inquiry is considered
 - Multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage industry and made within 30 days of one another, unless only one inquiry is considered
 - Identity theft that may be sufficiently and independently corroborated
 - Credit information adversely impacted by a dissolution of marriage or by the credit information of a former spouse

IV. COLORADO STATUTES, RULES, AND REGULATIONS PERTINENT TO PROPERTY INSURANCE ONLY

A. FRAUDULENT CLAIMS AND ARSON INFORMATION REPORTING ACT

[SECS. 10-4-1001 TO 1008; 10-1-127; REG. 6-5-1] Colorado law states that a fraudulent insurance act is committed if a person knowingly and with intent to defraud presents any written statement as part of any application for insurance, the rating of a policy, or a claim for payment if the person knows that the statement contains false information concerning a material fact.

1. Insurers are required to report any claim involving a fraudulent act, and they are insulated from liability for such reports.
2. Each insurer must also maintain an antifraud plan that outlines specific procedures to:
 - prevent, detect, and investigate all forms of insurance fraud;
 - educate employees about fraud detection and the company's antifraud plan;
 - provide for the hiring of one or more fraud investigators; and
 - report suspected or actual insurance fraud to the appropriate law enforcement and regulatory entities.
3. All applications for insurance, policies, and claim forms must contain a standard warning that advises applicants of the penalties against making fraudulent statements.

4. Under the Fraudulent Claims and Arson Information Reporting Act, when an insurer has reason to believe that a fire loss in which it has an interest may have been caused by arson or when the insurer believes that a claim to which it has an interest is fraudulent, then the company will notify an authorized agency to have the fire loss or claim investigated.
 - a. The act extends this duty to report to any person who suspects that a fire loss may have been intentionally caused or that any insurance claim may be fraudulent.
 - b. This suspicion may be reported to an authorized agency to have the fire loss or claim investigated.
 - c. Any information disclosed is kept confidential.
 - d. The person or insurer providing the information in good faith is immune from civil liability.
 - e. A violation of this act is a misdemeanor.
5. **Authorized agencies [Reg. 6-5-1]** An authorized agency may require the insurer to release to it any relevant information or important evidence that relates to the fire loss or other claim in question.
 - a. Authorized agencies include:
 - fire departments and other law enforcement agencies authorized or charged with the investigation of crimes;
 - the Colorado Bureau of Investigation;
 - district attorneys, county attorneys, and their representatives; and
 - any professional licensing board.
 - b. Relevant information includes:
 - insurance policy information pertaining to a fire loss or other claim under investigation (including the policy application);
 - policy premium payment records;
 - history of previous claims made by the insured; and
 - any other material relating to the investigation of the loss, including statements of any person who may have information about the loss and any proof of such loss.
 - c. The authorized agency that receives the relevant information may release it to any other authorized agency.

- d.** Any insurer providing information to an authorized agency may request in writing that the agency release to the insurer specific, relevant information or evidence relating to the fire loss or other claim under investigation.

 - 1.)** The agency may also release the information to the insurer.
 - 2.)** Any authorized agency receiving a notice may release the notice to other law enforcement agencies.
 - 3.)** Any insurer providing this information must cooperate with any law enforcement agency of competent jurisdiction.
- e.** An authorized agency or insurer that receives any of this information must hold the information in confidence until the time its release is required for a civil or criminal proceeding.

 - 1.)** The agency, however, can release the information to another authorized agency.
 - 2.)** Any authorized agency or its producers or employees may be required to testify in a civil or criminal proceeding in which the insurer at interest is named as a party.
- f.** In the case of actions taken under this section involving suspected arson and in the absence of actual malice, there will be no civil penalty or damages on the part of, and no cause of action will rise against, any authorized agency or insurer or their authorized representatives, producers, or employees for furnishing information or taking other action under this section.
- g.** No person, authorized agency, or insurer will:

 - intentionally or knowingly refuse to release any relevant information requested;
 - intentionally or knowingly fail to provide authorized agencies with relevant information; or
 - fail to hold in confidence information required to be held in confidence.
- 6.** Anyone who violates any of these provisions commits a Class 2 misdemeanor and will be punished accordingly.

 - a.** These provisions should not affect, supersede, or repeal the ordinances of any municipality relating to fire prevention or control of arson.
 - b.** The Colorado Bureau of Investigation has investigative authority concurrent with that of county or municipal authorities when its assistance is requested by the county or municipal authorities in which the investigation is taking place.

7. Reporting requirements [Reg. 6-5-1] All insurers that obtain a judgment or settlement in a lawsuit involving a fraudulent insurance act against a person who is licensed by the State of Colorado and whose services are compensated in whole or in part by insurance claim proceeds must send to the appropriate Colorado state licensing board and to the Division of Insurance a notice of such settlement or judgment. No cause of action may arise against any insurance company or individual for providing this information.

B. INSURANCE AND LOANS SECURED BY REAL PROPERTY [SEC. 10-4-114]

No lender may require a borrower under a loan secured by real property to provide property insurance in excess of the replacement value of the property.

1. Any person harmed by a violation of this requirement is entitled to injunctive relief and may recover damages and reasonable attorney fees and costs.
2. However, a violation does not affect the validity of the loan or the mortgage or deed of trust.

C. HOMEOWNERS CANCELLATION AND NONRENEWAL [SEC. 10-4-110.7]

An insurer may not cancel or refuse to renew a homeowner's insurance policy unless the insurer gives the insured at least 30 days' advance notice, which specifically states the reason for cancellation or nonrenewal. If the cancellation is due to nonpayment of premium, the insurer must give at least 10 days' notice along with the reasons for the cancellation.

D. AVAILABILITY OF FIRE INSURANCE [SEC. 10-4-110.9, 5-1-17] The purpose of this regulation is to provide a rule to implement standards concerning the availability of fire insurance during wildfires within a federally designated disaster area in Colorado.

