

BOARD OF GOVERNORS
HAWAII JOINT UNDERWRITING PLAN
INSURANCE DIVISION
P. O. Box 3614
HONOLULU, HI 96811

A G E N D A

Date: April 18, 2023

Time: 9:00 a.m.

In-Person Meeting Location: Queen Lilioukalani Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, HI 96813

Virtual Participation: Virtual Videoconference Meeting – [Zoom Link](#)

Phone: 1-669-900-6833
Meeting ID: 930 0123 6727
Passcode: 828702

If you need an auxiliary aid/service or other accommodation due to a disability, contact Jerry Bump at 808-586-0985 and jbump@dcca.hawaii.gov as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

Members of the public who wish to submit written testimony, please email Jerry Bump of the Insurance Division at jbump@dcca.hawaii.gov at least 24 hours prior to the meeting.

For both internet and phone access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to five minutes of testimony per agenda item.

INTERNET ACCESS:

To view the meeting and provide live oral testimony, please use the link at the top of the agenda. Please mute your microphone until the Chairperson asks for public testimony. When recognized by the Chairperson, please unmute your microphone before speaking and mute your microphone after you finish speaking.

PHONE ACCESS:

If you cannot get internet access, you may get audio-only access by calling the Zoom phone number listed at the top on the agenda. Upon dialing the number, you will be prompted to enter the Meeting ID which is also listed at the top of the agenda. If possible, please mute your phone during the meeting until the Chairperson asks for public testimony. When recognized by the Chairperson, please unmute your phone before speaking and mute your phone after you finish speaking.

BOARD PACKET MATERIALS WILL BE POSTED AT
[State of Hawaii Calendar of Events](#)

- I. Call to Order
- II. Reading of Antitrust Statement
- III. Approval of Minutes - January 18, 2023
- IV. Financial Reports from the Hawaii Joint Underwriting Plan
- V. Items for Discussion
 - A. Servicing of PP and CPAI Update from AIPSO
 - B. Revisions to A&S Manual
 - C. Proposal to Update Endorsements for Optional Benefits and PIP
 - D. Commercial Implementation Update
- VI. Next Meeting – July 19, 2023, 9:00 a.m.
- VII. Adjournment

January 18, 2023

BOARD OF GOVERNORS
HAWAII JOINT UNDERWRITING PLAN

Queen Liliuokalani Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, HI 96813

and

Videoconference via Zoom Meeting Application

I. Call to Order

Ms. Kim Sato called the meeting to order at 9:03 a.m.

Members Present:

Todd Feltman (State Farm)
Chenise Morrow-Blalock (Hawaii Independent Insurance Agents Association)
Lane Nishioka (Island Insurance)
Kim Sato (Farmers Hawaii)

Others Present:

Jerry Bump (DCCA/Insurance Division)
Claire Taise-Chee (DCCA/Insurance Division)
Thomas Assad (AIPSO)
Douglas Beck (AIPSO)
Natalie Benkovich (AIPSO)
Jim Chrones (AIPSO)
Alicia Hanson (AIPSO)
David Maynard (AIPSO)
Edward Sullivan (AIPSO)
Tracy Walsh (AIPSO)
Meredith Chin (First Insurance Company of Hawaii)

Members Absent:

Maria Carvalho
Reid Higashi (Business Insurance Services, Inc.)
Lance Kawano (First Insurance Company of Hawaii)

II. Reading of Antitrust Statement

The antitrust statement was read by Ms. Sato as follows:

“As members of this organization or participants in this meeting, we need to be mindful of the constraints of the antitrust laws. There shall be no discussions of agreements or concerted actions that may restrain competition. This prohibition includes the exchange of information concerning individual company rates, coverages, market practices, claims settlement practices or any other competitive aspect of an individual company’s operation. Each member or participant is obligated to speak up immediately for the purpose of preventing any discussion falling outside the bounds indicated.”

III. Approval of Minutes

Mr. Feltman moved, and Mr. Nishioka seconded the motion to approve the meeting minutes from October 19, 2022. The motion passed unanimously.

IV. Financial Reports from the Hawaii Joint Underwriting Plan

Mr. Bump mentioned that the financial reports previously sent to the board through email, will now be accessible on the state calendar, where the board packet is posted with the financial reports. Mr. Bump will send an email to the board with a link when the packet is posted.

