

What is an External Review Organization (ERO)?

An External Review Organization (sometimes referred to by others as an Independent Review Organization or IRO) is an entity that conducts independent external reviews of adverse determinations and final adverse determinations involving the medical necessity, appropriateness, health care setting, level of care or effectiveness of a requested health benefit. TCA § 56-61-102(1)(A). This law does not apply to:

- Coverage only for a specified disease, specified accident or accident-only coverage, credit, dental, disability income, hospital indemnity;
- Long-term care insurance, as defined by TCA § 56-42-103;
- Vision care, or any other limited supplemental benefit;
- Medicare supplement insurance;
- Coverage under a plan through Medicare, Medicaid, or the federal employees health benefits program;
- Coverage issued under 10 U.S.C. § 1072 and any coverage issued as supplement to that coverage;
- Coverage issued as supplemental to liability insurance, workers' compensation, or similar insurance;
- Automobile medical-payment insurance or any insurance under which benefits are payable with or without regard to fault, whether written on a group blanket or individual basis;
- Any plan exempt from regulation under this title due to the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1144.

Who must apply for approval as an ERO?

Any entity that conducts independent external reviews of adverse determinations and final adverse determinations of a health carrier as defined at TCA § 56-61-102(17).

When must an ERO apply for approval?

Beginning January 1, 2011, all EROs must be approved by the Tennessee Commissioner of Commerce and Insurance to conduct external reviews. In order to be eligible for approval, an ERO must secure and maintain a current certificate of accreditation by the American Accreditation Healthcare Commission (URAC) under applicable standards for Independent Review Organizations. Each ERO must submit a completed application for approval and biographical affidavit(s). The FAQs regarding the biographical affidavit may be helpful. Approval under the Tennessee Health Carrier Grievance and External Review Procedure Act is effective for two (2) years.

What is the ERO application fee?

A fee of \$500.00 must be submitted with each application for approval or reapproval.

All checks or money orders must be made payable to the Tennessee Department of Commerce and Insurance. Instructions for submitting funds electronically are located on the application.

Send Completed ERO Applications:

By mail:

Tennessee Department of Commerce and Insurance
Division of Insurance, Policy Analysis Section
500 James Robertson Parkway, 4th Floor
Nashville, TN 37243-1130

OR

By electronic mail:

Inspolicy.Analysis@tn.gov

Department Contact for More Information

Mary Ginger, Policy Analyst
(615) 532-2205
Mary.Ginger@tn.gov



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243

TITLE 56: INSURANCE
CHAPTER 61: TENNESSEE HEALTH CARRIER GRIEVANCE AND EXTERNAL
REVIEW PROCEDURE ACT
PART 120 APPROVAL OF INDEPENDENT REVIEW ORGANIZATIONS
PART 121 MINIMUM QUALIFICATIONS FOR INDEPENDENT REVIEW
ORGANIZATIONS

Part 120. External Review Organizations - Application for Approval

1. Name of External Review Organization _____

DBA _____

Type of Applicant (check one):

