### **Table of Contents**

# CHAPTER 1. THE AUTOMOBILE LIABILITY INSURANCE POLICY

- § 1:1 Overview of automobile insurance
- § 1:2 Construction of the policy
- § 1:3 Regulation and legislation
- § 1:4 Financial Responsibility Law
- § 1:5 Amounts of liability insurance required
- § 1:6 Evolution of standardized policy language
- § 1:7 Simplification of standardized automobile policy
- § 1:8 Grounds for cancellation of the automobile policy
- § 1:9 Procedure for cancellation or non-renewal
- § 1:10 Restatement of law of liability insurance
- § 1:11 Public policy

### CHAPTER 2. DEFINITION OF INSURED

- § 2:1 Overview of persons insured
- § 2:2 The named insured
- § 2:3 Spouse as named insured
- § 2:4 Residents in the same household
- § 2:5 Permissive users
- § 2:6 Second permittees
- § 2:7 Liability protection for persons legally responsible for use of automobile by an insured

## CHAPTER 3. DEFINITION OF INSURED AUTOMOBILE

- § 3:1 The insured automobile
- § 3:2 Owned automobile—In general
- § 3:3 —Newly acquired
- § 3:4 —Temporary substitute
- § 3:5 Non-owned automobile

# CHAPTER 4. OWNERSHIP, MAINTENANCE, OR USE OF INSURED AUTOMOBILE

- § 4:1 Overview of ownership
- § 4:2 Ownership of automobile
- § 4:3 Ownership of rental automobiles
- § 4:4 Maintenance of automobile
- § 4:5 Use of automobile—Loading and unloading
- § 4:6 —Miscellaneous

# CHAPTER 5. BODILY INJURY AND PROPERTY DAMAGE COVERAGE

§ 5:1 Duty of insurer to pay damages for bodily injury or property damage

- § 5:2 Punitive damages
- § 5:3 Limits of liability
- § 5:4 Contractual provisions regarding out-of-state accidents
- § 5:5 Interest recoverable

### CHAPTER 6. NOTICE OF ACCIDENT, CLAIM, OR SUIT

- § 6:1 Notice of accident to insurer
- § 6:2 Who may give notice
- § 6:3 Defective notice as a bar to coverage
- § 6:4 Time for notice of accident
- § 6:5 Notice of suit or other process
- § 6:6 Prior law regarding justification for failure to give timely notice

#### CHAPTER 7. DUTY TO DEFEND

- § 7:1 Duty to defend and policy limitations
- § 7:2 Scope of the duty to defend
- § 7:3 Refusal of insurer to defend
- § 7:4 Waiver and estoppel
- § 7:5 Allocation of cost of defense among insurers
- § 7:6 Liability for overzealous defense
- § 7:7 General ethical considerations in insurance defense
- § 7:8 Litigation guidelines and billing requirements

#### CHAPTER 8. SETTLEMENT OF CLAIMS

- § 8:1 General settlement considerations
- § 8:2 Liability of insurer for excess judgment
- § 8:3 Proving bad faith
- § 8:4 Factors negating allegations of bad faith
- § 8:5 Tennessee Consumer Protection Act

## CHAPTER 9. ASSISTANCE AND COOPERATION OF THE INSURED

- § 9:1 Necessity of cooperation of insured
- § 9:2 Failure of insured to attend trial
- § 9:3 Misrepresentation of insured as failure to cooperate
- § 9:4 Requirement of willful and intentional failure to cooperate
- § 9:5 Cooperation in subrogation efforts

#### CHAPTER 10. EXCLUSIONS

- § 10:1 Overview of policy exclusions
- § 10:2 Injury to employees of the insured
- § 10:3 Injuries to fellow employees
- § 10:4 Automobile business
- § 10:5 Other business of the insured
- § 10:6 Intentional injuries
- § 10:7 Use of vehicle as public conveyance
- § 10:8 Transportation network companies

#### Table of Contents

§ 10:9 Property of the insured
§ 10:10 Bodily injury to insured or members of household
§ 10:11 Vehicles available for regular use
§ 10:12 Non-permissive use
§ 10:13 Punitive damages
§ 10:14 Miscellaneous exclusions

