

## FREQUENTLY ASKED QUESTIONS

### BIOGRAPHICAL AFFIDAVIT

The information contained in the Biographical Affidavit is used to validate the educational, employment and criminal history of the Affiant. The results of the validation process are used by the State Insurance Departments to assess competency, character, experience and integrity of the personnel responsible for the insurer. An Independent Third-Party, chosen by the Affiant from the list of vendors located on the [UCAA website](#), performs the validation/verification process, and submits the results directly to the State Insurance Department(s) in the form of a Background Investigative Report.

Note, failure to disclose certain items in the Biographical Affidavit may increase the processing time of an application and slow an insurer's speed to market. When in doubt, always disclose. If there is any doubt about the accuracy of an answer, the question should be answered in the positive and an explanation provided.

#### **General Biographical Affidavit Questions:**

**Question 1:** XYZ Insurance Company is part of a holding company whose stock is traded on the New York Stock Exchange (NYSE) or the NASDAQ stock market. According to the Proxy Statement of the holding company, a corporate entity owns 10% or more of the shares of stock of the holding company for investment purposes only. How do I file the biographical affidavits for this entity's officers and directors?

**Answer:** A company has two choices: 1) provide biographical affidavits from each of the officers and directors of the corporate entity owning the shares; or 2) provide a copy of the Disclaimer of Affiliation/Control filed with the domiciliary state for the corporate entity and the action taken by the domiciliary regulator. A disclaimer generally consists of disclosing all manners of affiliation, including 1) the number of authorized, issued and outstanding voting securities held, 2) the number and percentage of shares of the holding company's voting securities that are held of record or known to be beneficially owned by the person (or corporation) disclaiming control and all affiliates, and the number of such shares concerning which there is a right to acquire, directly or indirectly; 3) all other relationships and bases for affiliation between the holding company and the person (or corporation) disclaiming control and all affiliates of such person, including material contracts; and 4) a statement explaining why such person should not be considered to control the insurer. This information may have been previously filed with the Applicant Company's domiciliary state as part of the insurer's Holding Company Act Form B registration statement. If biographical affidavits are not provided, the reviewing state may request them during the course of the review.

**Question 2:** Can a company reference another affiliate company's UCAA for biographicals or other documents in common with the Applicant Company?

**Answer:** No, a separate biographical affidavit is required for each Applicant Company within a group. The biographical affidavit must include the company name, NAIC company code and FEIN.

**Question 3:** Can a biographical affidavit and third-party background report more than six months old be used in a new application?

**Answer:** No, biographicals and background checks more than six (6) months old are not acceptable and a newly completed biographical affidavit with a current date must be submitted. Biographical affidavits signed within six months of the application submission date may be used for new applications for the same Applicant Company. If you are submitting an application for an affiliated company a new biographical affidavit would be required.

**Question 4:** Who must submit the NAIC Biographical Affidavit?

**Answer:** The NAIC Biographical Affidavit is required to be submitted by an Applicant Company in connection with pending or future application(s) for licensure or a permit to organize with a department of insurance in one or more states. The NAIC Biographical Affidavit must be submitted on behalf of all officers, directors and key managerial personnel of the Applicant Company and individuals with a ten percent (10%) or more beneficial ownership in the Applicant Company or the Applicant Company's ultimate controlling person ("Affiant"). An exception to the requirement for biographical affidavit is that individuals with a ten percent (10%) or more beneficial ownership in the Applicant Company or the Applicant Company's ultimate controlling person ("Affiant") should provide a copy of the Disclaimer of Affiliation/Control filed with the domiciliary state for the corporate entity and the action taken by the domiciliary regulator. A disclaimer generally consists of disclosing all manners of affiliation, including 1) the number of authorized, issued and outstanding voting securities held, 2) the number and percentage of shares of the holding company's voting securities that are held of record or known to be beneficially owned by the person (or corporation) disclaiming control and all affiliates, and the number of such shares concerning which there is a right to acquire, directly or indirectly; 3) all other relationships and bases for affiliation between the holding company and the person (or corporation) disclaiming control and all affiliates of such person, including material contracts; and 4) a statement explaining why such person should not be considered to control the insurer. This information should have been previously filed with the company's domiciliary state. If biographical affidavits are not provided, the reviewing state may request them during the course of the review. Refer to the state specific information link for states that cannot accept the domiciliary state's disclaimer.

**Question 5:** What type of information is requested in the NAIC Biographical Affidavit?

**Answer:** The NAIC Biographical Affidavit requests information with respect to your employment history, education, personal information and character. The NAIC Biographical Affidavit also includes the Disclosure and Authorization Concerning Background Reports (the "Disclosure & Authorization Form"). The Disclosure & Authorization Form permits an independent third-party verification to be conducted on the Affiant by an Independent Third-Party (as defined in Question/Answer #22).