Mr. Sullivan provided a summary of the cash flow report and mentioned a revision to include the on-island presence fees that were not previously included. Mr. Sullivan confirmed that the HJUP has previously targeted maintaining a \$2 million contingency reserve. By the end of 2023, we will have a better idea if an industry assessment is needed.

V. Items for Discussion

A. Servicing of PP and CPAI Update

Mr. Beck provided an update from AIPSO on the servicing of private passenger and CPAI business. As of December 31, 2022, they have 611 CPAI policies and 5 PP policies on the new platform. Nothing unusual to report at this time, as administrating this business has been going smoothly. Coordination between AIPSO and IC International has been going very well and no issues to report.

B. Revisions to A&S Manual

Mr. Bump mentioned the manual revisions were distributed in the board packet, but he understands that the board may need more time to review before making any recommendations to approve. Mr. Maynard drafted the changes and was available for questions. Mr. Nishioka noted a large reduction in the number of pages for Chapter 9 and inquired whether the requirements for reporting were being reduced. Mr. Maynard explained that most of the changes in the revised manual were to account for the change in how the business is now being serviced. Instead of multiple carriers reporting to AIPSO, who then would consolidate those results, now AIPSO can obtain the information directly from their systems.

Mr. Nishioka also inquired about the Principles of Operation and that it still references servicing carrier. Mr. Bump explained that the administrative rules were revised and replaced servicing carrier with servicing provider. A servicing provider could be an insurance carrier or an entity like AIPSO. Mr. Bump suggested future revisions to the manuals should replace the servicing carrier reference with servicing provider, but it was not a rush to get this revised.

Mr. Assad also explained that many of the changes that are being made in the manuals is to be transparent on the procedures for administrating the HJUP business. Previously servicing carriers handled the business similar to their voluntary business and those procedures were not documented in the manuals.

Mr. Feltman recommended changes regarding servicing language found on page one of the A&S manual. AIPSO agreed and Mr. Feltman will send the suggested language to AIPSO and the Division.

Mr. Bump suggested we table the recommendation of approving the manual until the next meeting to allow for more review time and to incorporate additional changes. Board was in agreement.

C. Revision to CPAI Sole Registered Owner Requirement

Mr. Bump updated the board that DHS provided an interpretation of the sole registered owner requirement rule for CPAI coverage. If both registered co-owners are eligible for public assistance, then they should qualify for CPAI coverage. The Insurance Division was fine with this interpretation and proceeded to revise the forms that DHS will now distribute. Mr. Beck explained that they are not receiving applications yet on the new form, but if

two names are listed on the old form, they are being processed accordingly.

D. Commercial Implementation Update

Ms. Benkovich provided a project status report for transitioning commercial HJUP business from the current carriers to AIPSO. AIPSO is just beginning kickoff of this project and is planning to leverage the approach they took with transitioning PP and CPAI business. Ms. Benkovich also mentioned working with ICE system to integrate the rating engine already developed for the HJUP. Additionally, AIPSO is working to determine what PP data needs to be maintained on the ICE system and for how long, with the goal at some point to discontinue paying ICE for maintaining the PP rating system.

Mr. Feltman inquired about ICE system and whether producers access the software over the web, or if they would have to download software. Ms. Benkovich did confirm that as of today the software would need to be downloaded. However, AIPSO may explore options with ICE to see if they transition to a web-based platform. Mr. Feltman shared that for captive agents who don't have the ICE system today, it may be a problem for them to download the ICE software onto their systems due to company restrictions.

VI. Next Board Meeting

April 18, 2023 at 9:00 a.m.

VII. Adjournment

The meeting was adjourned at 9:45 a.m.

