AUTOMOBILE INSURANCE FRAUD GUIDELINES

Table of Contents

Section 1. Application
Section 2. Definitions
Section 3. Prohibition of Solicitation
Section 4. Unlawful Acts Regarding a Runner, Capper, or Steerer
Section 5. Unlawful Use or Procurement of Vehicle Accident Reports
Section 6. Severability

Section 1. Application

These Guidelines relate to the use of runners, cappers, or steerers and police accident reports in solicitation schemes and attempts to fraudulently assert a claim against an insured or an insurance carrier.

Section 2. Definitions

A. **"Runner," "capper," or "steerer" defined.** A person who receives a pecuniary benefit from a practitioner or health care service provider, whether directly or indirectly, to solicit, procure or attempt to procure a client, patient, or customer at the direction or request of, or in cooperation with, a practitioner or health care service provider whose purpose is to obtain benefits under a contract of insurance or to assert a claim against an insured or an insurer for providing services to the client, patient, or customer. Runner, capper, or steerer does not include a practitioner or health care service provider who procures clients, patients, or customers through the use of public media or a health, mental health, or substance abuse information service that provides information upon request and without charge to consumers about providers of health care goods or services, providing the service does not attempt to steer or lead a consumer to select or consider selecting a particular health care provider or health care facility through any financial inducement, commission, rebate, bones, kickback, or in-kind reward, to include free transportation.

B. **"Practitioner" defined.** An attorney, health care professional, an owner or partial owner of a health care practice or facility, or any person employed or acting on behalf of any of the aforementioned persons.

C. **"Public media" defined.** Telephone directories, professional directories, newspapers and other periodicals, radio and television, billboards and mailed or electronically transmitted written communications that do not involve in-person contact with a specific prospective client, patient or customer.

Section 3. Prohibition of Solicitation

A. It is unlawful for a practitioner or health care service provider, whether directly or through a paid intermediary or volunteer, to solicit for financial gain a client, patient, or customer within sixty (60) days of a motor vehicle accident for the purpose of seeking benefits under a contract of insurance or to assert a claim against an insured, a governmental entity, or an insurer on behalf of any person arising out of the accident occurrence.

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Section 4. Unlawful Acts Regarding a Runner, Capper, or Steerer

A. It is unlawful for:

(1) Any person, in an individual capacity or in a capacity as a public or private employee, or for any firm, corporation, partnership or association to act as a runner, capper, or steerer, for any practitioner or health care service provider. A violation of this provision is a felony and is punishable by a period of confinement not to exceed five years and a fine not to exceed $5000 per violation. This provision shall not prohibit an attorney or health care provider from making a referral and receiving compensation as is permitted under applicable professional rules of conduct.

(2) Any practitioner or health care service provider to compensate or give anything of value to a person acting as a runner, capper, or steerer, or organization to recommend or secure his employment by a client, patient, or customer if such practitioners intent is to obtain benefits under a contract of insurance or to assert a claim against an insured or an insurer for providing services to the client, patient, or customer. A violation of this provision is a felony and is punishable by a period of confinement not to exceed five years and a fine of not to exceed $5000 per violation. This provision shall not include a practitioner or health care service provider who procures clients, patients, or customers through the use of public media.

Section 5. Unlawful Use or Procurement of Vehicle Accident Reports

A. With respect to a motor vehicle accident or crash report or related investigative report or supplemental report, for a period of sixty (60) days after the date the report is filed, no employee of any law enforcement, state or local agency shall allow any person, including a practitioner, an attorney, health care service provider, or their agents, to examine or obtain a copy of any accident or crash report or related investigative report or supplemental report when such employee knows or should reasonably know that the request for access to the report is for commercial solicitation purposes. For purposes of this subsection, a request to examine or obtain a copy of a report is for "commercial solicitation purposes" if made at a time when there is no relationship between the person or his principal requesting the report and any party to the accident, and there is no apparent reason for the person to request the report other than for purposes of soliciting a business or commercial relationship. A violation of this provision is a misdemeanor and is punishable by a period of confinement not to exceed one year and a fine not to exceed $1000 per violation.

B. No person, for a period of sixty (60) days after the date the report is filed, shall request any law enforcement, state or local agency to permit examination or to furnish a copy of any motor vehicle accident or crash report or related investigative report or supplemental report for commercial solicitation purposes. For purposes of this subsection, a request to examine or obtain a copy of a report is for "commercial solicitation purposes" if made at a time when there is no relationship between the person or his principal requesting the report and any party to the accident, and there is no apparent reason for the person to request the report other than for purposes of soliciting a business or commercial relationship. A violation of this provision is a misdemeanor and is punishable by a period of confinement not to exceed one year and a fine not to exceed $1000 per violation.

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C. Motor vehicle accident or crash reports held by any law enforcement, state or local agency under Sections 5(A) and 5(B) may be made immediately available to the parties involved in the crash, their legal representatives, their licensed insurance agents, their insurers or insurers to which they have applied for coverage, persons under contract with such insurers to provide claims or underwriting information, prosecutorial authorities, state licensed or state authorized victim services programs, radio and television stations licensed by the Federal Communications Commission, newspapers qualified to publish legal notices under applicable state law published once a week or more often, available and of interest to the public generally for the dissemination of news. For the purposes of this section, the following products or publications are not newspapers as referred to in this section: those intended primarily for members of a particular profession or occupational group; those with the primary purpose of distributing advertising; and those with the primary purpose of publishing names and other personal identifying information concerning parties to motor vehicle crashes.