**Question 6:** Which Disclosure & Authorization Form should be utilized?

**Answer:** The NAIC Biographical Affidavit includes three types of Disclosure & Authorization Forms. There are three different Disclosure & Authorization Forms since certain state laws, regulations and rules require different kinds of disclosures and wording within such form. An Affiant must sign the corresponding Disclosure & Authorization Form(s) for the respective state(s) where the affiant has lived or worked within the last ten (10) years. Refer to the Disclosure & Authorization Forms for further information.

**Question 7:** Why is the NAIC Biographical Affidavit necessary?

**Answer:** The NAIC Biographical Affidavit is used to evaluate the suitability of the Affiant in connection with an Applicant Company's pending or future application(s) for licensure or a permit to organize with an Insurance Department in one or more states.

The information contained in the NAIC Biographical Affidavit is used as a tool to perform an independent third-party verification where certain items must be verified. The independent third-party verification may contain information bearing on the Affiant's character, general reputation, personal characteristics, mode of living and credit standing. The independent third-party verification shall be utilized to create a background report (the "Background Report").

**Question 8:** How long is the Disclosure & Authorization Form valid?

**Answer:** The Disclosure & Authorization Form is valid for a maximum of six (6) months and, in certain instances, only valid for one pending application. Additionally, an Affiant may revoke the authorization at any time by delivering a written revocation to the applicant. Refer to the Disclosure & Authorization Form for further information.

**Question 9:** Are the Background Reports subject to the Fair Credit Reporting Act?

**Answer:** The Background Reports are subject to the federal Fair Credit Reporting Act ("FCRA"). Pursuant to FCRA, the state departments of insurance and an applicant who is seeking admission are considered "users" of consumer reports. The FCRA requires that the Affiant be provided with a copy of the "Summary of your Rights Under the Fair Credit Reporting Act." Applicants should provide a copy of the "Summary of your Rights under the Fair Credit Reporting Act" to each Affiant. This summary can be found at the Federal Trade Commission ("FTC") website at <https://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf>

Applicants and state Insurance Departments are required to comply with FCRA, especially as it relates to confidentiality of the information contained in such consumer reports. To the extent required by law, the Background Reports procured under the Disclosure & Authorization Form should be maintained as confidential. A copy of FCRA can be found at: <https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/fair-credit-reporting-act>

**Question 10:** Who is permitted to receive a copy of the Background Report?

**Answer:** The Background Report may be received by an Insurance Department in any state where an Applicant Company files or intends to file an application, and to the applicant. Affiants, who desire a copy of their Background Report, may request a copy from the applicant or the consumer reporting agency (“CRA”) as indicated on the Disclosure & Authorization Form. Refer to the Disclosure & Authorization Form for further information.

**Question 11:** Is any other information or documentation required to be submitted to a state Insurance Department?

**Answer:** Please check the Fingerprint and Biographical Affidavit Requirements chart [\[PDF\]](#) or state specific information for additional requirements. If applying in a state(s), necessary fingerprint cards and processing fees should be included.

Original NAIC Biographical Affidavits, which contain the Disclosure & Authorization Form, should be submitted to the state Insurance Department(s) as Item 13 of your application.

**Question 12:** What is an Independent Third-Party?

Independent Third-Party is defined as:

- (a) A consumer reporting agency (“CRA”) by the Federal Trade Commission (“FTC”) and therefore subject to the FCRA;
- (b) Has the ability to perform international background investigations;
- (c) One whose officers and directors have no material affiliation with the applicant other than stock ownership amounting to less than 1% of total stock outstanding, unless prior approval is given by the department of insurance to which application is being made; and
- (d) Has agreed to comply with the NAIC Background Reporting Best Practices and Guidelines.

**Question 13:** Is it necessary to submit the NAIC Biographical Affidavit for a new officer, director or key managerial position?

**Answer:** Some of the states require the NAIC Biographical Affidavit for a change in key managerial positions or for a new officer or director. Please refer to the chart located on the NAIC website for Fingerprint and Biographical Affidavit Requirements. Requirements after licensure are listed on the right-hand side of the chart.

**Question 14:** Does it matter which agency I use for obtaining an independent third-party background report?

**Answer:** Only an agency listed on the NAIC/UCAA website (Third-Party Vendors for Background Reports) can be used. It is the applicant’s responsibility to choose an appropriate agency from the NAIC list; one whose officers and directors have no material affiliation with the applicant other than stock ownership amounting to less than 1% of total stock outstanding, unless prior approval is given by the department of

insurance to which application is being made. All agencies on the list have been vetted and approved by the Biographical Third-Party Review (E) Subgroup. The state should reject the background report from any agency not listed on the NAIC list and it will be the applicant's responsibility to obtain an approved vendor.