Chapter 1 JUP ADMINISTRATION AND RESPONSIBILITIES

New section added to include definitions

This Accounting and Statistical Requirements Manual applies only to the Servicing Entity appointed by the Insurance Commissioner to write eligible policies on behalf of the Hawaii Joint Underwriting Plan (JUP). This manual addresses the reporting requirements and responsibilities between the parties. For the purposes of this manual and other manuals, the following definitions shall apply:

- “Central Processor” is an entity under contract to the HJUP that provides data processing and financial services functions to support the allocation of private passenger, commercial and CPAI net results of operation to the JUP member companies utilizing HJUP member’s participation reports. We do not settle quarterly with the HJUP. At least annually with policy year close out, or when funds are needed.
- “Fronting Company” is an insurance company that is under contract with the HJUP and a servicing entity. Under those agreements, the fronting company allows its licensing authority and company name to be used to issue HJUP eligible automobile insurance policies on behalf of the Plan.
- Joint Underwriting Plan “JUP” or “the Plan”, as it refers to eligible auto policies, refers to insureds whose policies are issued by a Servicing Entity in the name of the fronting company on behalf of the Plan.
- “Member Company” mean a Plan subscriber as defined in as defined in HRS §431:10C-106.”
- “Servicing Entity ” means an entity appointed by the Insurance Commissioner to issue and service eligible auto policies through the HJUP. A Servicing Entity must be an entity contracting with a licensed insurer in whose name the policies will be issued on behalf of the HJUP. A servicing entity must comply with all applicable insurance regulations and state statutes.

This Chapter will provide the general responsibilities of the various groups involved in the operations of the JUP.

A. Servicing Entity

- ~~1. Provide fine quality service to Joint Underwriting Plan (JUP) insureds and agents~~
1. Provide services following HJUP rules and procedures to HJUP insureds and producers following performance standards acceptable to the HJUP Board and Commissioner.
2. Bill and collect premiums when due including proper public assistance recipients. ~~who are credit to premiums action.~~
3. Disburse funds when due.
4. ~~Handle~~ Manage claim transactions including claim payments, recording reserves, collecting subrogation/salvage recoveries.
5. ~~Handle~~ Manage proper ~~agent~~ producer ~~interaction and compensation action in~~ accordance with JUP standards.

6. Code and prepare data processing input for necessary transactions.
7. Maintain all necessary controls, books, ledgers and data sets required.
8. Prepare needed accounting and data processing reports.

B. Participating Members

1. Record on their books as direct business by policy year their share of allocated participation experience.
2. Remit JUP assessments when due.
3. Pay premium taxes and Board, Bureau and Association expenses according to allocated participation experience.
4. Report their voluntary data directly to the HJUP Central Processor if the member has failed to report such data to a statistical agent.

Optional Benefits Coverage & Personal Injury Protection Former House Bills 1619 & 235

Defining the Issue

Hawaii H.B. 1619 amended HAW. REV. STAT. ANN. § 431:10C to establish mandatory terms for peer-to-peer car-sharing programs and states that “an authorized insurer that writes motor vehicle insurance in the State may exclude any and all coverage...under a shared car owner’s motor vehicle insurance policy during the car-sharing period, including ...personal injury protection coverage.”

Currently, for private passenger autos, liability, uninsured and underinsured motorists, and physical damage coverages are excluded while the auto is enrolled in and being used in connection with a personal vehicle sharing program by attaching the Personal Vehicle Sharing Program Exclusion Endorsement–Hawaii. However, personal injury protection coverage is not excluded.

In addition, H.B. 235, amended HAW. REV. STAT. ANN. § 431:10C-103.6 to provide that the charges for acupuncture treatments under this section shall be tied to the charges, and any subsequent increases in charges, permissible under the workers’ compensation supplemental medical fee schedule.

Action Needed

Please review the following information and decide if the proposal is appropriate for the Hawaii Joint Underwriting Plan.

Proposal

We propose revising the private passenger Optional Benefits Coverage and Personal Injury Protection Coverage endorsements to exclude coverage while the auto is enrolled in and being used in connection with a personal vehicle sharing program.

The Optional Benefits Coverage endorsement is further amended to revise the

- Schedule to provide that the up to \$75 per visit limit does not apply to acupuncture treatments; and
- Limit of Liability provision to provide that any amount payable for acupuncture treatments will be limited by the workers’ compensation supplemental medical fee schedule.

In addition, the note under the Private Passenger Optional Benefits Coverage rate table is amended to clarify that the rate for alternative providers services does not apply to acupuncture treatments.

No associated commercial auto changes are needed.

Impact

The proposed amendments will bring the HJUP into legal compliance with former H.B. 235 and former H.B. 1619.

AIPSO Systems Impact: ISPS can accommodate any effective date. This proposal has minimal impact on ATLAS, ISPS can accommodate any date. This proposal has no impact on EASi.