D. In addition to any other requirements and except as provided in subsection (3), a person requesting to inspect or copy a motor vehicle accident or crash report or related investigative report or supplemental report within sixty (60) days of the accident shall:

(1) Produce for inspection and copying a government issued photo identification; and

(2) Provide a written, signed sworn statement that:

(a) Identifies the requested report(s) and the requestor's relationship to the parties;

(b) Includes the printed name of the requestor; and

(c) Verifies that the requestor is not prohibited from obtaining the report pursuant to Section 5.

(d) Information from the reports will not be used for any commercial solicitation purpose of accident victims, or knowingly disclose to any third party for the purpose of such solicitation, during the sixty (60) day time period specified in Section 5(A) and (B).

(3) All parties involved in the crash, their legal representatives, their licensed insurance agents, their insurers or insurers to which they have applied for coverage, persons under contract with such insurers to provide claim or underwriting information, prosecutorial authorities are exempt from providing a written signed sworn statement. In lieu of requiring the governmental issued photo identification any law enforcement, state or local agency may provide reports by electronic means to an insurance producer, insurer, or employee or agent of the insurer of an individual involved in the accident or prosecutorial authorities.

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(4) In lieu of requiring the written signed sworn statement, any law enforcement, state or local agency may provide reports by electronic means to third-party venders under contract with one or more insurers, but only when such contract states that information from a report made confidential and exempt by Section 5(A) and 5(B) will not be used for any commercial solicitation purpose of accident victims by the vendors, or knowingly disclose by the vendors to any third party for the purpose of such solicitation , during the sixty (60) day time period specified in Section 5(A) and (B), and only when a copy of such contract is furnished to the agency as proof of the vendor's claimed status.

E. For each request to inspect or copy a motor vehicle accident report or crash report or related investigative reports or supplement report made within 60 days of the accident, the law enforcement, state or local agency shall maintain for one year a copy of the requestor's photo identification and the statement provided pursuant to Section 5(D).

Section 6. Severability

If any provision of this Act, or the application of the provision to any person or circumstance shall be held invalid, the remainder of the Act, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

Chronological Summary of Actions (all references are to the Proceedings of the NAIC)

2007 Proc. 4th Quarter, Vol. I 116, 127, 137, 142-143, 187-189 (adopted).

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This chart is intended to provide readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings related to the NAIC model. Such guidance provides readers with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state's activity in this area and has determined whether the citation most appropriately fits in the Model Adoption column or Related State Activity column based on the definitions listed below. The NAIC's interpretation may or may not be shared by the individual states or by interested readers.

This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Nor does this state page reflect a determination as to whether a state meets any applicable accreditation standards. Every effort has been made to provide correct and accurate summaries to assist readers in locating useful information. Readers should consult state law for further details and for the most current information.

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NAIC MEMBER	RELATED STATE ACTIVITY
Alabama	NO CURRENT ACTIVITY
Alaska	NO CURRENT ACTIVITY
American Samoa	NO CURRENT ACTIVITY
Arizona	NO CURRENT ACTIVITY
Arkansas	NO CURRENT ACTIVITY
California	NO CURRENT ACTIVITY
Colorado	NO CURRENT ACTIVITY
Connecticut	NO CURRENT ACTIVITY
Delaware	NO CURRENT ACTIVITY
District of Columbia	NO CURRENT ACTIVITY
Florida	NO CURRENT ACTIVITY
Georgia	NO CURRENT ACTIVITY
Guam	NO CURRENT ACTIVITY
Hawaii	NO CURRENT ACTIVITY
Idaho	NO CURRENT ACTIVITY
Illinois	NO CURRENT ACTIVITY
Indiana	NO CURRENT ACTIVITY
Iowa	NO CURRENT ACTIVITY
Kansas	NO CURRENT ACTIVITY

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NAIC MEMBER	RELATED STATE ACTIVITY
Kentucky	NO CURRENT ACTIVITY
Louisiana	NO CURRENT ACTIVITY
Maine	NO CURRENT ACTIVITY
Maryland	NO CURRENT ACTIVITY
Massachusetts	NO CURRENT ACTIVITY
Michigan	NO CURRENT ACTIVITY
Minnesota	NO CURRENT ACTIVITY
Mississippi	NO CURRENT ACTIVITY
Missouri	NO CURRENT ACTIVITY
Montana	NO CURRENT ACTIVITY
Nebraska	NO CURRENT ACTIVITY
Nevada	NO CURRENT ACTIVITY
New Hampshire	NO CURRENT ACTIVITY
New Jersey	N.J. ADMIN. CODE §§ 11:16-6.1 to 11:16-6.11 (2005/2014).
New Mexico	NO CURRENT ACTIVITY
New York	NO CURRENT ACTIVITY
North Carolina	NO CURRENT ACTIVITY
North Dakota	NO CURRENT ACTIVITY
Northern Marianas	NO CURRENT ACTIVITY
Ohio	NO CURRENT ACTIVITY
Oklahoma	NO CURRENT ACTIVITY
Oregon	NO CURRENT ACTIVITY

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NAIC MEMBER	RELATED STATE ACTIVITY
Pennsylvania	NO CURRENT ACTIVITY
Puerto Rico	NO CURRENT ACTIVITY
Rhode Island	NO CURRENT ACTIVITY
South Carolina	NO CURRENT ACTIVITY
South Dakota	NO CURRENT ACTIVITY
Tennessee	NO CURRENT ACTIVITY
Texas	NO CURRENT ACTIVITY
Utah	NO CURRENT ACTIVITY
Vermont	NO CURRENT ACTIVITY
Virgin Islands	NO CURRENT ACTIVITY
Virginia	NO CURRENT ACTIVITY
Washington	NO CURRENT ACTIVITY
West Virginia	NO CURRENT ACTIVITY
Wisconsin	NO CURRENT ACTIVITY
Wyoming	NO CURRENT ACTIVITY

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