

Rules coordinator (policy) - Secure

<b>Reference #</b>	9192786
<b>Status</b>	Complete
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<b>Rule number/topic</b>	Adjuster licensing requirements

**Comment(s) or question(s)**

To Whom It May Concern:

I am writing the office of insurance commissioner rules coordinator with regards to Insurance Commissioner Matter No. R 2017-04, clarifying educational alternatives to adjuster training as well as activities to be licensed under the definition of adjuster.

My name is Jeff Butler. I currently own Haury's Lake City Collision Center, the repair facility where the matter of Rob Marinelli of IAS acting as an adjuster for GEICO insurance took place. I have specific knowledge of the interaction between our customer Mr. Handwerk, GEICO insurance claims staff, ABRA Collision Center managers, Mr. Mike Harber of Harber Appraisal and Mr. Rob Marinelli.

I have more than 29 years' experience in the collision repair industry. I am an ASE Certified Master technician, hold an I-CAR level 3 welding certification as well as many other I-CAR trainings, and vehicle manufacturer specific trainings. My repair facility is known as an OEM certified repair center and has certifications and factory trained technicians for Honda, BMW, Cadillac, Nissan, Porsche, VW. My point here is that I am well positioned to discuss proper manufacturer designated vehicle repairs as well as insurance claims practices.

Additionally, I am currently studying AIC 30 and about to take the state exams to obtain a public adjuster license. I am aware of the ethical duties incumbent upon a claims adjuster as well as the duty of good faith, fair dealings and equal consideration owed to an insured under a policy of insurance.

I have a front row seat to the daily interactions with insurers, claims adjusters, insurance field adjusters and other so called "adjusters" from companies like Snap Sheets that perform claims adjusting services for insurers remotely. Nearly all "adjusters" are not licensed.

The Current Problem:

It is my testimony that much of the claims adjusting that is currently taking place in Washington State does not occur within the realm of good faith claims adjusting practices giving equal consideration to the policy holder.

Today, insurance claims adjusting and negotiation happens between unlicensed, untrained and inexperienced parties including insurance adjusters, independent appraisers, auto repair shops, claims adjusting houses like Snap sheets and ASI.

Currently there does not seem to be much regulatory oversight that keeps the players in check. Without licensing and regulatory oversight, bad actors emerge and consumers suffer and that is exactly what Washington State is experiencing.

Below is a brief list of problems with the current claims adjusting rules and minimal regulatory oversight:

- Insurance claims adjusters demand auto repair shops engage in direct negotiations with the insurer. Auto repair shops have no authority to negotiate insurance claims nor do they have claims training and should not be acting as public adjusters. Furthermore, insurers have no duty of good faith to an auto repair center therefore insurers benefit when they convince the claimant that an auto repair shop should be negotiating their claim. These actions become a recipe for shortcuts in the repairs to the loss vehicle leading to poor quality and unsafe repairs.

- Insurance claims adjusters/staff tell consumers that “The auto repair shop must negotiate directly with the insurer and the vehicle owner should not be involved”. Insurance adjusters regularly use the fact that our shop will not negotiate a claim with them directly as a talking point when they discuss claims with claimants. Adjusters regularly lead consumers to believe that it is normal and customer for Insurance companies and shops to negotiate a claim, and that the consumer should have no part in that.

- Insurers steer/direct claimants to “preferred/approved/DRP” auto repair shops for their repairs. Those contracted auto repair shops act as both an Independent claims adjuster as well as Public adjusters for the insurer by inspecting the vehicle, documenting the damage, preparing an estimate for repairs and reporting back to the insurer. These shops also act as a Public adjuster for the claimant by representing their claim to the insurer. This conflict of interest is expressly prohibited by law and is of public interest that separation between insurance adjusters and public adjusters be maintained. Representing both sides of an insurance claim is unethical and must be prohibited.

- Only Insurers benefit when a consumer chooses that insurers “DRP” auto repair shop as those shops must give significant discounts, use NON OEM (factory) parts, meet severity ratings set by the insurer and other cost only containment metrics. One of an insurers primary duties is to give equal consideration to the policy holder however, there is no counterbalance to the insureds interests for using the insurer’s “DRP” shop when the benefit goes only one way.