### CHAPTER 11. WAIVER AND ESTOPPEL

- § 11:1 Overview of waiver
- § 11:2 Limitations upon waiver and estoppel

#### CHAPTER 12. OTHER INSURANCE

- § 12:1 Other insurance, statutory provisions
- § 12:2 Basic policy provisions
- § 12:3 Non-uniform and conflicting provisions

### CHAPTER 13. STATUTORY PROVISIONS REGULATING UNINSURED MOTORIST COVERAGE

- § 13:1 History and theory of UM coverage
- § 13:2 Overview of UM statute
- § 13:3 Statutorily required coverages
- § 13:4 Acceptance or rejection of UM coverage

# CHAPTER 14. PERSONS AND AUTOMOBILES INSURED UNDER UNINSURED MOTORIST COVERAGE

- § 14:1 Overview of persons covered for UM
- § 14:2 Relatives (or "family members") residing in household of named insured
- § 14:3 Permissive users or others occupying insured automobile
- § 14:4 Insured automobiles
- § 14:5 Primary and excess coverage

### CHAPTER 15. DAMAGES INSURED UNDER UNINSURED MOTORIST COVERAGE

- § 15:1 Damages for bodily injury
- § 15:2 Property damage
- § 15:3 Punitive damages
- § 15:4 Contribution among tort-feasors
- § 15:5 Interest recoverable

# CHAPTER 16. UNINSURED AND UNDERINSURED MOTOR VEHICLES DEFINED

- § 16:1 Overview of vehicles covered for UM
- § 16:2 Statutory and policy definitions and requirements
- § 16:3 Insolvent liability carrier; coverage denial by liability carrier

- § 16:4 Unidentified or hit-and-run motorists
- § 16:5 Missing or "hit-and-hide" motorists
- § 16:6 Underinsured motor vehicles

### CHAPTER 17. UNINSURED MOTORIST LITIGATION PROCEDURES

- § 17:1 Existence and amount of legal liability
- § 17:2 Suit against known uninsured motorist; suit against missing or "hit-and-hide" motorist
- § 17:3 Direct action against uninsured motorist carrier; enactment of "John Doe" procedure
- § 17:4 Right of uninsured motorist carrier to defend suit
- § 17:5 Coverage questions; severance from tort issues
- § 17:6 Arbitration of uninsured motorist claims
- § 17:7 Bankruptcy of uninsured or underinsured motorist

# CHAPTER 18. LIMITATIONS ON RECOVERY IN UNINSURED AND UNDERINSURED MOTORIST SITUATIONS

- § 18:1 Anti-"stacking" provisions
- § 18:2 Validity of offset provisions
- § 18:3 Workers' compensation: subrogation, credits, offsets and reductions

# CHAPTER 19. SPECIAL PROBLEMS WITH UNDERINSURED MOTORIST CLAIMS: SETTLEMENT PROCEDURES

- § 19:1 Overview of settlement problems in UM
- § 19:2 Remedial legislation for settlement in UIM situations with arbitration
- § 19:3 Overview of settlement problems
- § 19:4 Underinsured motorist settlement problems—Plaintiff's perspective
- § 19:5 —UIM carrier's perspective
- § 19:6 —Underinsured defendant's perspective

### CHAPTER 20. RIGHTS AND DUTIES OF UNINSURED MOTORIST CARRIER IN CLAIM HANDLING

- § 20:1 Duty of good faith and fair dealing
- § 20:2 Election to defend in own name or in name of uninsured motorist; right to participate in defense of case
- § 20:3 Subrogation
- § 20:4 Right of insurer to receive information and cooperation in presentation of claim

#### APPENDICES

APPENDIX A. Tennessee Code Annotated (Selected Provisions)

#### Table of Contents

APPENDIX B.	Family Automobile Policy
APPENDIX C.	Personal Auto Policy
APPENDIX D.	Personal Auto Policy (1985)
APPENDIX E.	Personal Auto Policy (1988)
APPENDIX F.	Personal Auto Policy (1994)
APPENDIX G.	Personal Auto Policy (1997)
APPENDIX H.	Personal Auto Policy (2003)
APPENDIX I.	Sample Engagement Letter to Follow Initial Interview
APPENDIX J.	Check List for Initial Client Interview
APPENDIX K.	Order of Settlement for Underinsured Case
APPENDIX L.	Ten Commandments of Uninsured Motorist Claims
APPENDIX M.	Answer of Uninsured Motorist Carrier

#### Table of Laws and Rules

**Table of Cases** 

Index