1. Insurers shall not refuse to issue a fire insurance policy for a property based on the property's ZIP code, county location, or distance from any wildfire, unless the property is located in an immediately threatened area.
2. Insurers shall not refuse to renew a fire insurance policy for a property located within an immediately threatened area for any reason that is related to existing wildfires.
3. Insurers, as a condition of renewal, may require a property owner to take reasonable actions to reduce the risk of fire to such property. Such reasonable actions to reduce the risk of fire shall be specified in the insurer's written underwriting guidelines.
4. **Immediately threatened area** means an area located within a federally designated disaster area because of wildfires, based on such property's ZIP code, county location, or distance from any wildfire. Absent a written determination by a government official, or a determination otherwise published by a government official, of the area defined as an immediately threatened area, such term shall mean the area under a lawful order to evacuate or an area under a lawful pre-evacuation order.

5. **Reasonable actions to reduce the risk of fire** means underwriting requirements, which may include, but are not limited to:
- requiring the property owner to provide a defensible space around the structure;
 - requiring the property owner to clean out debris and leaves from gutters and downspouts as well as from beneath decks and porches; and
 - adding or enhancing fire suppression systems.

V. COLORADO STATUTES, RULES, AND REGULATIONS PERTINENT TO CASUALTY INSURANCE ONLY

A. WORKERS' COMPENSATION

1. Who must be covered [Secs. 8-40-102; 8-40-202; 8-40-203; 8-41-202]

a. Definition of employer [Secs. 8-40-203] Employer means:

- every person, association of persons, firm, and private corporation, including any public service corporation, personal representative, assignee, trustee, or receiver, who has one or more persons engaged in the same business or employment, in service under any contract of hire, express or implied; or
- the state and every county, city, town, and irrigation, drainage, and school district and all other taxing districts therein, and all public institutions and administrative boards without regard to the number of persons in the service of any such public employer.

b. Exceptions to the definition of employer [Secs. 8-40-302] The following are not subject to the Colorado workers' compensation laws:

- Employees of charitable, fraternal, religious, or social employers who are elected or appointed to serve in an advisory capacity and receive less than \$750 in annual compensation
- Employers of casual farm and ranch labor or employers of persons who do casual maintenance, repair, yard work, or similar work about the employer's place of business, if the employer has no other employees subject to the workers' compensation laws, if the employment is casual and not within the course of the employer's business and if the wages do not exceed \$2,000 for any calendar year
- Employers of persons who do domestic work or maintenance, repair, remodeling, or yard work at the employer's home, if the employer has no other employees subject to the workers' compensation laws and if the employment is not within the course of the employer's business (this exemption does not apply to employers who regularly employ the workers on a full-time basis)

c. An employer excluded under this section may elect to accept the provisions of this act by purchasing and keeping in force a workers' compensation insurance policy covering employees.

- d. Any working general partner or sole proprietor actively engaged in business may elect to be included by endorsement as an employee of the insured, regardless of whether they employ anyone else.
- e. A corporate officer of a corporation or a member of a limited liability company may elect to reject workers' compensation coverage.
- f. The workers' compensation laws apply to officers of agricultural corporations, but the corporation may elect to reject the provisions of these laws for any of the officers.
- g. An employer may provide on-the-job training for students through a cooperative education or student internship program sponsored by an educational institution.
 - 1.) The employer is generally considered the students' employer for the purpose of workers' compensation and liability insurance.
 - 2.) If the employer does not pay the student, the educational institution sponsoring the student must insure the student through its workers' compensation and liability insurance or enter into negotiations with the employer.
- h. **Definition of employee [Secs. 8-40-102; 8-40-202]** The difference between an employee (entitled to workers' compensation benefits) and an independent contractor (not entitled to benefits) is the subject of much debate. The Workers' Compensation Act of Colorado outlines nine criteria to determine whether an injured party is an employee or an independent contractor. To prove that an individual is truly an independent contractor, it must be proved that the person for whom services are performed does not:
 - require the individual to work exclusively for him;
 - establish a quality standard for the individual;
 - pay a salary or an hourly rate instead of a fixed or contract rate;
 - terminate the service provider during the contract period unless the provider violates the terms of the contract or fails to produce a result that meets the specifications of the contract;
 - provide more than minimal training for the individual;
 - provide tools or materials to the individual;
 - dictate the hours during which the individual must work;
 - pay the service provider personally instead of making checks payable to the trade or business name of the service provider; and
 - combine the business operations of the contracted person with the business operations of any other service provider instead of maintaining all operations separately.

2. Sources of coverages [Sec. 8-44-101]

- a. Employers subject to Colorado's workers' compensation laws and all public entities in Colorado must insure benefits for their employees through:

- the Pinnacol Assurance fund;
 - a stock or mutual corporation authorized to transact workers' compensation insurance in Colorado; or
 - self-insurance (except for public entities with insured payrolls of less than \$1 million per year, unless a group of public entities forms an approved pool and their payrolls exceed the minimum).
- b.** Regardless of the method of insuring benefits, employers generally cannot require employees to pay any part of the cost of workers' compensation insurance.
- c. Self-insurance pools [Secs. 8-44-204; 8-44-205]** Public entities and employer groups may form self-insurance pools to provide workers' compensation benefits.
- 1.)** Before forming a pool, the group must submit a written proposal to the Commissioner that provides detailed information about the pool's administration, claims adjusting procedures, membership, reinsurance, and capitalization. The Commissioner will approve or disapprove the proposal within 30 days (45 days for employer groups). If the Commissioner approves the proposal, he will issue a certificate of authority.
 - 2.)** Self-insurance pools must file an annual report with the Commissioner by March 30 each year. The Commissioner will examine self-insurance pools at least once a year.
 - 3.)** The certificate of authority may be revoked or suspended for:
 - insolvency or impairment;
 - failure to submit an annual report;
 - failure to comply with the provisions of its own ordinances, resolutions, contracts, or other conditions relating to the pool;
 - failure to submit to examination or any legal obligation related to the exam;
 - refusal to pay the cost of the exam as required;
 - using methods that, although not specifically prohibited by law, make the pool hazardous to the public; and
 - failure to comply with Colorado laws if this failure renders the operation of the pool hazardous to the public.
 - 4.)** Before suspending or revoking the certificate of authority, the pool will have 15 days to show cause why the action should not be taken.
 - 5.)** The Commissioner may supervise or rehabilitate an employer self-insurance pool.