Proposed Changes

PP 52 30 01 23 Optional Benefits Coverage-Hawaii

Replaces PP 52 30 01 12

PP 52 81 01 23 Personal Injury Protection Coverage-Hawaii

Replaces PP 52 81 02 18

These endorsements are amended to exclude optional benefits and personal injury protection coverage for bodily injury sustained by any insured while occupying, or when struck by, your coverage auto while:

1. Enrolled in a personal vehicle sharing program under the terms of a written agreement; and
2. Being used in connection with such personal vehicle sharing program by anyone other than you or any family member.

The Optional Benefits Coverage-Hawaii endorsement is further amended to revise the

1. Schedule to provide that up to \$75 per visit limit does not apply to acupuncture treatments; and
2. Limit of Liability provision to provide that any amount payable for acupuncture treatments will be limited by the worker's compensation supplemental medical fee schedule.

In addition, editorial revisions are made.

Private Passenger Optional Benefits Rate Table

The note is amended to clarify that the rate for alternative providers services does not apply to acupuncture treatments.

Attachments

- Strikethrough and underscore copies of PP 52 30 01 12 and PP 52 81 02 18
- Exhibit A–Proposed amendments to Private Passenger Optional Benefits Coverage rate table

OPTIONAL BENEFITS COVERAGE

Territory	\$500 Per Month Wage Loss Benefit	Alternative Providers Services with Maximum \$75 per Visit (<u>except acupuncture treatments</u>), 30 Visits**	\$25,000 Death Benefit	\$2,000 Funeral Benefit
01	\$30	\$64	\$6	\$1
03	35	75	6	1
04	21	46	6	1
05	34	73	6	1

** The charges for acupuncture treatments shall be tied to the charges, and any subsequent increases in charges, permissible under the workers' compensation supplemental medical fee schedule.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OPTIONAL BENEFITS COVERAGE – HAWAII

With respect to coverage provided by this endorsement, the provisions of the pPolicy apply unless modified by the endorsement.

SCHEDULE

If indicated below or in the Declarations, the Limits Of Liability for wage loss, death benefits, funeral expenses and alternative expenses are as follows:	
Benefits	Limit Of Liability
<input type="checkbox"/> Wage Loss	Up to \$ _____ per month, not to exceed \$ _____ per accident
<input type="checkbox"/> Death Benefits	\$ _____
<input type="checkbox"/> Funeral Expenses	Up to a maximum of \$2,000
<input type="checkbox"/> Alternative Expenses	Up to \$75 per visit (except acupuncture treatments), not to exceed 30 visits

I. Definitions

The **Definitions** section is amended as follows:

A. The following definitions are replaced:

1. Definition **C.** is replaced by the following:

"Owned by" means that a person:

- a.** Holds a legal title;
- b.** Is a debtor who has legal possession while buying a vehicle on installments;
- c.** Has legal possession and has an agreement or lease of one year or more; or
- d.** Is the owner of a vehicle until, on selling the vehicle, title is delivered to the buyer.

2. "Your covered auto" means an "auto":

- a.** For which you are required to maintain security under the Hawaii Motor Vehicle Insurance Law; and
- b.** To which the bodily injury liability coverage under this pPolicy applies.

B. The following definitions are added:

- 1.** "Auto" means a vehicle of the type required to be registered under Chapter 286 of Hawaii Revised Statutes, or a trailer attached to an "auto", but does not include a motorcycle or motor scooter.

2. "Auto accident" means an accident resulting from:

a. The "operation, maintenance or use" of:

- (1)** An "auto" as an "auto"; or
- (2)** A motorcycle or motor scooter when the accident involves a collision with an "auto".

b. Movement of an object drawn or propelled by an "auto".

3. "Insured" means:

a. You or any "family member" injured in an "auto accident":

(1) While occupying:

- (a)** An auto;
- (b)** A motorcycle; or
- (c)** A motor scooter.

(2) As a "pedestrian" when struck by an "auto".

b. Anyone else injured in an "auto accident" while "occupying" or when struck as a "pedestrian" by "your covered auto" or a "temporary loaner vehicle".

4. "Operation, maintenance or use" includes "occupying" but does not include:
 - a. Loading or unloading unless "bodily injury" occurs next to the vehicle; or
 - b. Work done in the "business" of repairing, servicing or otherwise maintaining vehicles unless such work is done outside the premises of this business.
5. "Pedestrian" means anyone not "occupying" an "auto".

