I. Regulatory Limits on Claims-Handling

A. Timing for Responses and Determinations

Iowa Code Chapter 514A establishes laws related to Accident and Health Insurance. The Iowa Code establishes that all insurance policies issued in the state must include a provision stating that within 20 days of an occurrence or commencement of any loss covered by the policy, or as soon thereafter as reasonably possible, the insured must provide written notification to the insurer. Iowa Code § 514A.3(1)(e) (2017). After receiving notice of the claim, the insurer is required to send proof of loss forms to the insured. Iowa Code § 514A.3(1)(f) (2017). Thereafter, the insured has 90 days to submit written proof of loss to the insurer. Iowa Code § 514A.3(1)(g) (2017). The statute also provides that amounts due under the policy for any loss, other than a loss for which the policy provides periodic payments, must be paid immediately upon receipt of written proof of the loss. Iowa Code § 514A.3(1)(h) (2017).

Iowa Code section 507B.4A provides general rules for an insurer’s duty to respond to a claim and promptly pay or deny the claim. The statute authorizes the insurance commissioner to establish processes for timely adjudication and payment of claims by insurers for health care benefits. Accordingly, the Insurance Division enacted “Prompt Payment” regulations which became effective July 2, 2002. See Iowa Admin. Code r. 191-15.32(507B) (2017). Pursuant to the regulations, insurers subject to Iowa law are required to either accept and pay or deny a claim for health care benefits within 30 days of receiving the claim. Id. The regulation further provides that an insurer has 30 days from the receipt of a claim to request additional information to clarify the insured’s request for policy benefits. Id.

Iowa Code Chapter 505A establishes Iowa’s involvement in the Interstate Insurance Product Regulation Compact. Under this Chapter, the compacting states jointly and cooperatively act to promote and protect the interests of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products. Through a “Commission” established by the statute, the compacting states establish uniform standards for insurance products and related advertisements. The Commission, which is composed of a representative from each compacting state, has duties that include, but are not limited to, the promulgation of rules related to the chapter and the
review of insurance products and proposed advertisements filed with the Commission. See Iowa Code §§ 505A.1 et seq. (2011).


In 2003, the Iowa legislature established statutory protections related to health and accident insurance issued to National Guard and Armed Forces personnel who are under twenty-five and would otherwise be covered under another plan as a full-time student dependent. Iowa Code section 29A.43(2) provides that any time taken as a leave of absence during a period of temporary duty which would otherwise terminate coverage under a dependent student policy shall be considered a period of continuous coverage when the student returns to the insured dependent status as a full-time student.

B. Standards for Determinations and Settlements

Iowa Code section 507B.3 prohibits any person from engaging in unfair methods of competition, and unfair or deceptive acts or practices, but relies on Iowa Code section 570B.4, among others, to define the prohibited acts. Iowa Code section 507B.4(3)(j), specifically, enumerates claim settlement practices that the Iowa legislature has deemed unlawful. Prohibited practices include:

a. Misrepresenting pertinent facts or insurance policy provisions relating to coverages of issue.

b. Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

c. Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

d. Refusing to pay claims without conducting a reasonable investigation based upon all available information.

e. Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed.

f. Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear, or failing to include interest on the payment of claims when required under subsection “p” or section 511.38.

g. Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds.
h. Attempting to settle a claim for less than the amount to which a reasonable person would have believed the person was entitled by reference to written or printed advertising material accompanying or made part of an application.

i. Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured.

j. Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made.

k. Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

l. Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

m. Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

n. Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

o. Failing to comply with the procedures for auditing claims submitted by health care providers as set forth by rule of the commissioner. However, this paragraph shall have no applicability to liability insurance, workers' compensation or similar insurance, automobile or homeowners' medical payment insurance, disability income or long-term care insurance.