3. Benefits [Secs. 8-42-102; 8-42-103; 8-42-111; 8-42-114; 8-42-115; 8-42-123]

- a. If an injury or occupational disease causes disability, a disability benefit must be payable as wages, subject to the following limitations.
 - 1.) If the disability lasts fewer than three days after the employee leaves work because of the injury, disability benefits are not recoverable in any case (except the approved disbursement provided for medical, surgical, nursing, and hospital services and supplies) unless the Division knows about the injury or is notified within the specified time period.
 - 2.) If the disability lasts longer than two weeks from the day the insured employee leaves work as the result of the injury, disability benefits are recoverable from the day the injured employee leaves work.
 - 3.) When the injury results in permanent total disability, benefits are payable at the rate of 66⅔% of the average weekly wage of the injured employee (subject to a weekly maximum), payable until death.
- b. When a work-related injury results in death, the dependents of the deceased employee are entitled to receive compensation of 66⅔% of the deceased employee's average weekly wage, subject to minimums and maximums based on the state average weekly wage. Benefits are coordinated with Social Security benefits.
- c. If there are no dependents, benefits are limited to medical, hospital, and funeral expenses. If the deceased employee had partial dependents, their compensation is limited to 66⅔% of the deceased employee's average weekly wage.
- d. A lump sum of \$7,000 is paid for reasonable funeral and burial expenses.
- e. **Temporary partial disability [Sec. 8-42-106]**
 - 1.) In case of temporary partial disability, the employee will receive 66⅔% of the difference between the employee's average weekly wage at the time of the injury and the employee's average weekly wage during the continuance of the disability, not to exceed 91% of the state average weekly wage.
 - 2.) Temporary partial disability payments continue until:
 - the employee reaches maximum medical improvement; or
 - the attending physician releases the employee to return to modified employment that the employee fails to begin.
- f. **Coordination of benefits [Sec. 8-42-103]** Workers' compensation payments are generally lowered if an individual also receives disability payments from another source.

- 1.) For example, if an individual and dependents receive periodic Social Security disability benefits, the total workers' compensation disability benefits will be reduced by approximately one-half of the Social Security benefits (but not below zero).
- 2.) However, if an individual's Social Security disability benefits are reduced because of the workers' compensation benefits, the reduction of the workers' compensation benefits must be decreased by the amount of the Social Security reduction.
- 3.) Workers' compensation benefits payable for permanent total disability can be reduced if periodic benefits are granted by Social Security or employer-paid retirement benefits when the individual reaches age 65.
- 4.) Workers' compensation disability benefits can also be reduced if the employee receives:
 - periodic disability benefits from a pension or disability plan financed by the employer;
 - periodic disability benefits under the workers' compensation act of another state or the federal government; or
 - unemployment compensation benefits.
- 5.) Insurers and employers can ask their employees to apply for Social Security or other periodic benefits; employees who don't may have their benefits suspended.

4. Claims procedures [Sec. 8-43-103] An employer must notify the Division and insurance carrier (unless the employer is self-insured) of any injury for which workers' compensation benefits are payable within 10 days after the injury.

- a. If an employee dies from an injury or if there is an accident in which three or more employees are injured, the employer must immediately notify the Commissioner.
- b. Generally, an injured employee or his dependents (if deceased) must file a claim for workers' compensation benefits within two years after the injury or death occurred.

B. AUTOMOBILE INSURANCE

1. Cancellation/nonrenewal [Secs. 10-4-628; 10-4-629] These regulations provide rules governing the cancellation, nonrenewal, increase in premium, or reduction in coverage of complying automobile insurance policies.

- a. **Basis for refusal to write or cancel a policy [Sec. 10-4-602]** An insurer may cancel a new (not renewed) policy of auto insurance within the first 59 days of the newly written contract for any legal reason.

- b.** An insurer may only cancel a policy that has been in effect for 60 days or more for:
- nonpayment of premium;
 - the suspension or revocation of driver's license or motor vehicle registration of the insured or operator during the policy period or, if the policy is a renewal, during its policy period or the 180-day period before its effective date;
 - the applicant knowingly making a false statement on the insurance application; and
 - an insured knowingly and willfully made a false material statement on a claim submitted under the policy.
- c. Notice [Sec. 10-4-603]** No notice of cancellation is valid unless it has been issued at least 30 days prior to the date of cancellation (10 days for nonpayment of premium). The insurer is required to notify the insured of the reason for cancellation either with the cancellation notice or if requested by the policyholder at least 15 days before the date of cancellation.
- d. Consideration of prior insurance and insurers [Sec. 10-4-628, Reg. 5-2-2]** Unless the insurer has filed actuarial justification with the Commissioner that demonstrates an increased risk, an insurer cannot refuse to write a policy for a new applicant, surcharge the premium, or place a new applicant in a higher-priced program or plan based solely on:
- the fact that the applicant had no prior insurance but was required by law to have insurance;
 - the fact that the applicant had no prior insurance, if he was not required by law to have insurance in Colorado or in another state;
 - the identity of the applicant's prior insurer; or
 - the applicant's prior type of coverage, including assigned risk or residual market coverage or any plan other than a preferred plan.
- e.** An insurer may not refuse to write a complying policy solely because of the claim or driving record of one or more but fewer than all of the persons residing in the insured's household.
- 1.)** An insurer may offer to exclude any person in a household by name if his driving record and claim experience would justify refusal by the insurer to write a policy for him if he were applying in his name only and not as part of a household.
 - 2.)** Whenever an insurer is renewing a policy, it must include a written notice naming any parties specifically excluded from coverage.
- f. Refusal to renew [Sec. 10-4-604]** An insurer cannot refuse to renew an automobile insurance policy unless it gives the insured at least 30 days' written notice of its intention not to renew.

