

*Insurance Regulation in
the (Wild) West:
Washington Update*

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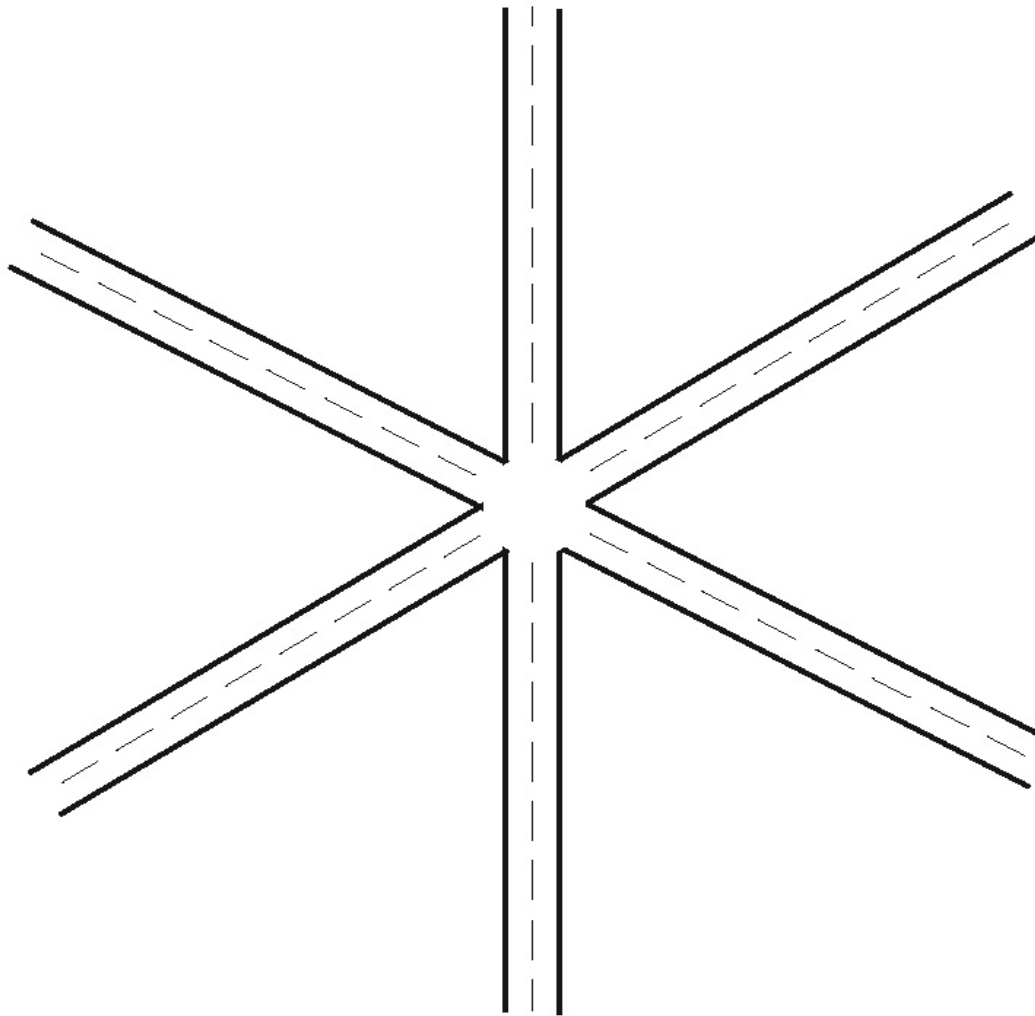
Office of Insurance Commissioner