Corporation

Partnership

Limited Liability

Other (Describe) _____

FEIN: _____

Contact Person: _____

Business Telephone Number: () _____

Fax Number: () _____

Email Address: _____

2. Business Address:

Street (Do Not Use P.O. Box): _____

City: _____

State: _____ Zip: _____

Telephone Number: () _____

Website: _____

3. Mailing Address (If Different from Business Address):

Street (Do Not Use P.O. Box): _____

City: _____

State: _____ Zip: _____

4. Contact Information To Be Used on the Department's Website of Approved External Review Organizations:

Contact Person: _____

Business Telephone Number: () _____

Fax Number: () _____

Street (Do Not Use P.O. Box): _____

City: _____

State: _____ Zip: _____

5. Agent for Service of Process in Tennessee Department of Insurance:

Name _____

Street (Do Not Use P.O. Box): _____

City: _____

State: _____ Zip: _____

6. For Each External Review Program supply the following information:
 - a. The name, address, telephone number and hours of operation for the external review program.
 - b. The organization and governing structure of the external review program.
 - c. The number of reviews in Tennessee for which an external review is conducted by each external review program for the current year.
 - d. Number of reviews in Tennessee for which an external review was conducted for the previous calendar year for each external review program.
 - e. A copy of your most recent certificate from American Accreditation Healthcare Commission (URAC) Standards for Independent Review Organizations, if applicable.
 - f. Written policies and procedures for protection of confidential information according to applicable State and federal laws for each external review program.
 - g. Biographical information for organization officers and directors. Biographical affidavits in the form attached hereto shall be stamped "confidential" by the external review organization.
 - h. A list of all contracted reviewers, the physician's license number of each reviewer and his or her contact information and area of clinical expertise.
 - i. All information required in 7 below.
7. Minimum Qualifications for External Review Organizations (ERO):
 - a. To be approved to conduct external reviews, an external review organization shall have and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process set forth in the Act that include, at a minimum:
 - i. A quality assurance mechanism that ensures that:
 - A. External reviews are conducted within the specified timeframes and required notices are provided in a timely manner;
 - B. Selection of qualified and impartial clinical reviewers to conduct external reviews on behalf of the ERO and suitable matching of reviewers to specific cases and that the external review organization employs or contracts with an adequate number of clinical reviewers to meet this objective;
 - C. For adverse determinations involving experimental or investigational treatments, in assigning clinical reviewers, the external review

organization selects physicians or other health care professionals who, through clinical experience in the past 3 years, are experts in the treatment of the covered person's condition and knowledgeable about the recommended or requested health care service or treatment;

- D. The health carrier, the covered person, and the covered person's authorized representative shall not choose or control the choice of the physicians or other health care professionals to be selected to conduct the external review;
 - E. Confidentiality of medical and treatment records and clinical review criteria; and
 - F. Any person employed by or under contract with the external review organization adheres to the requirements of the Act;
- ii. A toll-free telephone service operating on a 24 hours/day, 7 days/week basis that accepts, receives, and records information related to external reviews and provides appropriate instructions; and
 - iii. An agreement to maintain and provide to the Commissioner the information set out in § 56-61-123 of the Act.
- b. All clinical reviewers assigned by an external review organization to conduct external reviews shall be physicians or other appropriate health care providers who meet the following minimum qualifications:
- i. Be an expert in the treatment of the covered person's medical condition that is the subject of the external review;
 - ii. Be knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical condition as the covered person;
 - iii. Hold a non-restricted license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the external review; and
 - iv. Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical reviewer's physical, mental, or professional competence or moral character.
- c. In addition to the requirements set forth in subsection (a), an external review organization may not own or control, be a subsidiary of, or in any way be owned or controlled by, or exercise control with, a health benefit plan, a national, State, or local

trade association of health benefit plans, or a national, State, or local trade association of health care providers.

- d. Conflicts of interest are prohibited. In addition to the requirements set forth in 7a, 7b and 7c of this Section, to be approved pursuant to the Act to conduct an external review of a specified case, neither the external review organization selected to conduct the external review nor any clinical reviewer assigned by the ERO to conduct the external review may have a material professional, familial or financial conflict of interest with any of the following:
 - i. The health carrier that is the subject of the external review;
 - ii. The covered person whose treatment is the subject of the external review or the covered person's authorized representative;
 - iii. Any officer, director or management employee of the health carrier that is the subject of the external review;
 - iv. The health care provider, the health care provider's medical group or independent practice association recommending the health care service or treatment that is the subject of the external review;
 - v. The facility at which the recommended health care service or treatment would be provided; or
 - vi. The developer or manufacturer of the principal drug, device, procedure, or other therapy being recommended for the covered person whose treatment is the subject of the external review.
 - e. An external review organization shall be unbiased. An ERO shall establish and maintain written procedures to ensure that it is unbiased in addition to any other procedures required under the Act.
8. Enclose a check or money order payable to the Tennessee Department of Commerce and Insurance, or submit funds electronically using the instructions on the last page of this application.
- a. Accredited organization fee of \$500.00
 - b. Unaccredited organization fee of \$1,500.00 in the event that the Commissioner determines that there are no acceptable nationally recognized private accrediting entities providing external review organization accreditation

9. Affirmation (to be signed by an officer or director of the external review organization):

I, _____ do hereby certify that
(Typed name, title)

(External Review Organization)

complies with the URAC Independent Review Organization Standards of the American Accreditation Healthcare Commission or another Tennessee approved nationally recognized private accrediting entity and that

(External Review Organization)

has submitted evidence of accreditation by URAC for Independent Review or by another Tennessee approved nationally recognized private accrediting entity for External Review Organization accreditation, and that the persons responsible for the conduct of

(External Review Organization)

are competent, trustworthy, and possess good reputations, and have appropriate experience, training or education and do hereby affirm that all of the information presented in this application is true and correct.