There are no specific provisions in Chapter 507B permitting a private cause of action for unfair claims practices, and, as such, the Iowa Supreme Court has explicitly found that no private cause of action exists. See generally Mueller v. Wellmark, Inc., 818 N.W.2d 244, 253-55 (Iowa 2012) (citing Seeman v. Liberty Mutual Ins. Co., 332 N.W.2d 35, 42-43 (Iowa 1982) (affirming district court's ruling that no private cause of action is provided for in Chapter 507B). The insurance commissioner, however, is granted extensive authority to enforce its provisions. See Iowa Code §§ 507B.6-8 (2017).

The insurance commissioner may issue a notice of hearing and conduct a hearing wherein the commissioner has the authority to administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, as well as having the power to subpoena witnesses or records. See Iowa Code § 507B.6(1), (4) (2017).
The insurance commissioner may issue cease and desist orders. See Iowa Code §§ 507B.6A(1); 507B.7(1) (2017).

The insurance commissioner may impose monetary penalties for violating Iowa’s insurance trade practices. See Iowa Code § 507B.7(1)(a) (2017).

The insurance commissioner may suspend or revoke an insurance company’s license to sell insurance based upon violations of the Act. See Iowa Code § 507B.7(1)(b) (2017).


As noted above, although the Iowa Supreme Court has recognized the validity of administrative sanctions imposed for violations of Chapter 507B, the court has repeatedly declined to adopt a private cause of action for alleged violations. See, e.g., Mueller, 818 N.W.2d at 254-55; Seeman v. Liberty Mut. Ins. Co., 322 N.W.2d 35, 36 (Iowa 1982). Instead, the court has found that the intent and purpose of the Insurance Trade Practices Act is to provide regulatory guidance. Seeman, 322 N.W.2d at 42. As such, the legislature “intended only to invest the insurance commissioner with administrative enforcement powers and that the chapter not be expanded in the exercise of administrative or judicial discretion.” Id. Consequently, based on legislative intent, the insurance commissioner is the sole repository of authority to enforce the requirements of Chapter 507B. Id.

In 2011, Chapter 514J was repealed and rewritten by the Iowa legislature. The current version of Chapter 514J provides uniform standards for establishing and maintaining external review procedures to assure that covered persons have the opportunity for an independent review of an adverse determination or final adverse determination made by a health carrier. It is important to note that, unless Chapter 514J provides otherwise, a covered person may not request an external review until the covered person has exhausted the health carrier’s internal grievance procedure. Iowa Code § 514J.106(1) (2017).

C. State Privacy Laws, Rules, and Regulations

The Gramm-Leach-Bliley legislation enacted by the United States Congress has profound implications on privacy issues at both the state and federal levels. The privacy regulations of the Health Insurance Portability and Accountability Act (HIPAA), effective April 14, 2003, also have important consequences regarding how an individual’s personal health information may be used and disseminated.

Section 505.17 of the Iowa Code governs the handling and protection of a customer’s confidential information obtained by the Insurance Division in the course of an investigation or examination. The statute provides that information, records, and documents obtained by the Insurance Division do not constitute public records and shall be treated as confidential.

In 2003 the Iowa legislature enacted a new provision pertaining to the sale of insurance policy term information by consumer reporting agencies. Iowa Code section 505.24 establishes that a consumer reporting agency shall not provide or sell data or lists that include any information that in whole or in part was submitted in conjunction with an insurance inquiry about a
consumer’s credit information or a request for the purpose of furnishing consumer reports to third parties and that uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. Iowa Code § 505.24(1) (2017). Section 505.24(2) provides the same protection to information submitted in conjunction with an insurance inquiry about a consumer’s credit information or a request for a credit report or insurance score. Information submitted in conjunction with an insurance inquiry about a consumer includes, but is not limited to, the expiration dates of an insurance policy or any other information that may identify time periods during which a consumer’s insurance may expire and the terms and conditions of the consumer’s insurance coverage. Iowa Code § 505.24(2) (2017).

The Financial and Health Information Regulations set forth in Iowa Administrative rule 191-90 create a right of privacy for insureds and claimants relating to information maintained by insurance companies, including claims filed. Generally, the regulations provide protection to an individual’s health information similar to the federal HIPAA privacy regulations. In the interest of information security, rule 191-90.37 requires insurers to implement security programs to safeguard a customer’s confidential health information.