**Question 15:** The NAIC Biographical Affidavit was recently amended, will the state's still accept the previous version or will I need to redo all previously completed biographical affidavits?

**Answer:** The uniform states are aware that, from time to time, the forms may be amended by the National Treatment and Coordination (E) Working Group and that a transition period is necessary when affiants are in the process of submitting an application and affidavit(s) were completed prior to the revision date. The states should accept the form up to twelve (12) months from the revision date, when applications are in process or submitted prior to the revision date. For newly completed applications, the new form is required.

Refer to the UCAA website for a list of Independent Third-Party Vendors for Background Reports.

### **Frequently Asked Questions - Completing the Biographical Affidavit**

#### **General**

**Question:** Is it acceptable to leave a question or item blank if I don't know the answer, or that the question or item does not apply, or that the answer is none?

**Answer:** No, you must answer each and every question or item. If the answer is none, state "None". If the question or item does not apply, then state, "Not Applicable" or "N/A". By not responding to each question or item, you risk the various State Insurance Departments requesting an affidavit from you regarding your having not responded to that question or item.

**Question:** I am completing a primary application. We do not yet know the address and telephone number of the insurer. What information should I include?

**Answer:** Following the name of the present or proposed entity, insert, "To be determined" as your answer.

**Question:** The form does not allow enough space to respond to the questions or items. What should I do?

**Answer:** Attach a supplemental sheet to your Biographical Affidavit and cross-reference the question or item number with your response.

**Question:** When the question or item requires that I attach a copy of the complaint or settlement document or other similar document, do I need to just include it with the Biographical Affidavit?

**Answer:** Yes, but also indicate a cross reference on the document to the question or item in the Biographical Affidavit.

## **Biographical Affidavit Questions:**

### **Item 1a**

Question: I never utilize my full name. I always utilize my initials when signing documents in an official capacity. No one would recognize me if I complete the form as indicated.

Answer: You must complete the form in the manner as indicated; that is, full name, no initials.

### **Item 2a – Supplemental Personal Information**

Question: I have been married several times. Do I have to list all my former names?

Answer: Yes, answer the question completely.

### **Item 2b – Supplemental Personal Information**

Question: Do I need to include just my nickname? For example, my peers know me as J.R., not John Robert Smith. Do I need to just fill in J.R. or J.R. Smith?

Answer: J.R. Smith

Question: I have utilized several aliases throughout the years. I prefer to keep this information confidential. Am I required to disclose this information?

Answer: Yes.

### **Item 2a**

Question: I was a citizen of the United States and moved to another country where I am now a citizen. I don't know if I am still a citizen of the United States or not. How should I respond to this question?

Answer: You need to research the matter and provide a response.

### **Item 2b**

Question: I have citizenship in several countries. Do I have to list all of the countries?

Answer: Yes, even though the question may only allow for the listing of one country.

### **Item 3**

Question: I have several occupations. Item 4 of the Biographical Affidavit does not appear to allow for this. How should I respond?

Answer: If there is not room in the space to list your other occupations, you may provide a supplemental sheet cross-referencing the item number, i.e., Item 4.

#### **Item 4**

Question: I have several businesses with various addresses, but primarily work out of my home. Which address or addresses should I utilize?

Answer: The address or addresses where the business or businesses are actually located.

Question: I primarily work out of my home in New Jersey, though the business is located in New York. Which telephone number should I utilize?

Answer: The telephone number(s) where you receive and make your business calls.

#### **Item 5**

Question: I do not recall the exact dates that I attended college. Can I just guess?

Answer: No, because if you guess and are wrong, when the service that provides an independent certification of your Biographical Affidavit, or the independent third-party vendor completing the background report, verifies the information and submits their findings to the State Insurance Departments, a discrepancy will be noted. You may be required by the various State Insurance Departments to submit a notarized affidavit explaining the discrepancy; an unnecessary request had you researched the matter before guessing.

Question: What should be listed in “Other Training”? For example, I took some classes and received a certification to administer CPR and also to teach aerobics. Should I list this training?

Answer: Apply judgment in your response. The intent is to list professional training. For example, you took a training class and exam(s) to become a licensed Financial Planner.

Question: I do not recall the telephone number of the foreign school that I attended. Can I just leave this information off the form?

Answer: No, you need to respond to the question or item completely, even if it involves research.

#### **Item 6**

Question: I used to be a member of a professional association. Do I still need to list the name of the association even though I am no longer active?

Answer: No.

Question: I am not a member of a professional society or association. Can I just leave this item blank?

Answer: No, you must fill in a response to each question or item on the form. Remember; utilize “N/A”, if not applicable, or state, “None”, if your answer is none.

Question: I am active in my community and am a member of several community associations. Do I list them all?

Answer: No, only list memberships that pertain to your current or past occupation. State “None” if your answer is none.