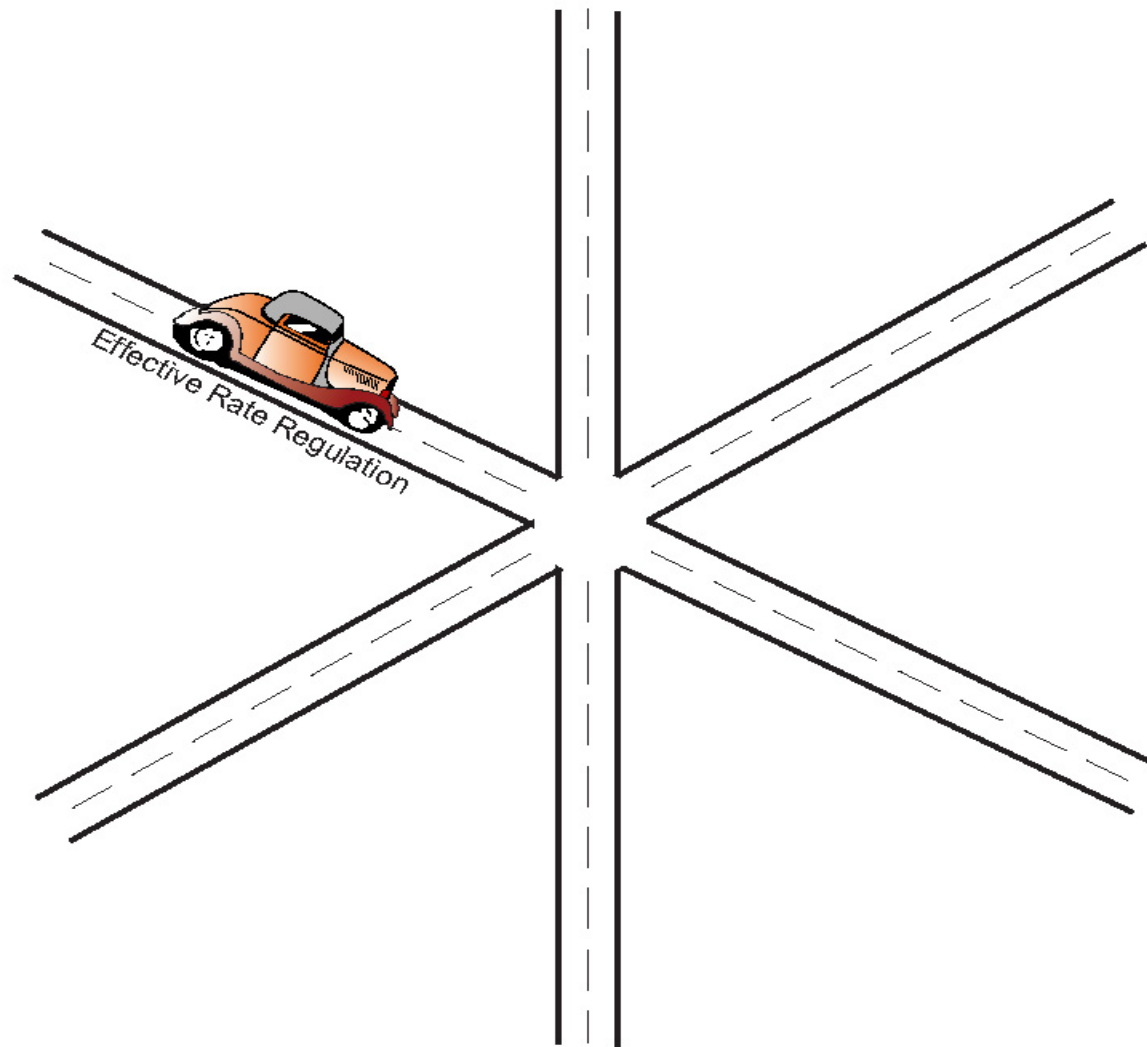


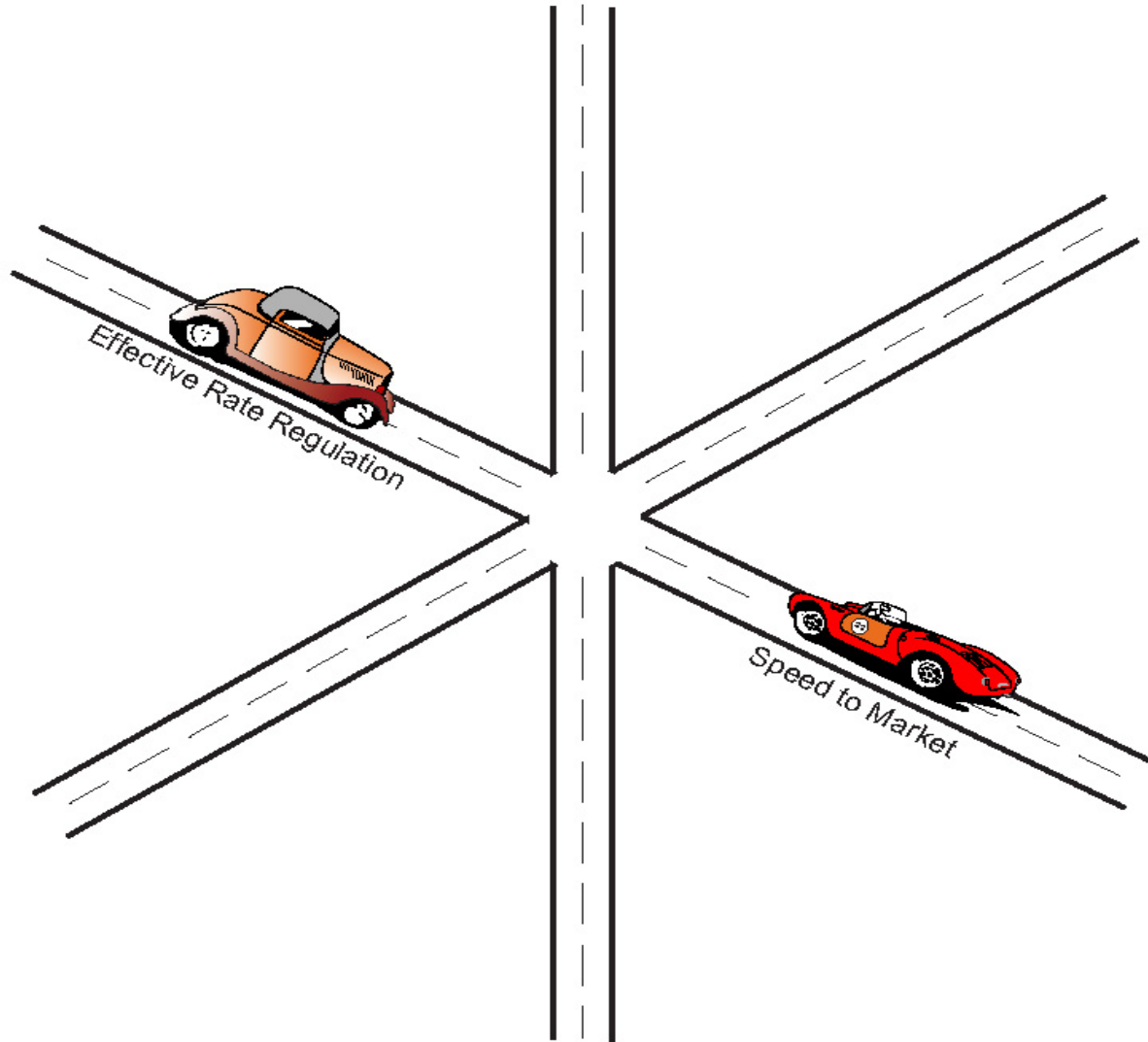
Topics