In addition to the foregoing regulations, Iowa law also includes disclosure restrictions focused on specific entities and relating to particular medical conditions. Medical, hospital and counseling records maintained by a public entity regarding the condition, treatment, diagnosis or care of a patient generally maintain their status as confidential records and are not subject to public inspection unless otherwise ordered by a court, the lawful custodian of the records, or by another person duly authorized to release the information. Iowa Code § 22.7(2) (2017). Records maintained by an HMO are subject to the physician-patient privilege, and officers, directors, employees and others associated with the HMO are prohibited from disclosing any privileged communication made to a provider. See Iowa Code § 514B.30 (2017). Further, HMOs are generally prohibited from releasing the names of its members except for research and analysis regarding cost or quality issues. Id.

Medical and related information concerning a patient’s substance abuse treatment or mental health issues is afforded strong privacy protection under Iowa law. These types of information are generally not disclosed without the patient’s express, written authorization. Iowa Code §§ 125.37, 125.93, 228.2 and 228.3 (2017). Third party payors (including insurers) are required to file written statements with the commissioner of insurance agreeing to maintain the confidentiality of mental health information and to destroy the information when it is no longer needed. Iowa Code § 228.7(1)(2017). Information concerning HIV testing or the HIV status of an insured is kept strictly confidential and cannot be released even upon subpoena, search warrant or discovery request. Iowa Code § 141A.9 (2017). Physicians and others are required to report information, including identifying information, about communicable diseases, brain injuries and venereal diseases. See Iowa Code §§ 22.7(16), 139A.3, 135.22 (2017); Iowa Admin. Code 641-1.3 (2017). In addition, the state has authorized various agencies to collect vital statistics on such medical records as birth defects. Iowa Code § 136A.6 (2017); Iowa Admin. Code §641-4.7 (2017). The state and providers are required to keep this information confidential except for legitimate research purposes.
II. Principles of Contract Interpretation

When construing or interpreting the meaning of insurance policy provisions, Iowa courts strive to ascertain the intent of the parties at the time the policy was sold. Ferguson v. Allied Mut. Ins. Co., 512 N.W.2d 296, 299 (Iowa 1994) (citations omitted).

Importantly, Iowa courts note a distinction between “interpretation” and “construction” of insurance contracts. Interpretation, which requires the court to determine the meaning of contractual words, is a legal question unless the meaning of the language “depends on the extrinsic evidence or on a choice among reasonable inferences from extrinsic evidence.” Ferguson, 512 N.W.2d at 299 (quoting Connie’s Constr. Co. v. Fireman’s Fund Ins. Co., 227 N.W.2d 207, 210 (Iowa 1975)). Construing a contract, however, requires the court to determine the legal effect of the contract terms, which is always an issue of law for the court to resolve. Ferguson, 512 N.W.2d at 299 (citing Connie’s Constr. Co., 227 N.W.2d at 210).

“[I]nsurance contracts are construed in the light most favorable to the insured.” Id. Similarly, exclusions are strictly construed against the insurer. Ferguson, 512 N.W.2d at 299 (citing Bankers Life Co. v. Aetna Cas. & Sur. Co., 366 N.W.2d 166, 169 (Iowa 1985)). “When construing insurance policies ‘the objective reasonable expectation of applicants and intended beneficiaries regarding the terms of the insurance contracts will be honored even though painstaking study of the policy provisions would have negated those expectations.’” Ferguson, 512 N.W.2d at 299 (quoting Grinnell Mut. Reins. Co., 431 N.W.2d 783, 786 (Iowa 2008)). Accordingly, the principle of reasonable expectation “undergirds the congeries of rules applicable to construction of insurance contracts in Iowa.” Ferguson, 512 N.W.2d at 299 (quoting Rodman v. State Farm Mut. Auto. Ins. Co., 208 N.W.2d 903, 906 (Iowa 1973)).