- Insurance preferred auto repair shops handle 3rd party claims as well as 1st party claims. This practice constitutes unlicensed practice of law and is a conflict of public interest. Basically, insurers have circumvented the legal system and shifted representation in 3rd party claims to unlicensed parties. This violates the ethical duties of an insurer as well as public trust all under the guise of convenience.

- Insurers have shifted much of the claims adjusting and claims documentation burden to auto repair shops. When our auto repair shop

requests insurers to inspect a loss and document a claim instead of shifting that burden to us, some insurers become hostile and tell our customers that we are uncooperative and try to get the vehicle owner to move their vehicle to another shop. Insurer must not be allowed to shift the burden of claims adjusting to other parties and then continue to make up new rules on the fly to ultimately avoid fairly paying the claim. We are told that claims handling is part of the cost of doing business.

- Washington State currently no licensing requirements for Auto Appraisers. Individuals with no knowledge, training and experience can write an estimate on a collision damaged vehicle. Currently there is no deterrent when unlicensed “adjusters” write low ball estimates that don’t restore the loss vehicle to its condition prior to the loss.

- Many in the insurance industry are solely focused on driving claims costs down and shifting the claims adjusting burden and liability to others without regard to impact to consumer’s vehicle repairs. When vehicle repairs are shortcut, the public safety is jeopardized.

There is no better example of the pitfalls of an auto repair shop trying to negotiate an insurance claim to an insurer and that insurer taking advantage of their bully pulpit than this current law suit in Texas against both a body shop and State Farm insurance. See the links below and read the deposition testimony of the repair shop manager as well as the facts of the case:

<http://www.repairerdrivennews.com/2017/08/03/law-firm-couple-in-john-eagle-collision-case-sue-state-farm/>

<http://www.repairerdrivennews.com/2017/08/01/1m-body-shop-negligence-case-highlights-absurdity-of-resistance-to-oem-procedures/>

What should be done to address the problem:

- Only licensed and bonded professionals that are experienced with auto repair should be able to act as a claims adjuster. AIC 30 should be a minimum requirement.

- Auto repair shops that are under contract with an insurer have a conflict of public interest and must not be allowed to represent both insurers and claimants as outlined in the current law.

- Automobile damage appraisers must be required to have a specific license, ongoing training and meet a code of ethical standards.

- Claims adjusting must be done in such a manner that the public interest is protected. Companies that are receiving investment dollars from insurers like Snap Sheets and ASI have a conflict of interest with insurance claimants must not be allowed to act as insurance adjusters.

	<p>Auto appraiser licensing requirements:</p> <p>I believe all automobile property damage appraisers should be trained and licensed to write automobile damage appraisals however Licensed Appraisers should NOT be able to negotiate insurance claims.</p> <p>Washington State should adapt the following guidelines and create regulation regarding Auto Repair Appraiser Licensing:</p> <p>An Appraisers License should be mandatory for appraising an insurance loss. When performing an appraisal for an insurance loss, a Licensed appraiser should be required to sign a Washington State document of appraisal that declares under their license and bond that the provided estimate restores the subject vehicle to its pre-loss condition following all manufacturers required repair instructions and auto repair industry best practices. Automobile damage appraisers should abide by a specified code of ethics and meet standards for training as well as have actual experience before they can obtain a license. Furthermore, the required disclosure statement to the claimant should have the appraisers license number, the contact information to the state licensing board where a complaint can be filed if the consumer has an issue with the individual appraiser.</p> <p>The NHTSA (National Highway Transportation and Safety Administration) has mandated vehicle manufacturers produce safe vehicle as that is in the interest of public safety. HOWEVER, THERE ARE CURRENT NO RULES THAT REQUIRE VEHICLES TO BE REPAIRED FOLLOWING THE VEHICLE MANUFACTURER REPAIR INSTRUCTIONS.</p> <p>Consumers are best protected by having their vehicles correctly repaired following the manufacturer repair instructions and procedures.</p> <p>I request the Office of Insurance commissioner allow me to testify in person to the rule making committee and provide supporting documentation to the claims I have made as well as speak to the auto appraisers licensing rules that have been proposed.</p>
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