II. Optional Benefits Coverage

- A. For those benefits indicated as applicable in the Schedule or in the Declarations, we will pay optional benefits to or for an "insured" who sustains "bodily injury" resulting from an "auto accident".
- B. Subject to the limits shown in the Schedule or in the Declarations, optional benefits consist of the following:

1. Wage Loss

Monthly earnings loss, consisting of the following:

- a. For a person regularly employed, one-twelfth of the average annual compensation before State and Federal income taxes at the time of injury or death.
- b. For a person regularly self-employed, one-twelfth of the average annual earnings before State and Federal income taxes at the time of injury or death.
- c. For a person unemployed, not regularly employed or not self-employed, one-twelfth of the anticipated annual compensation before State and Federal income taxes that would have been paid from the time the person would reasonably have been expected to be regularly employed.

2. Death Benefits

An amount payable in the event of the death of an "insured" to the:

- a. Surviving:
 - (1) Spouse; or
 - (2) Partner who has entered into a civil union with the named insured recognized under Hawaii law;
 for the benefit of the spouse or such partner and dependent children.

- b. If there is no surviving spouse, partner to a civil union with the named insured recognized under Hawaii law, or if there are no dependent children, to the "insured's" estate.

3. Funeral Expenses

Reasonable expenses incurred for funeral, burial and cremation.

4. Alternative Expenses

Expenses incurred for naturopathic, acupuncture, nonmedical remedial care, and treatment rendered in accordance with the teachings, faith or belief of any group which relies upon spiritual means through prayer for healing.

EXCLUSIONS

- A. We do not provide Optional Benefits Coverage for "bodily injury":

1. To you or any "family member" while "occupying" an "auto" "owned by" you which is not "your covered auto".

2. To any "family member":

- a. Who is a named insured under another motor vehicle insurance policy, except while "occupying" "your covered auto"; or
- b. While "occupying" an "auto" "owned by" that "family member" and for which the security required under the Hawaii Motor Vehicle Insurance Law is not in effect.

3. To any "insured":

- a. Sustaining "bodily injury" caused by an "auto" "owned by" that person and not insured for this coverage under this Policy.
- b. "Occupying" a motorcycle or motor scooter as the owner or operator of the vehicle at the time of the accident.

However, this exclusion (**A.3.b.**) does not apply to wage loss and death benefits if the accident is an "auto accident".

- c. Using or operating an "auto" which causes any loss while seeking to avoid lawful arrest by a law enforcement officer.

4. Resulting from hazardous properties of nuclear materials.

5. Sustained by any "insured" while "occupying", or when struck by, "your covered auto" while:

- a. Enrolled in a personal vehicle sharing program under the terms of a written agreement; and

b. Being used in connection with such personal vehicle sharing program by anyone other than you or any "family member".

B. We do not provide wage loss benefits to any "insured" other than you or any "family member".

LIMIT OF LIABILITY

A. The Limits Of Liability shown in the Schedule or in the Declarations for the optional benefits that apply are the most we will pay to or for each "insured" injured in any one "auto accident". This is the most we will pay regardless of the number of:

1. "Insureds";
2. Claims made;
3. Vehicles or premiums shown in the Declarations;
4. Vehicles involved in the "auto accident"; or
5. Insurers providing similar coverage.

B. Any amount payable for acupuncture treatments will be limited by the workers' compensation supplemental medical fee schedule.

CB. We will not pay for any element of wage loss if a person is entitled to receive payment for the same element of wage loss under any workers' compensation law or similar law.

DC. Subject to the Limits Of Liability shown in the Schedule or in the Declarations for the optional benefits that apply, if wage loss benefits are payable under:

1. This endorsement; and
2. Any workers' compensation law;

the maximum amount payable from both sources shall not exceed 80% of the "insured's" monthly earnings loss for injury resulting from an "auto accident".

ED. No one will be entitled to receive duplicate payments for the same elements of loss under this coverage and:

1. Part **A** or Part **C** of this Policy;
2. Any Personal Injury Protection Coverage provided by this Policy; or
3. Any Underinsured Motorists Coverage provided by this Policy.