(Signature)

(Date)

Please send completed application, biographical affidavit(s), and all other required information and documentation:

By mail to:

Tennessee Department of Commerce and Insurance
Division of Insurance, Policy Analysis Section
500 James Robertson Parkway, 4th Floor
Nashville, TN 37243-1130
(615) 532-2205

Or

By email to:

Inspolicy.Analysis@tn.gov

Electronic Submission of Funds

Wire Transfer (EFT) (same day by 3:30 bank closing)

Bank: Regions Bank

Account Name: State of Tennessee Treasury

ABA: 062005690

Acct# 1003655286

Comment Line # 1 Ins Policy Analysis

Comment Line # 2 External Review Org

NOTE: This comment line information MUST be included for the funds to be properly recorded.

ACH payment (next day posting)

Bank: Regions Bank

ABA: 064107091

Acct# 82733502000

NOTE: Place the following information on the addenda lines.

Ins Policy Analysis

External Review Org

Applicant Name (Company) _____

NAIC No. _____

FEIN: _____

BIOGRAPHICAL AFFIDAVIT

To the extent permitted by law, this affidavit will be kept confidential by the state insurance regulatory authority.

(Print or Type)

Full Name, Address and telephone number of the present or proposed entity under which this biographical statement is being required (Do Not Use Group Names). _____

In connection with the above-named entity, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.) IF ANSWER IS "NO" OR "NONE," SO STATE.

- 1. Affiant's Full Name (Initials Not Acceptable). _____
- 2. a. Are you a citizen of the United States?
b. Are you a citizen of any other country, if so, what country? _____
- 3. Affiant's Occupation or Profession. _____
- 4. Affiant's business address. _____
Business telephone. _____
- 5. Education and Training:

<u>College/ University</u>	<u>City/ State</u>	<u>Dates Attended (MM/YY)</u>	<u>Degree Obtained</u>

<u>Graduate Studies:</u>	<u>College/ University</u>	<u>City/ State</u>	<u>Dates Attended (MM/YY)</u>	<u>Degree Obtained</u>

<u>Other Training: Name</u>	<u>City/ State</u>	<u>Dates Attended (MM/YY)</u>	<u>Degree/Certification Obtained</u>

(Note: If affiant attended a foreign school, please provide full address and telephone number of the college/university. If applicable, provide the foreign student Identification Number in the space provided in the Biographical Affidavit Supplemental Information.)

Applicant Name (Company) _____

NAIC No. _____

FEIN: _____

6. List of memberships in professional societies and associations.

<u>Name of Society/Association</u>	<u>Contact Name</u>	<u>Address of Society/Association</u>	<u>Telephone Number of Society/Association</u>

7. Present or proposed position with the applicant entity. _____

8. List complete employment record for the past twenty (20) years, whether compensated or otherwise (up to and including present jobs, positions, partnerships, owner of an entity, administrator, manager, operator, directorates or officerships). Please list the most recent first. Attach additional pages if the space provided is insufficient. It is only necessary to provide telephone numbers and supervisory information for the past ten (10) years.

Beginning/Ending Dates (MM/YY) _____ - _____ Employer's Name _____

Address _____ City _____ State/Province _____

Country _____ Postal Code _____ Phone _____ Offices/Positions Held _____

Supervisor / Contact _____

Beginning/Ending Dates (MM/YY) _____ - _____ Employer's Name _____

Address _____ City _____ State/Province _____

Country _____ Postal Code _____ Phone _____ Offices/Positions Held _____

Supervisor / Contact _____

Beginning/Ending Dates (MM/YY) _____ - _____ Employer's Name _____

Address _____ City _____ State/Province _____

Country _____ Postal Code _____ Phone _____ Offices/Positions Held _____

Supervisor / Contact _____

Beginning/Ending Dates (MM/YY) _____ - _____ Employer's Name _____

Address _____ City _____ State/Province _____

Country _____ Postal Code _____ Phone _____ Offices/Positions Held _____

Supervisor / Contact _____

Applicant Name (Company) _____

NAIC No. _____

FEIN: _____

9. a. Have you ever been in a position which required a fidelity bond? _____ If any claims were made on the bond, give details. _____

b. Have you ever been denied an individual or position schedule fidelity bond, or had a bond canceled or revoked? If yes, give details. _____