- 1.) This requirement does not apply:
 - if the insurer has demonstrated its willingness to renew;
 - in the case of nonpayment of premium; or
 - if the insured fails to pay any advance premium required by the insurer for renewal.
- 2.) If the insurer refuses to renew a policy, the insured may make a written request for the reason for nonrenewal.
- 3.) The insurer must provide the reasons for nonrenewal within 20 days after receiving the insured's request.

g. Prohibited reasons for nonrenewal or refusal to write policies [Sec. 10-4-626]

- 1.) An insurer cannot refuse to renew or write an automobile insurance policy solely because of the insured's:
 - age;
 - race;
 - gender;
 - sexual orientation;
 - religion;
 - national origin;
 - residence;
 - marital status; or
 - lawful occupation, including military service.
- 2.) Insurers are also prohibited from not renewing or writing a policy because another insurer has cancelled a policy or refused to write or renew a policy.

h. Refusal, cancellation, and failure to renew [Sec. 10-4-628]

Insurers cannot cancel, fail to renew, refuse to write, reduce coverage of, or increase premiums on any policy because the applicant, insured, permissive user, or any household resident has had a(n):

- accident or accidents that are not the fault of the applicant, insured, household member, or permissive user; or
 - license suspended or denied due to convictions for defacing property or failure to pay child support.
- i.** Insurers also are prohibited from cancelling, failing to renew, reclassifying an insured, reducing coverage, or increasing the premium of a policy solely because the insured person has been:
- convicted of an offense for failing to have in effect compulsory motor vehicle insurance;

- denied issuance of a motor vehicle registration for failing to have such insurance; or
- deployed by or called to active duty in the US military if the person was not required by law to maintain insurance.

j. Discriminatory standards [Sec. 10-4-627] An insurer may not:

- cancel, refuse to renew, or increase the premium of an automobile insurance policy solely because of convictions for traffic violations that result in less than seven points being assessed under the point system schedule when received in the course of employment while driving a licensed commercial vehicle or a vehicle used primarily as a public or livery conveyance (insurers can refuse to renew policies on commercial motor vehicles for other reasons); or
- add a surcharge to the policy premium of an insured or family member in a manner that results in an excessive or unfairly discriminatory premium.

k. Additional cancellation regulations [Sec. 10-4-629, Reg. 5-2-12]

- 1.) An insurer cannot increase the premium or cancel or fail to renew a complying policy as to any resident of the named insured's household (except for nonpayment of premium) unless:
 - the increase is part of a general increase in premiums filed with the Commissioner;
 - the increase does not result from a reclassification of the insured; or
 - the increase does not reduce the coverage under the policy, unless the reduction is part of a general reduction in coverage approved by the Commissioner or if the reduction is made to satisfy legal policy requirements.

- 2.) An insurer intending to refuse, cancel, or increase premiums on a policy must, no later than 30 days before the proposed effective date of the action, send written notice to the insured of its intended action. The notice must state:
 - the proposed action to be taken (including, if the action is an increase in premium or reduction in coverage, the amount of increase or reduction, and the type of coverage to which it is applicable);
 - the proposed effective date of action;
 - the insurer's actual reasons for proposing to take the action (in terms understandable to the average person; generalized terms such as *personal habits*, *living conditions*, and *violation* or *accident record* do not meet these requirements);
 - if the insurer offers to renew the policy but excludes a person from coverage, the name of the person to be excluded from coverage and the premium if the policy is renewed with such person or persons excluded from coverage;

- the right of the insured to replace the insurance through an assigned risk plan;
 - the insured has a right to file a complaint with the Division of Insurance.
- 3.) Any statement about the reasons contained in the notice is privileged and will not constitute grounds for any action against the insurer, its representatives, or any person who in good faith furnished the information to the insurer.
- a.) The insurer must keep the coverage and premium that was in effect on the day of the notice of proposed change, as long as all premiums due are paid.
 - b.) The insurer has the burden of justifying its proposed action and, in doing so, may rely only on the reasons set forth in its notice to the insured.
2. **Exclusion of named driver [Sec. 10-4-630; Reg. 5-2-2]** If one person insured under an automobile liability insurance policy has a claim experience or driving record that justifies policy cancellation or nonrenewal, but other people are also insured under the policy, the insurer can exclude the one individual from coverage by name, instead of cancelling, refusing to renew, or increasing the premium on the policy. The policy may specify that the insurer is not liable for damages, losses, or claims arising out of the excluded individual's operation or use of the insured motor vehicle, regardless of whether the individual had the insured's permission to operate the vehicle.
3. **Uninsured motorist/underinsured motorist [Secs. 10-4-609; 10-4-610; 10-4-620; 42-7-103(2), (7)]** All Colorado automobile and motor vehicle liability policies insuring against loss resulting from liability for bodily injury or death arising out of the ownership, maintenance, or use of a motor vehicle must provide coverage for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death. However, the named insured may reject uninsured motorist coverage in writing.
- a. The minimum limits required are \$25,000 per person and \$50,000 per occurrence for bodily injury.
 - b. Coverage for uninsured motorists property damage must be provided at the request of the insured and must cover the actual cash value of the vehicle or the cost to repair or replace, whichever is less. The coverage may be subject to a deductible. The coverage may not provide protection for:
 - damage if there is not actual physical contact between the covered motor vehicle and another motor vehicle;
 - damages which are payable under any other property insurance; or
 - loss of use of a motor vehicle.