### **Item 7**

Question: I have been asked to be a director of the company, I anticipate being named an officer in the immediate future. How should I respond to this item?

Answer: List your position(s) as of the date you signed the biographical affidavit.

### **Item 8**

Question: I do not want my current employer to be contacted as part of the verification or background investigative process. Do I still have to provide the information?

Answer: Yes.

Question: I do not have the fax number or telephone number of the entity that I worked for 18 years ago. I do not even know if the entity is still in business. What should I do?

Answer: Again, research the matter and provide a response for each blank in the question or item. If you cannot locate the information, than state so in your answer; do not leave the question or item blank.

### **Item 9a**

Question: It was 20 years ago that I was in a position that required a fidelity bond and there was a claim made on the bond, but I was not personally named in the claim. Do I have to disclose the information?

Answer: Your response should indicate you were in a position that required a fidelity bond. Then, you should disclose the claim and indicate that you were not personally named in the claim.

### **Item 10**

Question: I do not know the telephone number of the Securities and Exchange Commission. Can I just leave the space next to Non-Insurance Regulatory Phone Number blank?

Answer: No, please research the matter and provide a response.

Question: Thirty years ago I held a Broker's license while I was working at Lloyds of London. I do not recall the license number, whether it has expired, the address of the issuer or the license, etc. Should I reflect this license on the form, even though I have such limited information surrounding the license?

Answer: Yes, provide as much information as possible, and also research the matter as best as you can. After completing your research, to those items that still do not know the answer to, just indicate you do not know.



### **Item 11d**

Question: Over 30 years ago, when I was a teenager, I was arrested and charged with Driving Under the Influence (“DUI”). Do I have to disclose this?

Answer: If the arrest occurred in a jurisdiction that did not deem the DUI charge a civil traffic offense, but a criminal offense, you would need to disclose. In many states, a DUI is not considered a civil traffic offense, but a criminal offense.

Question: When I was 19, I walked out of a store with an item, it was an accident, but I was charged with shoplifting. The charges were ultimately dropped and I believe my record was expunged and besides, it happened so long ago when I was a youngster. Do I need to disclose?

Answer: If you know for a fact that your record was expunged, you do not need to disclose this information. If you are not sure if the record was expunged, it is best to disclose, and the fact that you were 19 is irrelevant.

### **Item 11h**

Question: We had an employee that sued the company five years ago regarding alleged unpaid wages. The company was named in the suit, as well as myself and two other directors. Do I need to disclose this matter?

Answer: Yes, you were named. The instructional paragraph to item 12 of the Biographical Affidavit says, “Have **you** ever”.

### **Item 11i**

Question: I was personally involved in violating a small loan law, not intentionally; however, an official other than the Comptroller alleged the violation. Do I need to disclose this matter since the party alleging the violation was not a “Comptroller”, per say.

Answer: Absolutely, disclose the information.

### **Item 11j**

Question: When I went through my divorce, a foreclosure action was filed against me and my wife with regards to our home. It was not all my fault. Do I need to disclose this, especially since my wife was also named?

Answer: Yes.

### **Item 12**

Question: I have established a Trust for each of my minor children to hold the stock of our family owned insurance company until they are 21 years of age. There are three children, and each child holds 13% of the stock. I am just Trustee, my ownership is 5%, but I can vote the children’s stock. Do I have to disclose this?

Answer: Yes, you as an individual have the ability to vote 10% or more of the outstanding stock.

**Item 13**

Question: Within the holding company system, I own shares of stock of our Claims Management Company, a Managing General Agency, A Risk Management Company and a Computer Software Company. What do I need to disclose, if anything? My direct ownership percentage is 5% for each entity. Do I need to disclose anything?

Answer: No, refer to the definition of control in item 13 of the Biographical Affidavit.

**Item 14**

Question: I am personally in the midst of a bankruptcy proceeding at this time. Do I need to disclose the proceeding; it is still ongoing.

Answer: We suggest you disclose, and indicate the proceeding is ongoing.

**Item 15a**

Question: Prior to my being promoted to a key managerial position within the company, the company had its Certificate of Authority denied in Puerto Rico. This occurred six months ago. My promotion occurred last month. Do I need to disclose this information?

Answer: No, because at the time of the denial, you were not in the managerial position.

**Item 15b**

Question: Six months after I left the XYZ Insurance Company, where I held the position of Director, the company had their Certificate of Authority suspended, but it occurred twelve (12) years ago. Do I need to disclose?

Answer: Yes. The instructional paragraph to item 16 of the Biographical Affidavit would require that you disclose because the event occurred within twelve (12) months of your departure.

**Item 15c**

Question: Do I need to disclose market conduct fines imposed by the various State Insurance Departments? We had an incident where we utilized an unapproved form; 12 states fined us. This is a lot of information to disclose. What should we do?

Answer: Disclose.