



Oregon

Department of Consumer and Business Services

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INSURANCE DIVISION BULLETIN INS 96-5

DATE: May 7, 1996

TO: All Insurers

SUBJECT: Use of Corporate and Assumed Business Names by Insurers

(Per ORS 731.430, 742.003, 746.110, 746.240, 750.005, 750.025 and OAR 836-20-260)

The purpose of this bulletin is to clarify the requirements and procedures relating to the use of corporate and assumed business names by insurers. For purposes of this bulletin, "insurers" includes health care service contractors. Questions about these issues have arisen from insurers in connection with:

- Recommendations contained in recent market conduct examinations, and
- Changes in ownership of insurers.

1. An insurer shall use its authorized name in all activities relating to the transaction of insurance in Oregon (see ORS 746.110). **The authorized name is the corporate name or the assumed business name, if any, that appears on the insurer's original or most recently amended certificate of authority.** If both a corporate name and an assumed business name are shown on the certificate, the insurer may use either name in transacting insurance (see ORS 731.430(2)). These requirements apply even though the insurer may also be subject to other name approval and registration laws administered by the Secretary of State, Corporation Division.

2. Prior to the issuance of an original or amended certificate of authority, the Director will determine if a proposed name meets the requirements of ORS 731.430. For purposes of this determination:

- a. A "principal identifying name factor" means any portion of a name that conveys the identity of the insurer. A proposed name or assumed business name will not be authorized if it contains a factor that is the same as or deceptively similar to that of another insurer or another enterprise registered with the Secretary of State. For example, if an insurer has the authorized name, "Beaver State Indemnity Company," then authorization would not be granted to other insurers to use names containing the factor, "Beaver State."
- b. A name must indicate that the company is transacting insurance (see ORS 731.430(1)(b)). Proper indication can be achieved by including such words as insurance, assurance, indemnity, casualty, surety, underwriter, health plan or HMO in the name.

Note: Some health care service contractors have been authorized to use company names that indirectly convey the transaction of insurance or that connote insurance because of the historical usage of the name. Those currently authorized names may remain in use. However, in approving new or revised names, starting July 1, 1996, the Director will require names to include an explicit indication of insurance.

c. A name must not deceive or mislead a person to believe that an insurer is organized differently than it really is (see ORS 731.430(1)(b)). For example, a name that includes the designation "society" will not be authorized if the insurer is not organized as a fraternal benefit society. Similarly, a name that includes the designation "health maintenance organization" or "HMO" will not be authorized if the insurer does not qualify as such.

Note: In accordance with ORS 750.005(3) and 750.025(2), names that include the designation "health maintenance organization" or "HMO" are authorized only for entities that are federally qualified under Title XIII of the Public Health Services Act. Similarly, an authorized HMO shall not advertise, market or solicit a benefit plan with the designation health maintenance organization or HMO unless the benefit plan is federally qualified. The advertising, marketing and soliciting of a non-federally qualified HMO plan must indicate that the plan is not federally qualified.

d. When approving names for health insurers, the Director will apply the same criteria to both commercial insurers and health care service contractors.

3. An insurer shall use its full authorized name, as shown on its certificate of authority, in all activities relating to the transaction of insurance. An insurer shall not substitute any other name or identifier for its authorized name (see ORS 746.110 and 746.240 and, for health insurance, OAR 836-20-260). However, an insurer may use other identifiers such as abbreviations, acronyms, product names, logos, trademarks and slogans in conjunction with its authorized name. For example:

A corporation has common ownership of three insurers with the following authorized names; Beaver State Indemnity Company, Beaver State Casualty company, and Beaver State Health Plan. The slogan, "The Beaver State Group," is used to indicate the combined group of affiliated companies. In all activities relating to the transaction of insurance the authorized name of the specific insurer involved must be used. The slogan may accompany the authorized name, but it may not be substituted for the authorized name.

4. An insurer may use an identifier without its accompanying authorized name if the use does not involve the actual solicitation or transaction of insurance. Such circumstances would include building signs, promotional items, sponsorship displays, charitable activities, goodwill advertising, and similar situations. For example, an insurer may distribute promotional items with the company logo at a charitable event. However, if the insurer also displays or distributes any materials that advertise or solicit insurance products, those materials must contain the insurer's full authorized name.

5. An insurer may apply to change its authorized name by filing an Application for Amended Certificate of Authority with the Director, as outlined below.

Note: For health care service contractors, this application should be finalized before amended articles of incorporation are filed with the Secretary of State, Corporation Division.

a. Upon receipt of the application, the Director will review it to determine whether the proposed name complies with ORS 731.430. If the Director determines that the proposed name does not comply with ORS 731.430, then the Director will notify the insurer in writing that the name has been disapproved, explain the reason for such action, and invite the insurer to propose an alternate name.

b. If the Director determines that the proposed name complies with ORS 731.430, then the Director will process the application, produce an amended certificate of authority, and send the certificate to the insurer. **Note:** Health care service contractors must file an original certified copy of their amended articles of incorporation before the amended certificate will be issued.

c. Upon receipt of the amended certificate, the insurer must commence use of the newly approved name in all activities relating to the transaction of insurance.

d. The existing policies and related forms of an insurer must be amended when a change is approved in the insurer's authorized name (see ORS 742.003):

1. A "Name Change" endorsement, to be issued to all existing policyholders, must be submitted for prior approval to the Rates and Forms Section.
2. If previously approved policy forms are to be marketed under the new name, the insurer must submit a list of the relevant forms to the Rates and Forms Section that shows:

-The form number

-The form title (or a description if the title is generic)

-The approval date in Oregon

-One sample form showing the new name

e. An insurer may apply for approval and reservation of a new name up to six months before the new name will take effect (see ORS 731.430(3)). The reservation period provides an opportunity to use existing supplies of stationery and marketing materials and to make necessary changes in advertising. To facilitate the process of a name change, the old name may be used **in conjunction** with the new name for a maximum of one year, consisting of:

-The reservation period (if any) and,

-A period of six months after the new name takes effect.

_____(signed)_____

Mary Alice Bjork, Administrator

Insurance Division

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