- c. Before the policy is issued or renewed, the insurer will offer the named insured the right to obtain higher limits of uninsured motorist coverage in accordance with its rating plan and rules. However, the insurer is not required to provide limits higher than the insured's bodily injury liability limits.
- d. After the insured selects the limits or chooses not to purchase uninsured coverage, the insurer is not required to notify the policyholder in any renewal or replacement policy about the availability of such coverage or optional limits. However, the insured may make a written request for additional coverage.
- e. Uninsured motorist coverage must include damage for bodily injury or death, which an insured is legally entitled to collect from the owner or driver of an underinsured motor vehicle.
- f. The insurer's maximum liability under the uninsured motorist coverage provided will be the lesser of:
 - the difference between the limit of uninsured motorist coverage and the amount paid to the insured by or for any person or organization who may be held legally liable for the bodily injury; or
 - the amount of damages sustained but not recovered.

4. **Financial responsibility [Secs. 10-4-619; 10-4-620; 42-7-103(2)]**

It is illegal for the owner of a motor vehicle to operate the vehicle or permit it to be operated on the public highways of Colorado when he does not have the required complying policy or certificate of self-insurance in full force.

a. **Security and proof of financial responsibility [Sec. 42-7-301]**

Unless specifically exempt, an operator or owner named in a required accident report must file with the Commissioner:

- security, in an amount specified after reviewing the accident report, that is sufficient to satisfy any judgments for damages or injuries resulting from the accident as may be recovered against the operator or owner (up to \$35,000); and
 - proof of financial responsibility.
- b. The Commissioner must determine whether an operator or owner is required to comply with the provisions of the article and, if so, will:
- within 15 days after receiving the accident report, inform each operator and owner of such requirement and that his license or nonresident's operating privilege will be suspended if he fails to comply with the provisions of this article; and
 - within 60 days after receiving the accident report, send written notice of the requirement of filing security and proof of financial responsibility for the future to each owner and operator at his last known address.

- c.** The notice must state that:
- the license or nonresident's operating privilege of the notified person will be suspended unless the person, within 20 days after the Commissioner mails the notice, establishes that the requirements are not applicable to him or that he filed both security and proof of financial responsibility for the future;
 - any person having a claim for property damage or personal injury may be required by the Commissioner to substantiate the claim by sworn written statement from a person experienced in estimating the cost of repairing the damaged property and a sworn written report as to the personal injury from a licensed physician;
 - the person notified is entitled to a hearing and judicial review; and
 - the date on which the person's license would otherwise be suspended will be postponed while any hearing is pending, if the hearing was requested within 20 days after the mailing of the notice and if the person files the required security and proof of financial responsibility.
- d.** After the 20-day period has expired without a request for a hearing or without compliance with the contents of the notice, the person's license or nonresident's operating privilege will be suspended until the person files security and proof of financial responsibility for the future. When no accident report is filed or when erroneous or incomplete information is given and the Commissioner has received incorrect information, the Commissioner will take appropriate action.
- e.** A policy or bond is not effective under this section unless it was issued by an insurance or surety company authorized to do business in Colorado.
- 1.)** The surety requirements may be satisfied by evidence of a savings account, deposit, or certificate of deposit.
 - 2.)** However, if a motor vehicle was not registered in Colorado at the effective date of the policy, bond, or the most recent renewal, the policy or bond will not be effective unless the insurance or surety company, if not authorized to do business in Colorado, executes a power of attorney authorizing the Commissioner to accept service of notice or process in any action on such policy or bond arising out of such accident.

5. Required coverages [Secs. 10-4-619 to 622] Proof of financial responsibility is proof of ability to respond in damages for liability arising out of ownership, maintenance, or use of a motor vehicle, in the following amounts (25/50/15):

- \$25,000 because of bodily injury to or death of one person in any one accident
- \$50,000 because of bodily injury to or death of two or more persons in any one accident (no more than \$25,000 per person)
- \$15,000 because of injury to or destruction of property in any one accident

In addition to other deductible choices, all insurers must offer collision coverage deductibles of \$100 and \$250.

6. Medical payments coverage [Secs. 10-4-635; 10-4-636; 10-4-641; Reg. 5-2-16] Auto liability policies issued in Colorado must provide \$5,000 of medical payments coverage unless the insured rejects this coverage in writing.

- a. The insurer must retain proof that the insured rejected medical payments coverage for at least three years after the date of rejection.
- b. If the insurer fails to offer medical payments coverage or fails to maintain or provide proof that coverage was rejected, the policy will be presumed to include the required amount of coverage.
- c. A disclosure form designed to assure the suitability of coverages purchased by an insured must specify that medical payments benefits:
 - pay for reasonable health care expenses incurred for bodily injury caused by an automobile accident, regardless of fault, up to the limits chosen by the insured for this coverage;
 - are primary to any health insurance benefit available to a person injured in a motor vehicle accident;
 - apply to any coinsurance or deductible amount required by the injured person's health coverage plan; and
 - are not available to an insured injured in an accident caused by the insured unless medical payments coverage has been purchased.
- d. Benefits are paid first to ambulances or air ambulances that provide trauma care at the scene of the accident, and then to trauma care physicians, and then to trauma care centers.
- e. The requirement to offer medical payments coverage does not apply to certificates of self-insurance or to policies on motorcycles, low-power scooters, toy vehicles, snowmobiles, or off-road vehicles.