III. Part E – Duties After An Accident Or Loss

Duties **A.** and **B.** are replaced by the following:

A. We must be notified promptly, in writing, of how, when and where the accident happened. Notice should also include the names and addresses of any injured persons and of any witnesses.

B. A person seeking Optional Benefits Coverage must:

1. Cooperate with us in the investigation or settlement of any claim.
2. Submit, as often as we reasonably require, to physical or mental examinations by physicians we select or are acceptable to us.
3. Authorize us to obtain:
 - a. Medical reports;
 - b. Statements of earnings; and
 - c. Other pertinent records.
4. Submit a written proof of claim under oath when required by us, including full information on the nature of treatment received and planned.
5. Promptly send us copies of the legal papers if a suit is brought.

IV. Part F – General Provisions

The following provisions are added:

Arbitration

If we and an "insured" do not agree on any matter to a claim, either party may request arbitration as prescribed in Section 431:10C-213 of the Hawaii Motor Vehicle Insurance Law.

Other Insurance

If an "insured" is entitled to similar benefits under more than one policy, the maximum recovery under all policies will not exceed the amount payable under the Policy with the highest dollar limits of benefits.

If there is other applicable similar insurance, we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits.

Constitutionality Provision

If a court of competent jurisdiction declares or enters a judgment which renders the provisions of the Hawaii Motor Vehicle Insurance Law providing for abolition of tort liability invalid or unenforceable, we are subrogated to all rights of an "insured" to whom or for whose benefit any Optional Benefits Coverage has been paid under this Policy to the full extent of such payments.

The "insured" shall do:

1. Whatever is necessary to enable us to exercise our rights; and
2. Nothing after loss to prejudice them.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PERSONAL INJURY PROTECTION COVERAGE – HAWAII

SCHEDULE

Benefits	Limit Of Liability
Medical Expenses	\$ 10,000 per person per accident
Deductible <input type="checkbox"/> If indicated to the left or in the Declarations, medical expenses shall be subject to a deductible of \$ _____ applicable to you or any "family member".	
Co-payment <input type="checkbox"/> If indicated to the left or in the Declarations, medical expenses shall be subject to a co-payment of \$ _____ applicable to you or any "family member".	

With respect to coverage provided by this endorsement, the provisions of the Policy apply unless modified by the endorsement.

I. Definitions

~~The Definitions Section is amended as follows:~~

A. The following definitions are replaced:

1. Definition **C.** is replaced by the following:

C. "Owned by" means that a person:

- a1.** Holds a legal title;
- b2.** Is a debtor who has legal possession while buying a vehicle on installments;
- c3.** Has legal possession and has an agreement or lease of one year or more; or
- d4.** Is the owner of a vehicle until on selling the vehicle, title is delivered to the buyer.

2. Definition **J.** is replaced by the following:

J. "Your covered auto" means an "auto":

- a1.** For which you are required to maintain security under the Hawaii Motor Vehicle Insurance Law; and
- b2.** To which the bodily injury liability coverage under this policy applies.

B. The following definitions are added:

- 1.** "Auto" means a vehicle of the type required to be registered under Chapter 286 of Hawaii Revised Statutes, or a trailer attached to an "auto", but does not include a motorcycle or motor scooter.
- 2.** "Auto accident" means an accident resulting from:
 - a.** The "operation, maintenance, or use" of an "auto" as an "auto"; or
 - b.** Movement of an object drawn or propelled by an "auto".
- 3.** "Insured" means:
 - a.** You or any "family member" injured in an "auto accident":
 - (1)** While "occupying" an "auto"; or
 - (2)** As a "pedestrian" when struck by an "auto".
 - b.** Anyone else injured in an "auto accident" while "occupying" or when struck as a "pedestrian" by "your covered auto" or a "temporary loaner vehicle".
- 4.** "Criminal conduct" means:
 - a.** Committing an offense punishable by more than a year's imprisonment;
 - b.** Operating or using an "auto" to intentionally cause "bodily injury" or "property damage"; or

- c. Operating or using an "auto" as a converter without a good faith belief by the operator or user that he or she is entitled to operate or use the vehicle.
- 5. "Operation, maintenance or use" includes "occupying" but does not include:
 - a. Loading or unloading unless "bodily injury" occurs next to the vehicle; or
 - b. Work done in the "business" of repairing, servicing or otherwise maintaining vehicles unless such work is done outside the premises of this business.
- 6. "Pedestrian" means anyone not "occupying" an "auto".