10. List any professional, occupational and vocational licenses (including licenses to sell securities) issued by any public or governmental licensing agency or regulatory authority or licensing authority that you presently hold or have held in the past. For any non-insurance regulatory issuer, identify and provide the name, address and telephone number of the licensing authority or regulatory body having jurisdiction over the license (s) issued.. If your professional license number is your Social Security Number (SSN) or embeds your SSN or any sequence of more than five numbers that are reasonably identifiable as your SSN, then write SSN for that portion of the professional license number that is represented by your SSN. (For example, "SSN", "12-SSN-345" or "1234-SSN" (last 6 digits)). Attach additional pages if the space provided is insufficient

Organization/Issuer of License _____ Address _____

City _____ State/Province _____ Country _____ Postal Code _____

License Type _____ License # _____ Date Issued (MM/YY) _____

Date Expired (MM/YY) _____ Reason for Termination _____

Non-insurance Regulatory Phone Number (if known) _____

Organization /Issuer of License _____ Address _____

City _____ State/Province _____ Country _____ Postal Code _____

License Type _____ License # _____ Date Issued (MM/YY) _____

Date Expired (MM/YY) _____ Reason for Termination _____

Non-insurance Regulatory Phone Number (if known) _____

11. In responding to the following, if the record has been sealed or expunged, and the affiant has personally verified that the record was sealed or expunged, an affiant may respond "no" to the question. Have you ever:

a. Been refused an occupational, professional, or vocational license or permit by any regulatory authority, or any public administrative, or governmental licensing agency? _____

b. Had any occupational, professional, or vocational license or permit you hold or have held, been subject to any judicial, administrative, regulatory, or disciplinary action? _____

c. Been placed on probation or had a fine levied against you or your occupational, professional, or vocational license or permit in any judicial, administrative, regulatory, or disciplinary action? _____

d. Been charged with, or indicted for, any criminal offense(s) other than civil traffic offenses? _____

e. Pled guilty, or nolo contendere, or been convicted of, any criminal offense(s) other than civil traffic offenses? _____

Applicant Name (Company) _____

NAIC No. _____

FEIN: _____

- f. Had adjudication of guilt withheld, had a sentence imposed or suspended, had pronouncement of a sentence suspended, or been pardoned, fined, or placed on probation, for any criminal offense(s) other than civil traffic offenses? _____
- g. Been subject to a cease and desist letter or order, or enjoined, either temporarily or permanently, in any judicial, administrative, regulatory, or disciplinary action, from violating any federal, state law or law of another country regulating the business of insurance, securities or banking, or from carrying out any particular practice or practices in the course of the business of insurance, securities or banking? _____
- h. Been, within the last ten (10) years, a party to any civil action involving dishonesty, breach of trust, or a financial dispute? _____
- i. Had a finding made by the Comptroller of any state or the Federal Government that you have violated any provisions of small loan laws, banking or trust company laws, or credit union laws, or that you have violated any rule or regulation lawfully made by the Comptroller of any state or the Federal Government? _____
- j. Had a lien or foreclosure action filed against you or any entity while you were associated with that entity? _____

If the response to any question above is answered "Yes", please provide details including dates, locations, disposition, etc. Attach a copy of the complaint and filed adjudication or settlement as appropriate.

- 12. List any entity subject to regulation by an insurance regulatory authority that you control directly or indirectly. The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person. _____

If any of the stock is pledged or hypothecated in any way, give details. _____

- 13. Do [Will] you or members of your immediate family individually or cumulatively subscribe to or own, beneficially or of record, 10% or more of the outstanding shares of stock of any entity subject to regulation by an insurance regulatory authority, or its affiliates? An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. If the answer is "Yes", please identify the company or companies in which the cumulative stock holdings represent 10% or more of the outstanding voting securities.

If any of the shares of stock are pledged or hypothecated in any way, give details.

