

available to insureds.

### Personal Umbrella Program

The examination of MCC's homeowners multiple peril insurance program included a review of the company's personal umbrella underwriting and rating rules. The findings listed below were developed during the course of the review. The findings have not been resolved, and therefore will be referred to the CDI Legal Division for review.

1. MCC's umbrella occupational eligibility rule includes a list of 26 occupations that are labeled "U" for unacceptable. A partial list of the unacceptable occupations is provided below:

Artisans	Junk dealers	Bartenders
Longshoremen	Domestics	Garbage collectors
Military	Iron workers	Door-to-door salesmen

The "U" designations are discriminatory; accordingly, MCC was requested to provide actuarial justification for each "U"-labeled occupation.

In response, management stated the following:

"It is our position that CIC Section 1861.05(a) applies to rates only, not acceptability. We use underwriting judgment to determine acceptability as long as we do not violate any statute or regulation."

This finding is unresolved and will be referred to the CDI Legal Division for review.

2. MCC's umbrella occupational eligibility rule also includes a list of 6 occupations that are labeled "S" for "submit non-bound." These occupations are as follows:

- Artists
- Emergency vehicle drivers
- Automobile claims adjusters employed by other insurers
- People who are self-employed and working out of their homes
- People who are unemployed
- People who work out of their homes and have one source of income

1. The following was observed concerning Mercury's personal automobile underwriting and rating guidelines.

A. The "Occupations" ineligibility guideline states that applications are to be submitted non-bound for non-good drivers employed in the following occupations:

- \* Artists
- \* Emergency vehicle drivers
- \* Insurance -- automobile and personal injury liability claims adjusters
- \* Military.
- \* Applicants employed in the entertainment industry as actors, dancers, et cetera

Applications that are submitted for individuals who are employed in occupations other than those listed above are submitted as bound by the producers provided the applicants qualify for coverage under Mercury's other guidelines. Mercury requires that the applications of artists, emergency vehicle drivers, et cetera be submitted non-bound so that it can decline the applications if it determines that the applicants are unacceptable. Some of the criteria that Mercury uses to evaluate these applications are unwritten, a violation of CCR Section 2360.2.

F. The "Physically Impaired" ineligibility guideline states that Mercury may require that the physically-impaired applicant -- that is, the applicant who is a diabetic, a cardiovascular patient, or who suffers from some other medical condition -- provide Mercury with a medical examination report that attests to his ability to safely drive a motor vehicle. However, Mercury has not adopted a written rule by which the underwriters can determine when they are to request medical reports. Without this rule, there is no assurance that the underwriters will require a medical report from every individual who has a medical condition comparable in type or degree to that of other individuals from whom reports have been requested, which in turn creates the possibility that the underwriters might decline to write coverage on the basis of an individual's medical condition without first attempting to obtain his medical examination report. Such an unfairly discriminatory decision would violate CIC Section 1861.05(a) and would be censurable under CIC Section 790.06.

Mercury's need to adopt a rule for ordering medical examination reports goes hand in hand with its need to amend its underwriting guidelines to require that personal automobile coverage be written for any applicant who is a diabetic, a cardiovascular patient, or who suffers from some other medical condition if he qualifies for the coverage, is licensed to drive, and has a satisfactory medical report. And, for those medical conditions for which Mercury does not require a medical report, that coverage be written for the applicant if he qualifies for coverage and is licensed to drive. Mercury's present lack of such definitive underwriting criteria violates CCR Section 2360.2.

In response to the foregoing, management stated the following:

"...We believe it is lawful to accept some non good driver diabetics and reject others as long as we do not violate CIC Section 11628(a)... We believe it is lawful to use underwriting judgement in accepting or rejecting non-good driver diabetics or other non good driver medically (as opposed to physically) impaired risks."

In other words, Mercury is asserting that it does not need to amend its guidelines because it has interpreted the law as allowing it to decline the application of any non-good driver who is a diabetic, a cardiovascular patient, or who suffers from some other medical condition even if he

SUBMISSION TO REB  
Mercury Insurance Group

ITEM #8

COMPANY INVOLVED: MERCURY CASUALTY COMPANY  
MERCURY INSURANCE COMPANY  
CALIFORNIA AUTOMOBILE INSURANCE COMPANY

LINES OF BUSINESS: PRIVATE PASSENGER AUTO

REASON FOR LEGAL ACTION: NON-COMPLIANT PERSISTENCY RULE

Mercury uses a persistency discount which is based upon an insured's loss experience and the number of years the insured has been continuously insured with no lapse of coverage in excess of 30 days. The rule is non-compliant with the provisions of the persistency regulation currently applicable to Mercury.