II. Personal Injury Protection Coverage

INSURING AGREEMENT

- A. We will pay, in accordance with the Hawaii Motor Vehicle Insurance Law, personal injury protection benefits for an "insured" who sustains "bodily injury" resulting from an "auto accident".
- B. Subject to the limits shown as applicable in the Schedule or in the Declarations, personal injury protection benefits consist of the following:

Medical expenses. All appropriate and reasonable treatment and expenses necessarily incurred by an "insured" as a result of any accidental harm and which are substantially comparable to the requirements for prepaid health care plans as set forth in the Hawaii Prepaid Health Care Act, including:

 - 1. Medical, hospital, surgical, professional, x-ray, dental, optometric, naturopathy, chiropractic, acupuncture, ambulance and prosthetic services;
 - 2. Nursing services, including advanced practice nursing recognized under Hawaii Law;
 - 3. Medical equipment and supplies;
 - 4. Products and accommodations furnished;
 - 5. Psychiatric, occupational therapy and rehabilitation; and
 - 6. When prescribed by a medical doctor:
 - a. Physical therapy; and
 - b. Therapeutic massage by a licensed massage therapist.

EXCLUSIONS

We do not provide Personal Injury Protection Coverage for "bodily injury":

- 1. To you or any "family member":
 - a. While "occupying" an "auto" "owned by" you which is not "your covered auto"; or

- b. While "occupying", or while a "pedestrian" caused by, an insured motor vehicle other than "your covered auto".
- 2. To any "family member":
 - a. Who is a named insured under another personal injury protection policy, except while "occupying" "your covered auto"; or
 - b. While "occupying" an "auto" "owned by" that "family member" and for which the security required under the Hawaii Motor Vehicle Insurance Law is not in effect.
- 3. To any "insured" using or operating an "auto" which causes any loss:
 - a. While engaged in "criminal conduct"; or
 - b. While seeking to avoid lawful arrest by a law enforcement officer.
- 4. Sustained outside Hawaii by any "insured" other than you or a "family member" resulting from the "operation, maintenance or use" of a vehicle which is:
 - a. Regularly used in the "business" of transporting persons or property; and
 - b. One of five or more vehicles under common ownership.
- 5. Resulting from hazardous properties of nuclear materials.
- 6. To any "insured" receiving:
 - a. Direct cash payments through the Department of Human Services; or
 - b. Benefits from the Social Security Supplemental Security Income Program;

when a motor vehicle insurance policy is issued to that "insured" at no cost under the Hawaii Joint Underwriting Plan.
- 7. To any "insured" "occupying" a motorcycle or motor scooter at the time of the accident.
- 8. Sustained by any "insured" while "occupying", or when struck by, "your covered auto" while:
 - a. Enrolled in a personal vehicle sharing program under the terms of a written agreement; and
 - b. Being used in connection with such personal vehicle sharing program by anyone other than you or any "family member".

LIMIT OF LIABILITY

- A. The limit of liability shown in the Schedule or in the Declarations for this coverage is our maximum limit of liability for each "insured" injured in any one "auto accident". This is the most we will pay regardless of the number of:
 - 1. "Insureds";

2. Claims made;
 3. Vehicles or premiums shown in the Declarations;
 4. Vehicles involved in the "auto accident"; or
 5. Insurers providing personal injury protection benefits.
- B.** Subject to our maximum limit of liability for this coverage, our limit of liability for each "insured" for:
1. Chiropractic treatments shall not exceed the lesser of:
 - a. Thirty visits at no more than \$75 a visit, plus five x-rays at no more than \$50 each; or
 - b. Treatment as defined by the Hawaii State Chiropractic Association guidelines in effect on January 25, 1997.
 2. Acupuncture treatments shall not exceed thirty visits.
 3. Naturopathic treatments shall not exceed thirty visits at no more than \$75 a visit.

However, the combined total of naturopathic, chiropractic and acupuncture treatments shall not exceed thirty visits.