Applicant Name (Company) _____

NAIC No. _____

FEIN: _____

14. Have you ever been adjudged a bankrupt? _____ If yes, provide details _____

15. To your knowledge has any company or entity for which you were an officer or director, trustee, investment committee member, key management employee or controlling stockholder, had any of the following events occur while you served in such capacity? If yes, please indicate and give details. When responding to questions (b) and (c) affiant should also include any events within twelve (12) months after his or her departure from the entity.

a. Been refused a permit, license, or certificate of authority by any regulatory authority, or Governmental-licensing agency? _____

b. Had its permit, license, or certificate of authority suspended, revoked, canceled, non-renewed, or subjected to any judicial, administrative, regulatory, or disciplinary action (including rehabilitation, liquidation, receivership, conservatorship, federal bankruptcy proceeding, state insolvency, supervision or any other similar proceeding)? _____

c. Been placed on probation or had a fine levied against it or against its permit, license, or certificate of authority in any civil, criminal, administrative, regulatory, or disciplinary action? _____

Note: If an affiant has any doubt about the accuracy of an answer, the question should be answered in the positive and an explanation provided.

Dated and signed this _____ day of _____ 20__ at _____ I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

(Signature of Affiant)

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ By

_____, and:

who is personally known to me, or

who produced the following identification: _____

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

Applicant Name (Company) _____

NAIC No. _____

FEIN: _____

BIOGRAPHICAL AFFIDAVIT
Supplemental Personal Information

(Print or Type)

To the extent permitted by law, this affidavit will be kept confidential by the state insurance regulatory authority.

Full Name, Address, and telephone number of the present or proposed entity under which this biographical statement is being required (Do Not Use Group Names).

1. Affiant's Full Name (Initials Not Acceptable). _____
2. Have you ever used any other name including nickname, maiden name or aliases? ____ If yes, give the reason if any, if none indicate such, and provide the full name(s) and date(s) used.

<u>Beginning/Ending Date(s) Used (MM/YY)</u>	<u>Name(s)</u>	<u>Reason (If None, indicate such)</u>
_____ - _____	_____	_____
_____ - _____	_____	_____
_____ - _____	_____	_____
_____ - _____	_____	_____
_____ - _____	_____	_____
_____ - _____	_____	_____
_____ - _____	_____	_____
_____ - _____	_____	_____
_____ - _____	_____	_____
_____ - _____	_____	_____

Note: Dates provided in response to this question may be approximate. Parties using this form understand that there could be an overlap of dates when transitioning from one name to another.

3. Affiant's Social Security Number _____
4. Government Identification Number if not a U.S. Citizen _____
5. Foreign Student ID# (if applicable) _____
6. Date of Birth: (MM/DD/YY) _____ Place of Birth: City _____
State/Province _____ Country _____
7. Name of Affiant's Spouse (if applicable) _____

Applicant Name (Company) _____

NAIC No. _____

FEIN: _____

8. List your residences for the last ten (10) years starting with your current address, giving:

Beginning/Ending

Dates (MM/YY)	Address	City	State/ Province	Country	Postal Code
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Note: Dates provided in response to this question may be approximate, except for current address. Parties using this form understand that there could be an overlap of dates when transitioning from one address to another.

Dated and signed this _____ day of _____, 20____ at _____ I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

(Signature of Affiant)

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ By _____, and:

- who is personally known to me, or
- who produced the following identification: _____

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

Applicant Name (Company) _____

NAIC No. _____

FEIN: _____

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS (*All states except California, Minnesota and Oklahoma*)

This Disclosure and Authorization is provided to you in connection with pending or future application(s) of _____ **[insert company name]** (“Company”) for licensure or a permit to organize (“Application”) with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both) (“Background Reports”) regarding your background for review by a department of insurance in any state where Company pursues an Application during the term of your functioning as, or seeking to function as, an officer, member of the board of directors or other management representative (“Affiant”) of Company or of any business entities affiliated with Company (“Term of Affiliation”) for which a Background Report is required by a department of insurance reviewing any Application. Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may obtain copies of any Background Reports about you from the consumer reporting agency (“CRA”) that produces them. You may also request more information about the nature and scope of such reports by submitting a written request to Company. To obtain contact information regarding CRA or to submit a written request for more information, contact _____ **[insert company’s designated person, position, or department, address and phone]**.

Attached for your information is a “Summary of Your Rights Under the Fair Credit Reporting Act.”

