

31A-26-303 Unfair claim settlement practices.

- (1) No insurer or person representing an insurer may engage in any unfair claim settlement practice under Subsections (2), (3), and (4).
- (2) Each of the following acts is an unfair claim settlement practice:
 - (a) knowingly misrepresenting material facts or the contents of insurance policy provisions at issue in connection with a claim under an insurance contract; however, this provision does not include the failure to disclose information;
 - (b) attempting to use a policy application which was altered by the insurer without notice to, or knowledge, or consent of, the insured as the basis for settling or refusing to settle a claim; or
 - (c) failing to settle a claim promptly under one portion of the insurance policy coverage, where liability and the amount of loss are reasonably clear, in order to influence settlements under other portions of the insurance policy coverage, but this Subsection (2)(c) applies only to claims made by persons in direct privity of contract with the insurer.
- (3) Each of the following is an unfair claim settlement practice if committed or performed with such frequency as to indicate a general business practice by an insurer or persons representing an insurer:
 - (a) failing to acknowledge and act promptly upon communications about claims under insurance policies;
 - (b) failing to adopt and implement reasonable standards for the prompt investigation and processing of claims under insurance policies;
 - (c) compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by those insureds when the amounts claimed were reasonably near to the amounts recovered;
 - (d) failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them, of the coverage under which payment was made;
 - (e) failing to promptly provide to the insured a reasonable explanation of the basis for denial of a claim or for the offer of a compromise settlement;
 - (f) appealing from substantially all arbitration awards in favor of insureds for the purpose of compelling them to accept settlements or compromises for less than the amount awarded in arbitration;
 - (g) delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms which contain substantially the same information; or
 - (h) not attempting in good faith to effectuate a prompt, fair, and equitable settlement of claims in which liability is reasonably clear.
- (4) The commissioner may define by rule, acts or general business practices which are unfair claim settlement practices, after a finding that those practices are misleading, deceptive, unfairly discriminatory, overreaching, or an unreasonable restraint on competition.
- (5) This section does not create any private cause of action.

Amended by Chapter 91, 1987 General Session