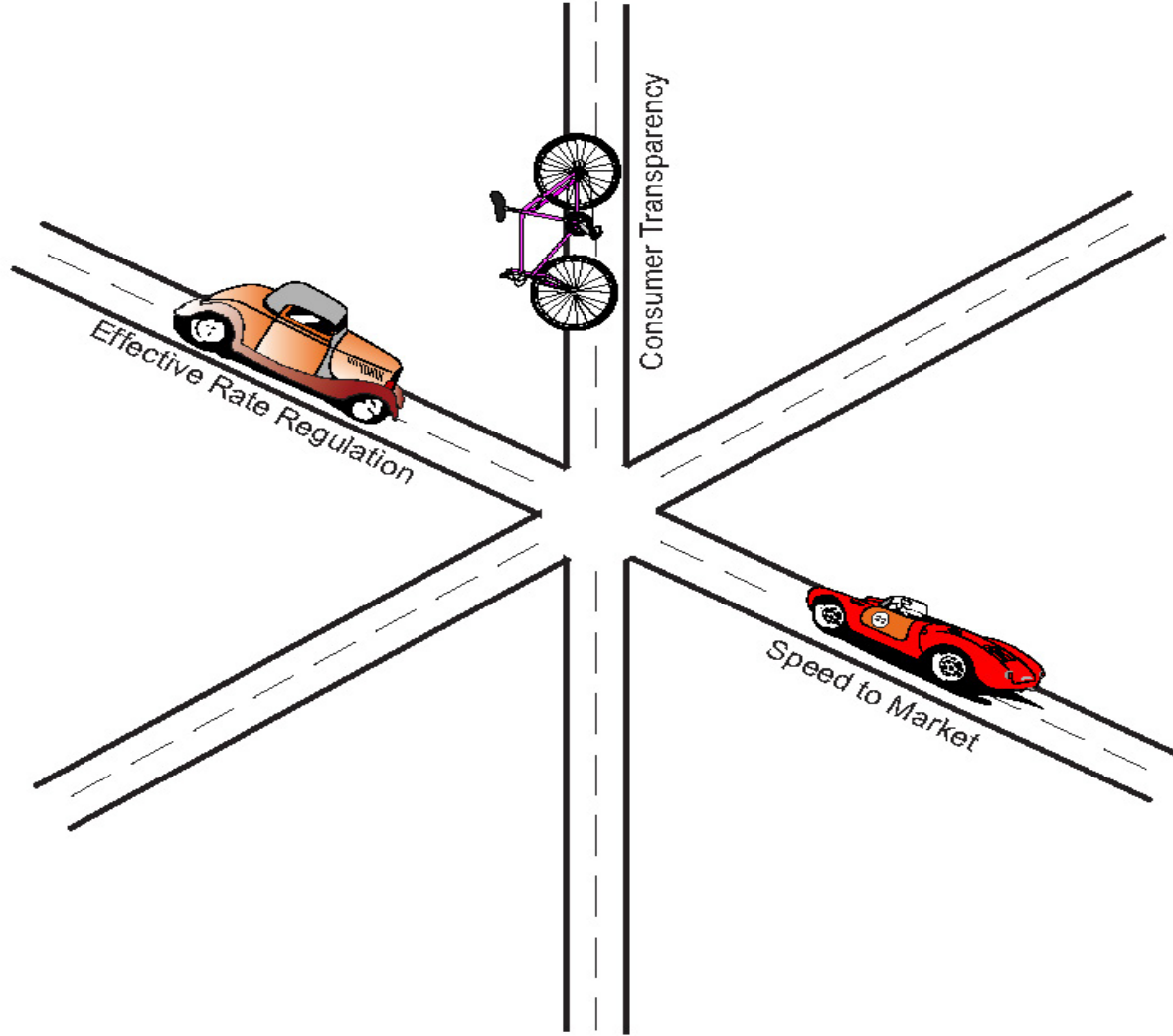
- Rate Filings: The Busy Intersection
- Insurance Scoring
- Medical Malpractice Closed Claim Reporting
- Pay As You Drive (PAYD)
- Q&A