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. This Authorization shall remain in full force and effect until the earlier of (i) the expiration of the Term of Affiliation, (ii) written revocation as described above, or (iii) twelve (12) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

(Printed Full Name and Residence Address)

(Signature)

(Date)

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____ 20____ By _____, and

- who is personally known to me, or
- who produced the following identification: _____

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

Applicant Name (Company) _____

NAIC No. _____

FEIN: _____

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS (Minnesota and Oklahoma)

This Disclosure and Authorization is provided to you in connection with pending or future application(s) of _____ [insert company name] (“Company”) for licensure or a permit to organize (“Application”) with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both) (“Background Reports”) regarding your background for review by a department of insurance in any state where Company pursues an Application during the term of your functioning as, or seeking to function as, an officer, member of the board of directors or other management representative (“Affiant”) of Company or of any business entities affiliated with Company (“Term of Affiliation”) for which a Background Report is required by a department of insurance reviewing any Application. Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may request more information about the nature and scope of Background Reports produced by any consumer reporting agency (“CRA”) by submitting a written request to Company. You should submit any such written request for more information, to _____ [insert company’s designated person, position, or department, address and phone].

Attached for your information is a “Summary of Your Rights Under the Fair Credit Reporting Act.” You will be provided with a copy of any Background Report procured by Company if you check the box below.

By checking this box, I request a copy of any Background Report from any CRA retained by Company, at no extra charge.

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. This Authorization shall remain in full force and effect until the earlier of (i) the expiration of the Term of Affiliation, (ii) written revocation as described above, or (iii) twelve (12) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

(Printed Full Name and Residence Address)

(Signature)

(Date)

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ By _____, and

who is personally known to me, or

who produced the following identification: _____

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

Applicant Name (Company) _____

NAIC No. _____

FEIN: _____

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS (California)

This Disclosure and Authorization is provided to you in connection with a pending application of _____ **[insert company name]** (“Company”) for licensure or a permit to organize (“Application”) with a department of insurance in one or more states within the United States. Company desires to procure a consumer or investigative consumer report (or both) (“Background Reports”) regarding your background for review by any department of insurance in such states where Company is currently pursuing an Application, because you are either functioning as, or are seeking to function as, an officer, member of the board of directors or other management representative (“Affiant”) of Company or of any business entities affiliated with Company (“Term of Affiliation”) for which a Background Report is required by a department of insurance reviewing any Application. Background Reports will be obtained through _____ **[insert name of CRA, address]** (“CRA”). Background Reports requested pursuant to your authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. The purpose of such Background Reports will be to evaluate the Application and your background as it pertains thereto. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may request more information about the nature and scope of Background Reports produced by any consumer reporting agency (“CRA”) by submitting a written request to Company. You should submit any such written request for more information, to _____ **[insert company’s designated person, position, or department, address and phone]**.

Attached for your information is a “Summary of Your Rights Under the Fair Credit Reporting Act.” You will be provided with a copy of any Background Report procured by Company if you check the box below.

By checking this box, I request a copy of any Background Report from any CRA retained by Company, at no extra charge.

Under section 1786.22 of the California Civil Code, you may view the file maintained on you by the CRA listed above. You may also obtain a copy of this file, upon submitting proper identification and paying the costs of duplication services, by appearing at the CRA in person or by mail; you may also receive a summary of the file by telephone. The CRA is required to have personnel available to explain your file to you and the CRA must explain to you any coded information appearing in your file. If you appear in person, you may be accompanied by one other person of your choosing, provided that person furnishes proper identification.

AUTHORIZATION: I am currently an Affiant of Company as defined above. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to a department of insurance in any state where Company files or intends to file an Application, and to the Company, for purposes of investigating and reviewing such Application and my status as an Affiant. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to CRA retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law.

I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to any CRA that either prepared or is preparing Background Reports under this Disclosure and Authorization. In no event, however, will this authorization remain in effect beyond twelve (12) months following the date of my signature below.

A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

(Printed Full Name and Residence Address)

(Signature)

(Date)

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ By _____, and

- who is personally known to me, or
- who produced the following identification: _____

[SEAL]

Notary Public

Printed Notary Name

My Commission Expires

FREQUENTLY ASKED QUESTIONS BIOGRAPHICAL AFFIDAVIT

General

Question: Is it acceptable to leave a question or item blank if I don't know the answer, or that the question or item does not apply, or that the answer is none?

