



American Association of Independent Claims Professionals

July 29, 2010

VIA EMAIL: [eric.purvis@myfloridacfo.com](mailto:eric.purvis@myfloridacfo.com)

Mr. Eric Purvis, Financial Administrator  
Florida Department of Financial Services  
Division of Insurance Agent & Agency Services  
Room 412C, Larson Building  
200 E. Gaines Street  
Tallahassee, FL 32399-0320

Re: Proposed Rule Amendments Chapter 69B-220  
Specifically Rule 69B-220.201 F.A.C.

Dear Mr. Purvis:

The American Association of Independent Claims Professionals (AAICP) submits the following comments to the proposed rule amendments at 69B-220.201 F.A.C. related adjuster code of ethics.

AAICP is an association of independent claims adjustment and third-party claims administration companies that service claims for public entities, insurance carriers, and other businesses in the United States. AAICP members employ more than 11,000 employees and have more than 1,100 offices throughout the country. Its members include both large adjusting companies and third party administrators with national programs and approximately 300 independently-owned property and casualty claims adjusting companies located throughout the United States. Our members also have a significant presence in Florida, employing over one thousand individuals in the state across dozens of offices.

First, as a procedural issue, we note that the proposed rule does not conform to the notice of initial rulemaking published in the Florida Register in February 2010. Thus, we urge the Department to withdraw its proposed rule in total, and initiate the rulemaking in conformance with the Administrative Procedures Act requirements.

Second, and on a substantive basis, the AAICP is concerned with the inclusion of proposed new section 3(f) at 69B-220.201, and urges the Department to strike the proposed addition for the following reasons:

a. The term “specific information” is undefined and can be open to broad interpretation. Thus, the provision should be withdrawn, or the phrase clarified.

b. The term “Party” is not defined and can also be open to interpretation and confusion. Again, this ambiguity calls for the withdrawal of the provision, or at a minimum, clarification of the term.

c. More broadly, the proposed time limit requirement for response is not appropriate for placement in the “Code of Ethics.” A Code of Ethics is generally meant to address behaviors subjective in nature and one oversight does not constitute an unethical practice. By way of but one example, the Code of Ethics requires “extraordinary” care of some claimants (the elderly), but at the same time requires that all claimants shall be treated “equally.” Even if these conflicting provisions could be reconciled, they are sufficiently vague and subjective as to set the standard for “unfair claims settlement” practices. While AAICP does not object to the inclusion of these goals as an “ethical code,” turning ethics into “claims settlement practices creates a violation of law which establishes “negligence per se.” For that reason, we urge the Department to revise its proposal and withdraw 220.201(2)(b) altogether, and clarify in the proposed regulation that the ethical code will be used, at most, solely for purposes of licensure, and that they are not a regulatory standard for purposes of determining unfair claims practices. At a minimum, however, the Department should reconsider and withdraw the inclusion of 3(f) at 69B-220.201.

Third, we object to the inclusion of subparagraph (a) in section 69B-220.201(3)a. As drafted, it is clear that the context of the text was intended to address public adjusters, and not independent adjusters such as AAICP’s members. Indeed, when applied to independent adjusters the provision does not make sense nor fit normal and accepted business practices with which the Department is familiar and accustomed. As such, we propose the following change to the provision:

(3) Code of Ethics. The work of adjusting insurance claims engages the public trust. An adjuster shall put the duty for fair and honest treatment of the claimant above the adjuster’s own interests in every instance. The following are standards of conduct that define ethical behavior, and shall constitute a code of ethics that shall be binding on all adjusters:

~~(a) An adjuster shall not directly or indirectly refer or steer any claimant needing repairs or other services in connection with a loss to any person with whom the adjuster has an undisclosed financial interest, or who will or is reasonably anticipated to provide the adjuster any direct or indirect compensation for the referral or for any resulting business.~~

~~(a)(b)~~ An adjuster shall treat all claimants equally.

1. An adjuster shall not provide favored treatment to any claimant.
2. An adjuster shall adjust all claims strictly in accordance with the insurance contract.

We thank you for your consideration of these comments, and welcome any further questions that you have. Please contact Susan Murdock at 703.830.9192 or [susan@murdockinc.com](mailto:susan@murdockinc.com) if we can provide any further information.

Respectfully submitted,



David Farber  
Counsel to the AAICP