Finally, when construing insurance policies, Iowa courts consider the effect of the policy as a whole, in light of all declaration, riders and endorsements attached. Ferguson, 512 N.W.2d at 299 (citations omitted).

III. Choice of Law

When a choice of law issue exists, Iowa courts apply the choice of law rules set forth in the Restatement (Second) Conflict of Laws to determine the applicable state law to govern a dispute. Cole v. State Auto. & Cas. Underwriters, 296 N.W.2d 779, 781 (Iowa 1980). Specifically, Iowa courts determine choice of law issues in insurance coverage cases by the intent of the parties or the most significant relationship test. Gabe’s Constr. Co., Inc. v. United Capitol Ins. Co., 539 N.W.2d 144, 146 (Iowa 1995) (citing Cole v. State Auto. & Cas. Underwriters, 296 N.W.2d 779, 781 (Iowa 1980)). A choice of the governing law by the parties, if reasonable, will be enforced based on the provisions of section 187 of the Restatement (Second). Cole, 296 N.W.2d at 781. Absent a choice of the governing law in the policy, the parties’ rights are determined by the law of the state which “has the most significant relationship to the transaction and the parties.” Gabe’s Constr. Co., Inc., 539 N.W.2d at 146 (quoting Restatement (Second) of Conflicts of Law § 188(1) (1971)).

IV. Extracontractual Claims Against Insurers: Elements and Remedies

A. Bad Faith
To establish a first party bad faith claim under Iowa law, the claimant must provide substantial evidence supporting the following two elements: (1) that the insurer had no reasonable basis for denying benefits under the policy; and (2) that the insurer knew, or had reason to know, that its denial was without basis. McIlravy v. North River Ins. Co., 653 N.W.2d 323, 329 (Iowa 2002); United Fire & Cas. Co. v. Shelly Funeral Home, Inc., 642 N.W.2d 648, 657 (Iowa 2002). The first element is objective, while the second element is subjective. Bellville v. Farm Bureau Mut. Ins. Co., 702 N.W.2d 468, 473 (Iowa 2005).

A reasonable basis for denying insurance benefits exists if the claim is “fairly debatable” as to either a matter of fact or law. Gibson v. ITT Hartford Ins. Co., 621 N.W.2d 388, 396 (Iowa 2001); see also Covia v. Robinson, 507 N.W.2d 411, 416 (Iowa 1993). “A claim is ‘fairly debatable’ when it is open to dispute on any logical basis.” Bellville, 702 N.W.2d at 473. Whether a claim is “fairly debatable” can generally be determined by the court as a matter of law. Id. (quoting Gardner v. Hartford Ins. Accident & Indem. Co., 659 N.W.2d 198, 206 (Iowa 2003)) (stating “That is because '[w]here an objectively reasonable basis for denial of a claim actually exists, the insurer cannot be held liable for bad faith as a matter of law.'”) (emphasis added). If the court determines that the defendant had no reasonable basis upon which to deny a claim, it must then determine if the insurer knew, or should have known, that the basis for denying the employee's claim was unreasonable. Rodda v. Vermeer Mfg. 734 N.W.2d 480, 483 (Iowa 2007).

“[W]hen an objectively reasonable basis for denying the claim exists, the insurer cannot be held liable for bad faith as a matter of law.” Seastrom v. Farm Bureau Life Ins. Co., 601 N.W.2d 339, 346 (Iowa 1999) (citing Sampson v. American Standard Ins. Co., 582 N.W.2d 146, 150 (Iowa 1998)). “The reasonable basis for denying the claim, however, must exist at the time the claim is denied.” Id. While an insurer must investigate a claim, “an imperfect investigation, standing alone, is not sufficient cause for recovery if the insurer in fact has an objectively reasonable basis for denying the claim.” Seastrom, 601 N.W.2d at 347 (citation omitted). “In fact, where an insurer has an objectively reasonable basis to deny coverage, it has no duty to investigate further before denying the claim.” Id. (referencing Morgan v. American Family Mut. Ins. Co., 534 N.W.2d 92, 98 (Iowa 1995)).

