



NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

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DIRECTIVE: A.I. 09-02

ISSUED: March 24, 2009

**TO: ALL INSURERS, INCLUDING FACILITY ASSOCIATION,
TRANSACTIONING THE BUSINESS OF AUTOMOBILE INSURANCE IN
THE PROVINCE OF NEWFOUNDLAND AND LABRADOR**

SUBJECT: Prohibited Underwriting Criteria/Guidelines

As a result of a recent inquiry and the subsequent review of a number of the underwriting manuals filed with the Board, it is evident that some automobile insurers operating in the Province of Newfoundland and Labrador continue to use prohibited underwriting criteria related to:

- **Not At Fault Accidents/Claims, and**
- **Claims for Which Indemnity Has Not Been Paid.**

Pursuant to the *Automobile Insurance Prohibited Underwriting Regulations*, proclaimed under the *Insurance Companies Act*, an insurer is prohibited from using the following elements for the purposes of rating, declining, terminating or refusing a contract of automobile insurance, or a coverage or endorsement:

1. Any claim resulting from an accident for which an insured was not at fault, even if payment of indemnity has been made;
2. Any situation where indemnity may be due and payable under a policy of automobile insurance but such indemnity has not actually been paid; and
3. Any situation where it has not been determined whether or not indemnity may have to be paid.

The applicable legislative provisions are found at s.3(1)(a)(ii) and s.4(1)(b) of Newfoundland and Labrador Regulation 80/40 located at the following web link:

<http://www.assembly.nl.ca/Legislation/sr/Regulations/rc040080.htm>

Accordingly, insurers are required to review, revise and submit to the Board all sections of their underwriting manual where any such provision that does not comply with the legislative requirements detailed above appears. Insurers are also reminded that all underwriting guidelines, rules and/or grounds considered in the underwriting of automobile insurance business, the determination of the rating of an insured, or the determination as to whether or not to write a policy of automobile insurance must be filed with the Board in advance of their use or implementation.

The Board requires insurers to file within 30 days of the date of this directive any revisions or revised rating manual pages made necessary arising from this directive.

Questions regarding the foregoing may be directed to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Byrne', with a long horizontal stroke extending to the right.

Robert S. Byrne, B.Comm., A.I.I.C., CD.
Directory of Regulatory and Advisory Services