C. COLORADO AUTO INSURANCE PLAN [SEC. 10-4-412] The Commissioner may, after consulting with the insurers licensed to write motor vehicle insurance in Colorado, establish a reasonable plan for the equitable apportionment among such insurers of applicants for insurance who are entitled to but unable to procure insurance through ordinary methods.

1. When the plan has been approved, all such insurers will subscribe to it and participate in it.
2. If an insurer admitted to transact motor vehicle insurance fails to subscribe to the plan or to any amendments to it or fails to comply with the rules of the plan, the Commissioner will give 10 days' written notice to the insurer to subscribe or comply.
3. If the insurer fails to comply with the notice, the Commissioner, after a hearing, may suspend the insurer's certificate of authority to transact insurance business in Colorado until the insurer complies.

D. BAIL BONDS [SECS. 10-2-705; 10-2-707; 10-3-1104]

1. Bail bond documents, requirements, and rules An insurance producer who posts a bail bond with the court on behalf of a defendant must provide required documentation. The insurance producer must maintain records for three years after the bail bond has been discharged. The Commissioner may examine the business practices, books, and records of any insurance producer as often as deemed appropriate. Each format must be written, dated, and signed by both the producer and defendant.

- a.** Indemnity agreements and collateral receipts must be written. Both must state the amount of bail set, the name of the defendant released, the court case number and where executed, the premium charged, the amount and type of collateral held, and the conditions under which the collateral is returned. Collateral receipts must be prenumbered and dated. There must be documentation that the indemnitor received copies of signed and dated disclosure forms.
- b.** A promissory note must be in writing and signed by both the producer and defendant.
- c.** A bail bond revocation request outlines arrangements and schedule for payments. To be enforceable, interest and financial charges on any unpaid premium must comply with the "Uniform Consumer Credit Code." The payor is entitled to prenumbered, written, and signed receipts. Separate agreements are required for each bail bond.

2. Business practices, price limits, and collateral

- a.** An insurance producer who writes bail bonds cannot charge a premium/commission of more than the greater of \$50 or 15% of the amount of bail furnished. Fees must be for:
 - payment of the bond filing charged by a court or law enforcement agency; or
 - the fee for the actual cost of storing collateral in a secure, self-service public storage facility, or the fee is for premium financing.
- b.** If an insurance producer who posts the bail bond with the court has issued a proper disclosure statement (see section 10-2-705), the producer may use collateral received from the defendant to secure the following obligations:
 - Compliance with the bond issued on behalf of the principal
 - Any balance due on the premium, commission, or fee for the bail bond
 - Any actual costs incurred by the insurance producer as a result of issuing the bail bond

3. Unfair or deceptive acts or practices [Sec. 10-3-1104] The following are unfair marketing practices related specifically to bail bonds and are therefore prohibited:

- Paying a fee, rebate, or anything of value to a jailer, peace officer, clerk, deputy clerk, an employee of a court, district attorney or district attorney's employees, or a person who has power to arrest or to hold a person in custody as a result of writing a bail bond
- Unless the indemnitor consents in writing otherwise, failure to post a bail bond within 24 hours after receipt of full payment or a signed contract for payment, and if the bail bond is not posted within 24 hours after receipt of full payment or a signed contract for payment, failure to refund all moneys received, release all liens, and return all collateral within seven days after receipt of good funds
- Failure to report, preserve without use, retain separately, or return after payment in full, collateral taken as security on any bail bond to the principal, indemnitor, or depositor of the collateral
- Soliciting bail bond business in or about any place where prisoners are confined, arraigned, or in custody
- Failure to pay a final, nonappealable judgment award for failure to return or repay collateral received to secure a bond



4

Practice Exam

HOW TO USE: The practice exam tests your retention of the law supplement material. After you have studied the Cram Sheets, Class Notes, and Detailed Text take the following practice exam, as well as the state specific law questions in the InsurancePro™ QBank at www.kaplanfinancial.com.

COLORADO LAW SUPPLEMENT PRACTICE EXAM

Student instructions: Following your thorough study of this supplement, take this 50-question sample examination. Grade your performance using the answer key provided. Carefully review the topics pertaining to those questions answered incorrectly.

I. General Insurance

1. How much may the Commissioner fine an insurer for each violation of a cease and desist order?
 - A. \$500
 - B. \$1,000
 - C. \$5,000
 - D. \$10,000
2. When appropriate, the Commissioner reports a violation of insurance law to
 - A. the Federal Bureau of Investigation
 - B. the state police
 - C. the appropriate district attorney
 - D. the state legislature
3. For each violation of a cease and desist order, how much may the Commissioner fine an individual?
 - A. \$500
 - B. \$1,000
 - C. \$5,000
 - D. \$10,000
4. To motivate a buyer to sign an application for insurance, a producer promises a gift equal to one-half of the commission. This is an example of
 - A. rebating
 - B. twisting
 - C. misrepresentation
 - D. coercion
5. All of the following may result in license suspension or revocation EXCEPT
 - A. making a factual but subjective comparison of 2 policies
 - B. intentionally violating a cease and desist order
 - C. making a false statement in a license application
 - D. violating an insurance regulation
6. Which of the following statements regarding the payment of commissions is NOT correct?
 - A. A producer may share commissions with another licensed producer.
 - B. A producer may not share commissions with unlicensed persons.
 - C. A producer may not charge additional fees not included in his commissions for soliciting and procuring insurance or for servicing existing policyholders.
 - D. A producer cannot share commissions with a licensed nonresident producer.
7. An insurer who terminates a producer's appointment must inform the Commissioner within how many days?
 - A. 15
 - B. 30
 - C. 45
 - D. 60
8. Bob, an insurance producer, publishes a written statement that is false and derogatory. It concerns the financial condition of AllPro Insurers and is designed to injure the company's reputation. This can be considered an act of
 - A. coercion
 - B. twisting
 - C. misrepresentation
 - D. defamation