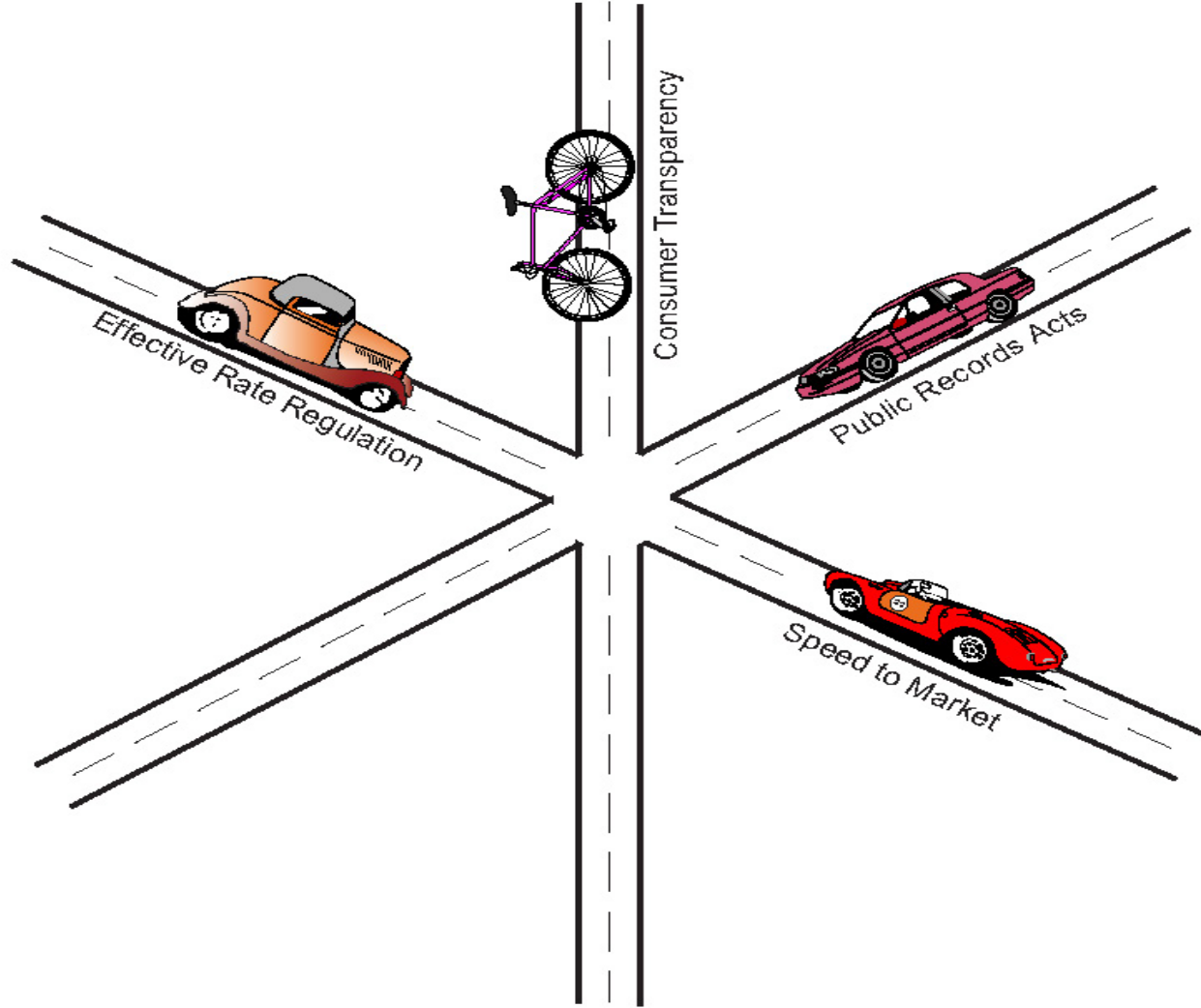


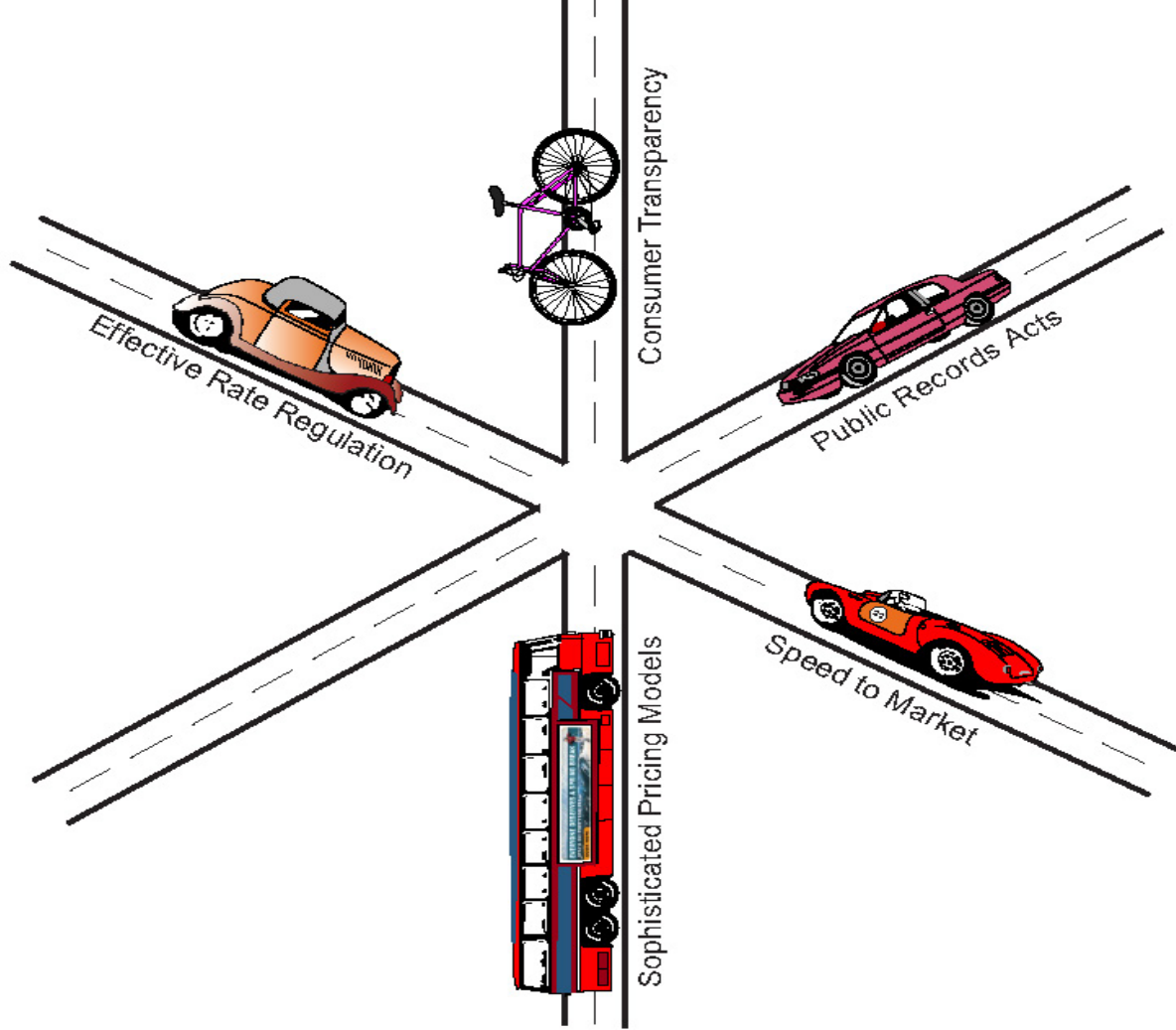


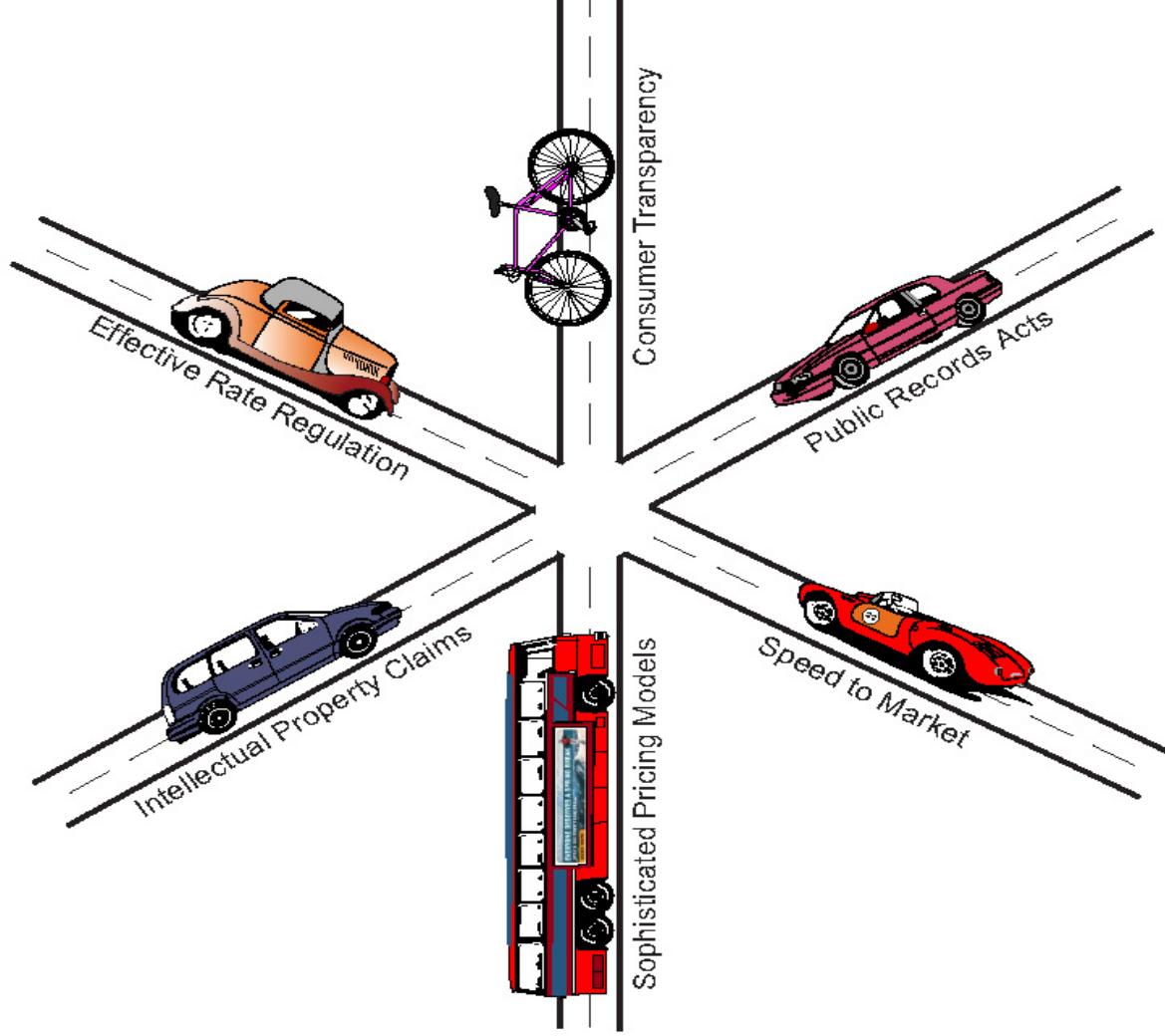


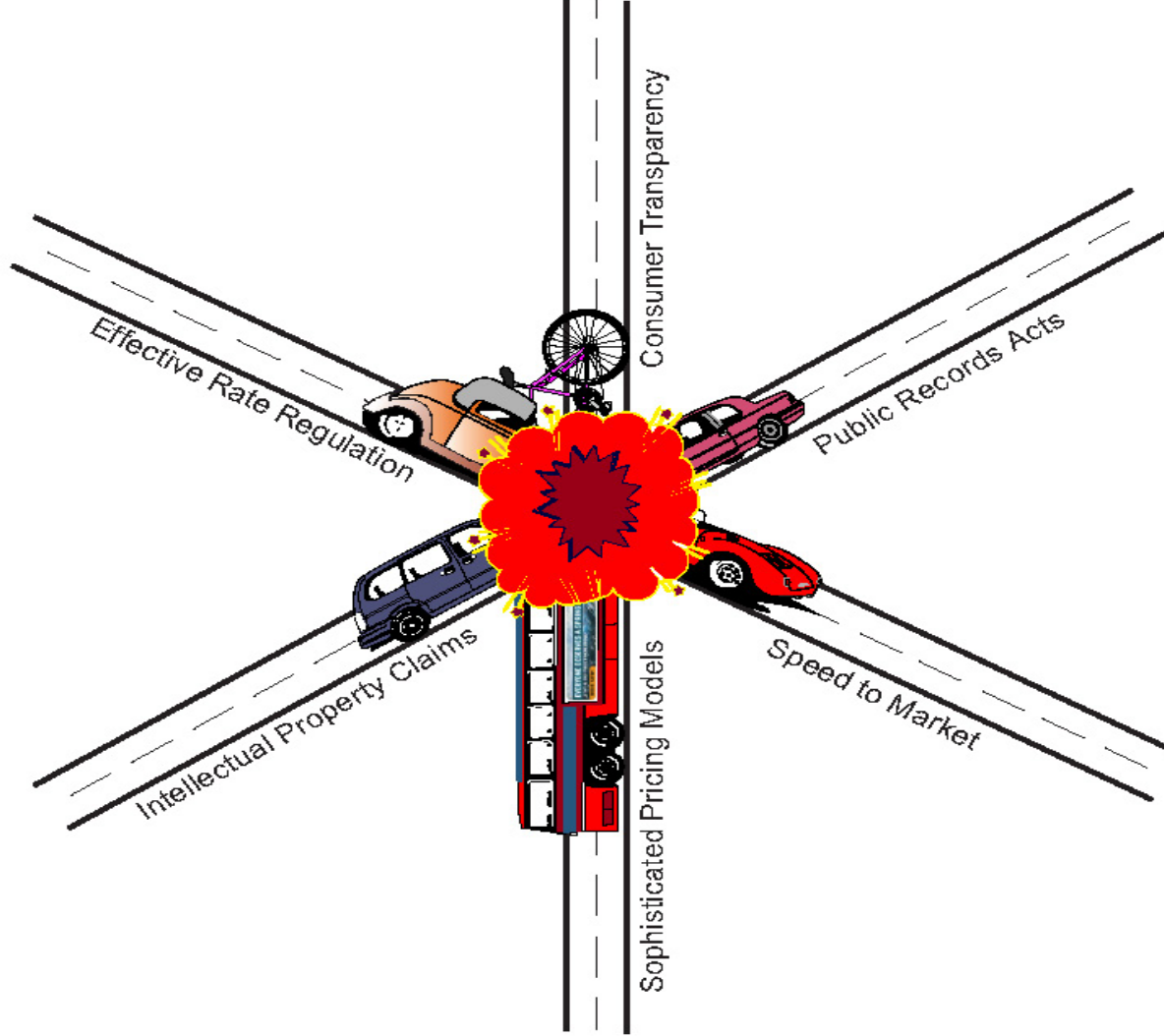












Industry focus

- How to keep the blue station wagon from colliding with the pink sedan
- Conflict between intellectual property claims and state public records acts needs to be resolved

Insurer “solutions”

- Complete openness with consumers and competitors
- Use a less-sophisticated model in order to avoid revealing the deepest secrets
- Disguise the model to prevent copying via optical character recognition devices
- And . . .