Answer: No, you must answer each and every question or item. If the answer is none, state "None". If the question or item does not apply, then state, "Not Applicable" or "N/A". By not responding to each question or item, you risk the various State Insurance Departments requesting an affidavit from you regarding your having not responded to that question or item.

Question: I am completing a primary application. We do not yet know the address and telephone number of the insurer. What information should I include?

Answer: Following the name of the present or proposed entity, insert, "To be determined" as your answer.

Question: The form does not allow enough space to respond to the questions or items. What should I do?

Answer: Attach a supplemental sheet to your Biographical Affidavit and cross-reference the question or item number with your response.

Question: When the question or item requires that I attach a copy of the complaint or settlement document or other similar document, do I need to just include it with the Biographical Affidavit?

Answer: Yes, but also indicate a cross reference on the document to the question or item in the Biographical Affidavit.

Item 1

Question: I never utilize my full name. I always utilize my initials when signing documents in an official capacity. No one would recognize me if I complete the form as indicated.

Answer: You must complete the form in the manner as indicated; that is, full name, no initials.

Item 2a

Question: I was a citizen of the United States and moved to another country where I am now a citizen. I don't know if I am still a citizen of the United States or not. How should I respond to this question?

Answer: You need to research the matter and provide a response.

Item 2b

Question: I have citizenship in several countries. Do I have to list all of the countries?

Answer: Yes, even though the question may only allow for the listing of one country.

Item 3

Question: I have several occupations. Item 4 of the Biographical Affidavit does not appear to allow for this. How should I respond?

Answer: If there is not room in the space to list your other occupations, you may provide a supplemental sheet cross-referencing the item number, i.e., Item 4.

Item 4

Question: I have several businesses with various addresses, but primarily work out of my home. Which address or addresses should I utilize?

Answer: The address or addresses where the business or businesses are actually located.

Question: I primarily work out of my home in New Jersey, though the business is located in New York. Which telephone number should I utilize?

Answer: The telephone number(s) where you receive and make your business calls.

Item 5

Question: I do not recall the exact dates that I attended college. Can I just guess?

Answer: No, because if you guess and are wrong, when the service that provides an independent certification of your Biographical Affidavit, or the background investigative agency completing the background report, verifies the information and submits their findings to the State Insurance Departments, a discrepancy will be noted. You may be required by the various State Insurance Departments to submit a notarized affidavit explaining the discrepancy; an unnecessary request had you researched the matter before guessing.

Question: What should be listed in "Other Training"? For example, I took some classes and received a certification to administer CPR and also to teach aerobics. Should I list this training?

Answer: Apply judgment in your response. The intent is to list professional training. For example, you took a training class and exam(s) to become a licensed Financial Planner.

Question: I do not recall the telephone number of the foreign school that I attended. Can I just leave this information off the form?

Answer: No, you need to respond to the question or item completely, even if it involves research.

Item 6

Question: I used to be a member of a professional association. Do I still need to list the name of the association even though I am no longer active?

Answer: No.

Question: I am not a member of a professional society or association. Can I just leave this item blank?

Answer: No, you must fill in a response to each question or item on the form. Remember; utilize “N/A”, if not applicable, or state, “None”, if your answer is none.

Item 7

Question: I have been asked to be a director of the company; I anticipate being named an officer in the immediate future. How should I respond to this item?

Answer: List your position(s) as of the date you signed the biographical affidavit.

Item 8

Question: I do not want my current employer to be contacted as part of the verification or background investigative process. Do I still have to provide the information?

Answer: Yes.

Question: I do not have the fax number or telephone number of the entity that I worked for 18 years ago. I do not even know if the entity is still in business. What should I do?

Answer: Again, research the matter and provide a response for each blank in the question or item. If you cannot locate the information, than state so in your answer; do not leave the question or item blank.

Item 9a

Question: It was 20 years ago that I was in a position that required a fidelity bond and there was a claim made on the bond, but I was not personally named in the claim. Do I have to disclose the information?

Answer: Your response should indicate you were in a position that required a fidelity bond. Then, you should disclose the claim and indicate that you were not personally named in the claim.