9. A license is deemed to be used for controlled business if during any 12-month period
- the licensee wrote more than 5 policies on controlled business
 - the licensee wrote policies totalling more than \$50,000 on controlled business
 - the licensee's total premiums on controlled business exceeded the total premiums on all other business
 - the licensee's total premiums on controlled business made up more than 10% of his total premiums
10. All of the following are duties of the Commissioner EXCEPT
- keeping records of the insurers that he has examined
 - adopting rules and regulations
 - writing insurance laws
 - issuing insurance licenses to qualified individuals and companies
11. When an insurer terminates a producer's appointment, the insurer must notify
- the attorney general
 - the state insurance trade association
 - the Commissioner and producer
 - the state legislature and public
12. An insurance producer who solicits insurance on behalf of an insurer represents
- the insurer
 - the insured
 - the beneficiary
 - the Commissioner's office
13. For good cause, the Commissioner can grant licensees an extension of how many months to complete their continuing education requirements?
- 3
 - 6
 - 9
 - 12
14. The Commissioner may
- conduct investigations relating to insurance matters only through the state attorney general
 - conduct investigations on his own but cannot subpoena witnesses
 - investigate only individuals and companies that apply for licenses
 - conduct investigations and subpoena witnesses whenever he deems it necessary
15. The Commissioner gives approval to an insurer to do business in Colorado in a certificate of
- convenience
 - authority
 - admittance
 - agency
16. All of the following are considered unfair trade practices EXCEPT
- misrepresentation
 - rebating
 - replacement
 - coercion
17. All of the following are violations of Colorado insurance law EXCEPT
- charging individuals of the same class different premium rates
 - offering tickets to a football game as an incentive to purchase a policy
 - informing a new policyholder that his new policy, if inadvertently lapsed for nonpayment of premium, could be reinstated upon reapplication
 - having an interdependent arrangement to sell stock to a person contingent upon the purchase of an annuity
18. All of the following insurance practices are illegal in Colorado EXCEPT
- soliciting or procuring insurance without a license
 - paying a fee for services as an insurance producer to anyone who is not properly licensed
 - inquiring about an applicant's sexual orientation in connection with an application
 - comparing policies

19. How many hours of continuing education must be in approved courses in the lines of insurance for which the producer is licensed?
- 10
 - 14
 - 15
 - 18
20. A person may not act as a Colorado insurance producer unless she
- is employed by a Colorado insurance company
 - has qualified to become a licensed insurance producer
 - is at least 21 years old
 - has lived in Colorado for at least 3 years
21. All of the following are examples of unfair claim settlement practices EXCEPT
- requiring both a claimant and his physician to fill out extensive proof of loss forms
 - denying a claim promptly but without explaining the coverage or laws on which the denial is based
 - paying a claim promptly after liability has become reasonably clear
 - denying a claim without making an investigation
22. The Commissioner must examine every insurer doing business in Colorado at least once every
- 5 years
 - 7 years
 - 10 years
 - 12 years
23. A producer has how many days to file a written response to the Commissioner after he has been terminated by his appointing insurer?
- 15
 - 30
 - 60
 - 90

II. Property Insurance

24. When a homeowner's insurance policy is cancelled for nonpayment of premium, how many days' notice must be provided to the insured?
- 10
 - 20
 - 30
 - 45
25. Under the Colorado Fraudulent Claims and Arson Information Reporting Act, no person or authorized agency may
- make statements or serve as a witness when reporting suspected arson cases
 - intentionally withhold relevant information requested by an authorized agency
 - disclose any material information to a law enforcement officer
 - participate in a criminal proceeding against an insured who is suspected of arson
26. An insurer may not cancel or refuse to renew a homeowner's insurance policy unless the insurer gives the insured at least how many days' advance notice?
- 10
 - 30
 - 45
 - 90
27. Which of the following statements regarding insurance and loans secured by real property is CORRECT?
- A lender may require a borrower who has a loan secured by real property to provide property insurance greater than the replacement value of the property.
 - A lender may not require a borrower who has a loan secured by real property to provide property insurance in excess of the replacement value of the property.
 - It is up to the borrower to determine the amount of insurance.
 - The lender has no restrictions on the amount of property insurance it may require a borrower to purchase.

28. What should an insurer do if it suspects that a fire causing a loss to its insured property may have been caused by arson?
- A. Notify an authorized agency to have the fire loss or claim investigated
 - B. Investigate the fire itself
 - C. Require the insured to pay for an investigation
 - D. Cancel the insured's policy and refuse to issue a new one
29. Under the Fraudulent Claims and Arson Information Reporting Act, which of the following is considered an authorized agency?
- A. An insurance agency authorized to transact insurance business in Colorado
 - B. An insurance agency in which all employees are licensed
 - C. The Colorado Bureau of Investigation
 - D. The Colorado Insurance Guaranty Association
30. If an insurer fails to give the appropriate amount of notice prior to a premium increase on a commercial policy, the company is required to extend the policy for what additional length of time?
- A. 15 days
 - B. 30 days
 - C. 45 days
 - D. 1 year
- III. Casualty**
31. Which of the following provides motor vehicle insurance to those applicants who would otherwise be uninsurable?
- A. Auto Assigned Risk Plan
 - B. Property and Casualty Insurance Guaranty Association
 - C. Colorado Auto Insurance Plan
 - D. Colorado Auto Insurance Guaranty Association
32. When an automobile policy is cancelled for a reason other than nonpayment of premium, how many days' notice must be provided to the insured?
- A. 10
 - B. 20
 - C. 30
 - D. 45
33. Motor vehicle insurance policies must include uninsured motorists coverage for losses resulting from all of the following EXCEPT
- A. bodily injury
 - B. consequential damage
 - C. death
 - D. sickness
34. Which of the following are the minimum limits of liability any individual must provide for bodily injury and property damage?
- A. \$15,000 per person, \$30,000 per accident for bodily injury, and \$10,000 for property damage
 - B. \$25,000 per person, \$50,000 per accident for bodily injury, and \$10,000 for property damage
 - C. \$25,000 per person, \$50,000 per accident for bodily injury, and \$25,000 for property damage
 - D. \$25,000 per person, \$50,000 per accident for bodily injury, and \$15,000 for property damage
35. Under Colorado law, an insurer may do which of the following with regard to the provision of uninsured motorists coverage?
- A. Cancel coverage because a claim was paid under the policy
 - B. Provide coverage below the state's minimum coverage limits
 - C. Provide coverage for the same amount as the policy's bodily injury liability limits
 - D. Increase premiums because a claim was paid under the policy
36. If a member of an applicant's household submitted 7 claims under an automobile policy during the past year, the proposed insurer may
- A. refuse to write a policy
 - B. offer to exclude the household member from the policy
 - C. refuse to accept the insurance application
 - D. offer to exclude all dependents from the policy