- C.** If the Schedule or Declarations indicates that:
1. The medical expenses deductible option applies, any amounts payable for medical expenses for you or any "family member" as a result of any one "auto accident" shall be reduced by the amount of such deductible.
 2. The medical expenses co-payment option applies, any amounts payable for medical expenses for you or any "family member" as a result of any one "auto accident" shall be reduced by such co-payment after the application of any deductible.
- D.** Any amount payable under this insurance shall be limited by the workers' compensation supplemental medical fee schedule.
- E.** Any amount payable under this insurance shall be reduced by any amounts:
1. Paid;
 2. Payable; or
 3. Required to be provided;
- under any workers' compensation law.

However, if an "insured's" right to collect workers' compensation benefits is contested, resulting in a delay of workers' compensation payments, we will pay personal injury protection benefits.

III. Part E – Duties After An Accident Or Loss

Duties **A.** and **B.** are replaced by the following:

- A.** We must be notified promptly, in writing, of how, when and where the accident happened. Notice should also include the names and addresses of any injured persons and of any witnesses.
- B.** A person seeking Personal Injury Protection Coverage must:
 1. Cooperate with us in the investigation or settlement of any claim.
 2. Submit, as often as we reasonably require, to physical or mental examinations by health care providers we select or are acceptable to us.
 3. Authorize us to obtain:
 - a. Medical reports;
 - b. Statements of earnings; and
 - c. Other pertinent records.
 4. Submit a written proof of claim under oath when required by us, including full information on the nature of treatment received and planned.
 5. Promptly send us copies of the legal papers if a suit is brought.

IV. Part F – General Provisions

~~Part F is amended as follows:~~

- A.** The **Our Right To Recover Payment** Provision is replaced by the following:
- OUR RIGHT TO RECOVER PAYMENT Our Right To Recover Payment**
1. If we make a payment under this coverage and the person to or for whom payment was made has a right to recover damages from another, we shall be subrogated to that right. That person shall do:
 - a. Whatever is necessary to enable us to exercise our rights; and
 - b. Nothing after loss to prejudice them.
 2. If we make payment under this coverage and the person to or for whom payment is made recovers damages from another, we will have a lien on the proceeds of recovery and that person shall:
 - a. Hold in trust for us the proceeds of the recovery; and
 - b. Reimburse us to the extent of our payment.

3. For any recovery other than from workers' compensation benefits, with respect to Paragraphs 1. and 2. above, which results in duplication of personal injury protection benefits already paid under this pPolicy, we are entitled to recover 50% of the basic statutory requirement for personal injury protection benefits. However, if this recovery with respect to 1. and 2. above is from workers' compensation benefits, we are entitled to a full recovery of the basic statutory requirement for personal injury protection benefits.

B. The following provisions are added:

ARBITRATION Arbitration

If we and an "insured" do not agree on any matter to a claim, either party may request arbitration as prescribed in Section 431:10C-213 of the Hawaii Motor Vehicle Insurance Law.

NON-DUPLICATION OF BENEFITS Non-Duplication Of Benefits

No one will be entitled to duplicate payments for the same elements of loss under this coverage regardless of the number of:

1. "Autos" covered; or
2. Insurers (including self-insurers) providing security in accordance with the Hawaii Motor Vehicle Insurance Law.

If an "insured" is entitled to similar benefits under more than one policy, the maximum recovery under all policies will not exceed the amount payable under the pPolicy with the highest dollar limits of benefits.

If there is other applicable similar insurance, we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits.

If you or a "family member" are driving a "temporary loaner vehicle" and you or a "family member" are in an "auto accident", this insurance is primary and any similar insurance covering the "temporary loaner vehicle" will be excess coverage.

If there is an "auto accident" while an employee of a registered repair shop or licensed motor vehicle dealer is driving or road-testing "your covered auto", this insurance is excess to any primary coverage available to the repair shop or dealer.

**CONSTITUTIONALITY PROVISION
Constitutionality Provision**

If a court of competent jurisdiction declares, or enters a judgment which renders the provisions of the Hawaii Motor Vehicle Insurance Law providing for abolition of tort liability invalid or unenforceable, we are subrogated to all rights of an "insured" to whom or for whose benefit any Personal Injury Protection benefits have been paid under this pPolicy to the full extent of such payments.

The "insured" shall do:

1. Whatever is necessary to enable us to exercise our rights; and
2. Nothing after loss to prejudice them.

This endorsement must be attached to the Change Endorsement when issued after the pPolicy is written.