There is still considerable debate regarding whether the Iowa Supreme Court significantly altered Iowa’s bad faith law in Bellville v. Farm Bureau Mut. Ins. Co., 702 N.W.2d 468 (Iowa 2005). Arguably, the Iowa Supreme Court adopted a “directed verdict” standard for bad faith claims in Bellville. Under this rule, “[u]nless the trial court is prepared to grant a directed verdict to the insured on his claim under the policy . . . it follows that reasonable minds could disagree about the insured’s entitlement to the policy proceeds[]” and, “[t]herefore, the insurer should be entitled to a directed verdict in its favor on the insured’s bad faith claim . . . .” Bellville, 702 N.W.2d at 474 (quoting Stephen S. Ashley, Bad Faith Actions Liability & Damages § 5:04 (2d ed. 1997)). Thus, the existence of a submissible jury question on the insured’s entitlement to policy benefits will generally, though not automatically, establish that the issue is fairly debatable. See Reuter v. State Farm Mut. Auto. Ins., 469 N.W.2d 250, 254 (Iowa 1991). While some courts have inferred that Bellville significantly limits bad faith claims in Iowa because most bad faith claims can now be determined as a matter of law, other courts have opined that Bellville did not significantly
alter Iowa’s existing bad faith law. Compare generally Calvert v. American Family Ins. Group, No. 5-828/04-1074, 2006 Iowa App. LEXIS 57 at *12-13 (Iowa Ct. App. Jan. 19, 2006) (finding, based on Bellville, a bad faith case can almost always be decided as a matter of law) with Niver v. Travelers Indem. Co., 412 F. Supp. 2d 966, 978-79 (N.D. Iowa 2006) (finding that Bellville did not significantly change Iowa’s existing bad faith law); Zimmer v. Travelers Ins. Co., 454 F. Supp. 2d 839, 867 (S.D. Iowa 2006) (same). Specifically, in Niver v. Travelers Indem. Co., 412 F. Supp. 2d 966 (N.D. Iowa 2006), the Federal District Court for the Northern District of Iowa found that Bellville did not significantly change bad faith law in Iowa because the Bellville decision “does not expressly reject or distinguish any statement of the applicable standards in any prior case; instead the formulation of the applicable standard in Bellville relies primarily on prior Iowa decisions.” Niver 412 F. Supp. 2d at 978-79. The Niver court opined that any contention that Bellville adopted a “directed verdict” rule is undermined by the fact that the Court in Bellville cited, with approval, its earlier decision in Reuter v. State Farm Mut. Auto. Ins. Co., 469 N.W.2d 250, 254 (Iowa 1991) wherein the Iowa Supreme Court rejected a “directed verdict” rule. Id. at 979. Accordingly, a debate remains in Iowa regarding the effect of the Bellville decision and, more specifically, whether the “directed verdict” rule applies to bad faith claims. This debate will likely continue until the Iowa Supreme Court clarifies the issue.

Finally, Iowa courts follow the standard established in Section 184(1) of the Restatement (Second) of Agency for settlements between an agent and the insured, where both the agent and the insurer are joined as defendants in a cause of action. See Seastrom, 601 N.W.2d at 345. Under the Restatement, a plaintiff’s settlement with the agent does not operate as a release of the insurer’s liability. See id.

B. Fraud

“In general, ‘fraudulent misrepresentations leading to the creation of a contract gives rise to a right of rescission.’” Rubes v. Mega Life and Health Ins. Co., Inc., 642 N.W.2d 263 (Iowa 2002) (quoting Robinson v. Perpetual Servs. Corp., 412 N.W.2d 562, 568 (Iowa 1987)). When a party relies on equitable rescission due to fraud, five elements must be proven: 1) a representation; 2) falsity; 3) materiality; 4) an intent to induce the other to act or refrain from acting; and 5) justifiable reliance. Rubes, 642 N.W.2d at 269 (citing Hyler v. Garner, 548 N.W.2d 864, 872 (Iowa 1996)). Fraud must be established by a preponderance of clear, satisfactory and convincing evidence. McGough v. Gabus, 526 N.W.2d 328 (Iowa 1995). Concealment of or failure to disclose a material fact can constitute fraud, provided the nondisclosure is by a party that is under a duty to communicate the concealed fact. Id.