37. An insurer must notify an insured at least how many days before increasing the premium on a policy?
- 10
 - 20
 - 30
 - 45
38. If an insured chooses NOT to purchase uninsured motorists coverage
- the insurer is not required to notify the policyholder in renewal notices about the availability of such coverage
 - the insurer must notify the policyholder about the option limits in future notices
 - the insurer must send the policyholder written notification about the availability of such coverage in the first year's renewal notice only
 - the insured may not add such coverage later
39. An injured employee must generally file a claim for workers' compensation benefits within what time period after the injury occurred?
- 3 months
 - 6 months
 - 1 year
 - 2 years
40. When a work-related injury results in death, what amount is payable for reasonable funeral and burial expenses under Colorado's workers' compensation laws?
- \$2,500
 - \$5,000
 - \$7,000
 - \$10,000
41. When an automobile policy has been in effect for more than 60 days, it may be cancelled for any of the following reasons EXCEPT
- failure of the insured to pay the policy premium
 - suspension or revocation of the insured's driver's license
 - making a false statement on a claim submitted under the policy
 - failure to enact reasonable loss control measures
42. It is a violation of Colorado law for an insurer to refuse an applicant for automobile insurance based solely on any of the following EXCEPT
- the applicant had no prior insurance
 - the applicant was previously insured under the assigned risk plan
 - the applicant was previously insured with an insolvent insurer
 - the applicant was convicted of a major traffic violation
43. Which of the following statements about the nonrenewal of automobile policies is CORRECT?
- An insurer can refuse to renew a policy because another insurer has cancelled a prior policy.
 - At least 10 days' written notice must be given prior to nonrenewal.
 - An insurer can refuse to renew a policy based on the insured's occupation, including military service.
 - An insurer cannot refuse to renew a policy because of convictions for traffic violations that result in less than 7 points being assessed if received while driving a commercial vehicle for work.
44. All of the following are methods an employer can use to insure its workers' compensation obligation EXCEPT
- the Colorado compensation insurance authority fund
 - a stock or mutual company authorized to transact workers' compensation insurance
 - an approved self-insurance plan of the employer
 - a group captive workers' compensation insurance plan
45. Which of the following is NOT considered a commercial exposure?
- Inland marine
 - Errors and commissions
 - Personal liability
 - Product liability

46. All owners of motor vehicles in Colorado must have in effect at least the following legal liability coverage for bodily injury or death arising out of the use of the motor vehicle to a limit of what amount?
- A. \$10,000 for any one person
 - B. \$25,000 to any one person in any one accident
 - C. \$25,000 to all persons in any one accident
 - D. \$25,000 for property damage for any one accident
47. What happens if workers' compensation benefits and periodic Social Security benefits are both payable to an employee?
- A. The employee receives both.
 - B. The employee receives neither.
 - C. The workers' compensation benefits can be reduced.
 - D. Social Security benefits are suspended until workers' compensation is completely paid.
48. Which of the following is a legal reason to cancel or nonrenew an automobile insurance policy?
- A. The insured lives in a dangerous part of the city.
 - B. The insured is male.
 - C. The insured just had a similar policy cancelled by another insurer.
 - D. The insured willfully made a false material statement on a claim under the policy.
49. Under the Colorado workers' compensation law, which of the following would NOT be covered?
- A. Accidental injuries suffered while working at an employer's site
 - B. Heart-related illness resulting from hereditary causes
 - C. Traumatic injuries suffered while making a delivery for an employer
 - D. Lung-related illness resulting from exposure to carcinogens during employment
50. When it comes to establishing rate standards, medical malpractice insurers must consider all of the following EXCEPT
- A. risk management activities
 - B. underwriting standards
 - C. tort reform legislation
 - D. long-term medical expenses

ANSWERS TO COLORADO LAW PRACTICE EXAM

- | | | | | |
|--------------|--------------|--------------|--------------|--------------|
| 1. D | 11. C | 21. C | 31. C | 41. D |
| 2. C | 12. A | 22. A | 32. C | 42. D |
| 3. A | 13. D | 23. B | 33. B | 43. D |
| 4. A | 14. D | 24. A | 34. D | 44. D |
| 5. A | 15. B | 25. B | 35. C | 45. C |
| 6. D | 16. C | 26. B | 36. B | 46. B |
| 7. B | 17. C | 27. B | 37. D | 47. C |
| 8. D | 18. D | 28. A | 38. A | 48. D |
| 9. C | 19. D | 29. C | 39. D | 49. B |
| 10. C | 20. B | 30. C | 40. C | 50. D |