Item 10

Question: I do not know the telephone number of the Securities and Exchange Commission. Can I just leave the space next to Non-Insurance Regulatory Phone Number blank?

Answer: No, please research the matter and provide a response.

Question: Thirty years ago I held a Broker’s license while I was working at Lloyds of London. I do not recall the license number, whether it has expired, the address of the issuer or the license, etc. Should I reflect this license on the form, even though I have such limited information surrounding the license?

Answer: Yes, provide as much information as possible, and also research the matter as best as you can. After completing your research, to those items that still do not know the answer to, just indicate you do not know.

Item 11d

Question: Over 30 years ago, when I was a teenager, I was arrested and charged with Driving Under the Influence (“DUI”). Do I have to disclose this?

Answer: If the arrest occurred in a jurisdiction that did not deem the DUI charge a civil traffic offense, but a criminal offense, you would need to disclose. In many states, a DUI is not considered a civil traffic offense, but a criminal offense.

Question: When I was 19, I walked out of a store with an item, it was an accident, but I was charged with shoplifting. The charges were ultimately dropped and I believe my record was expunged and besides, it happened so long ago when I was a youngster. Do I need to disclose?

Answer: If you know for a fact that your record was expunged, you do not need to disclose this information. If you are not sure if the record was expunged, it is best to disclose, and the fact that you were 19 is irrelevant.

Item 11h

Question: We had an employee that sued the company five years ago regarding alleged unpaid wages. The company was named in the suit, as well as myself and two other directors. Do I need to disclose this matter?

Answer: Yes, you were named. The instructional paragraph to item 12 of the Biographical Affidavit says, "Have **you** ever".

Item 11i

Question: I was personally involved in violating a small loan law, not intentionally; however, an official other than the Comptroller alleged the violation. Do I need to disclose this matter since the party alleging the violation was not a "Comptroller", per say.

Answer: Absolutely, disclose the information.

Item 11j

Question: When I went through my divorce, a foreclosure action was filed against me and my wife with regards to our home. It was not all my fault. Do I need to disclose this, especially since my wife was also named?

Answer: Yes.

Item 12

Question: I have established a Trust for each of my minor children to hold the stock of our family owned insurance company until they are 21 years of age. There are three children, and each child holds 13% of the stock. I am just Trustee, my ownership is 5%, but I can vote the children's stock. Do I have to disclose this?

Answer: Yes, you as an individual have the ability to vote 10% or more of the outstanding stock.

Item 13

Question: Within the holding company system, I own shares of stock of our Claims Management Company, a Managing General Agency, A Risk Management Company and a Computer Software Company. What do I need to disclose, if anything? My direct ownership percentage is 5% for each entity. Do I need to disclose anything?

Answer: No, refer to the definition of control in item 13 of the Biographical Affidavit.

Item 14

Question: I am personally in the midst of a bankruptcy proceeding at this time. Do I need to disclose the proceeding; it is still ongoing.

Answer: We suggest you disclose, and indicate the proceeding is ongoing.

Item 15a

Question: Prior to my being promoted to a key managerial position within the company, the company had its Certificate of Authority denied in Puerto Rico. This occurred six months ago. My promotion occurred last month. Do I need to disclose this information?

Answer: No, because at the time of the denial, you were not in the managerial position.

Item 15b

Question: Six months after I left the XYZ Insurance Company, where I held the position of Director, the company had their Certificate of Authority suspended, but it occurred twelve (12) years ago. Do I need to disclose?

Answer: Yes. The instructional paragraph to item 16 of the Biographical Affidavit would require that you disclose because the event occurred within twelve (12) months of your departure.

Item 15c

Question: Do I need to disclose market conduct fines imposed by the various State Insurance Departments? We had an incident where we utilized an unapproved form; 12 states fined us. This is a lot of information to disclose. What should we do?

Answer: Disclose.

Supplemental Personal Information Page

Item 2a

Question: I have been married several times. Do I have to list all my former names?

Answer: Yes, answer the question completely.

Item 2b

Question: Do I need to include just my nickname? For example, my peers know me as J.R., not John Robert Smith. Do I need to just fill in J.R. or J.R. Smith?

Answer: J.R. Smith

Question: I have utilized several aliases through out the years. I prefer to keep this information confidential. Am I required to disclose this information?

Answer: Yes.