The 10,000-page rate filing!



Why this “solution”?

- RCW 48.19.040(1) requires the filing of a complete manual of rates and rules
- RCW 48.19.040(5) says the filing is public information as of the filing’s effective date
- If a manual lists the outcome from every possible combination of rating variables, it includes everything that’s needed to calculate the premium for any risk—but competitors can’t see the underlying formulas

This avoids the collision with public records acts, but . . .

- Collides with effective rate regulation: How can the regulator understand the filing? (There's a resource issue too.)
- Collides with speed to market: How long does it take to review 10,000 pages?
- Collides with consumer transparency: The manual is no help at all!

But it's not illegal, is it?

- RCW 48.19.040(2) requires you to file “sufficient information” to permit OIC to determine that the rates are not excessive, inadequate, or unfairly discriminatory
- If OIC can't figure it out, it's not “sufficient information”; the filing will be disapproved
- Under RCW 48.19.040(5) supporting information is public as of the filing's effective date

A regulatory actuary's advice

- Remember that your competitors are smarter than you think. If they really want your model, how long do you think your disguise will fool them?
- Find a way (transparency?) that avoids the other “collisions”
- Find a way that helps consumers make informed insurance-buying decisions

Insurance scoring

- Definition of insurance score
- Confidentiality
- Adverse action notices
- How broad should an insurance scoring model be?

“Insurance score” defined

- A number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit history
- RCW 48.18.545(1)(f)
- RCW 48.19.035(1)(d)

Confidentiality

- RCW 48.19.035(2)(a) protects your model from public disclosure if it
 - includes credit history; and
 - will be used for personal lines
- If not, it must be part of your rate filing, which is public information as of its effective date

“Adverse action” defined

- Cancellation, denial, or nonrenewal
- Not the lowest premium
- Not the broadest coverage
- For a more precise definition, see RCW 48.18.545(1)(a)

Adverse action notices

- RCW 48.18.545(2): “. . . The notice must state the significant factors of the credit history or insurance score that resulted in the adverse action. . . .”
- Consistent with the fact that the entire scoring model, not just the credit piece, is confidential

Company decision: How much stuff should our scoring model include?

- Considerations
 - Intellectual property claims
 - Policyholder/agent relations (how to explain?)
 - Ability to comply with adverse action notice law
- A regulatory actuary's perspective
 - Old view: More than just credit? GREAT!
 - New view: More than just credit? That's just more stuff they're hiding in the black box!

Safeco v. Burr

- Supreme Court decision in June 2007
- Also includes *GEICO v. Edo*
- Adverse action notices are required on new business, not just renewals
- Adverse action notices are required when premium is higher than for a neutral score, not the best score

What's next?

- We understand that the game is to find new ways to segment the risk pool and price the segments more accurately than competitors do
- We are concerned about possible discrimination associated with credit scoring but also:
 - Education
 - Occupation
 - The next great idea arising from predictive modeling

Chapter 48.140 RCW – medical malpractice closed claim reporting

- Insurers (incl. surplus lines), self-insurers and RRGs must report closed medical malpractice claims if:
 - Indemnity is paid to the claimant, and/or
 - Defense and cost containment expenses are paid
- Claimants and/or their legal representatives must report settlement data (RCW 7.70.140):
 - Indemnity payments received from all defendants
 - Legal expenses
- 2008 is the first data collection year and closed claim reports must be submitted the first quarter of 2009

Web-based system for closed claim reporting

- Washington has developed and implemented a site on which reporting entities can enter their claim data
 - User-friendly
 - Drop-down boxes
 - Prevents inconsistencies in the data entered
- The reporting system is compatible with the Medical Professional Liability Closed Claim Reporting Model Law adopted by the NAIC in September 2008
- Washington has offered this reporting system free of charge to any other states that wish to use it

Pay As You Drive

- Legal in Washington
- We strongly support the concept
- No PAYD programs filed to date
- King County is working with one insurer on a pilot program—to be filed soon
- Complex rating systems involving a “black box” would be difficult without a change in the law