The intent required is only that the applicant intends to induce the company into acting favorably on the application. See Rubes, 642 N.W.2d at 269. There is no requirement of intent to deceive the company, only intent to induce issuance of the policy in question. Id.

Although a plaintiff cannot blindly rely on a misrepresentation, the falsity of which would be apparent if the plaintiff had made a cursory investigation, the standard for justifiable reliance is subjective, i.e., whether the complaining party, in view of his own information and intelligence, could reasonably rely or had a right to rely on the representations. See McGough, 526 N.W.2d 332.
C. **Intentional or Negligent Infliction of Emotional Distress**

A plaintiff must establish four elements to make a prima facie showing of intentional infliction of emotional distress: (1) outrageous conduct by the defendant; (2) intent to cause, or reckless disregard of the probability of causing, emotional distress; (3) severe or extreme emotional distress; and (4) actual and proximate causation of the emotional distress by the outrageous conduct. *Millington v. Kuba*, 532 N.W.2d 787, 793 (Iowa 1995) (citation omitted).

Iowa Courts have noted that "[i]t is for the court to determine in the first instance, [sic] as a matter of law, whether the conduct complained about may reasonably be regarded as outrageous." *Northrup v. Farmland Indus., Inc.*, 372 N.W.2d 193, 198 (Iowa 1985) (citing *Vinson v. Linn-Mar Community Sch. Dist.*, 360 N.W.2d 108, 118 (Iowa 1984) and *Roalson v. Chaney*, 334 N.W.2d 754, 756 (Iowa 1983)). To be sufficiently outrageous within the meaning of this cause of action, the conduct must be "so extreme in degree as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community." *Vinson v. Linn-Mar Comm. Sch. Dist.*, 360 N.W.2d 108, 118 (Iowa 1984) (citations omitted).

D. **State Consumer Protection Laws and Regulations**


Iowa also has a general consumer fraud statute that criminalizes unfair and deceptive practices in the lease, sale or advertisement of "any merchandise" or the solicitation of contributions for charitable purposes. *Iowa Code § 714.16(2)(a)* (2017). It is well settled under Iowa law, however, that this Act does not create a private cause of action on the part of a consumer. *Stepp v. State Farm Mut. Auto. Ins. Co.*, No. 06-CV-2027-LRR, 2006 2006 WL 2038596, at *3-4 (N.D. Iowa July 19, 2006); *Molo v. River City Ford Truck Sales*, 578 N.W.2d 222 (Iowa 1998).

E. **State Class Actions**

Iowa has adopted the Uniform Class Action Rules. *Iowa R. Civ. P. 1.261 et. seq.* Under these rules, a representative can sue on behalf of a class if: (1) the class is so numerous or so constituted that joinder of all members, whether or not otherwise required or permitted, is impracticable; (2) there is a question of law or fact common to the class; (3) the court finds that the class action should be permitted for the fair and efficient adjudication of the controversy; and (4) the court finds that the designated
representative parties will fairly and adequately protect the interests of the class. Iowa R. Civ. P. 1.261-1.262. In making the determination, the Court looks to the several factors enumerated in Rule 1.263, and enters an order either certifying or denying class status pursuant to Rule 1.264. The certification order is appealable. Id. Trial courts, however, are vested with broad discretion in certification of class actions and appellate review is limited to whether the trial court abused this discretion. Martin v. Raytheon, 497 N.W.2d 818, 819 (Iowa 1993) (citations omitted). Iowa’s class action rules are remedial in nature and are liberally construed to favor the maintenance of class actions. See Comes v. Microsoft Corp., 696 N.W.2d 318, 320 (Iowa 2005).

V. Defenses in Actions Against Insurers

A. Misrepresentations/Rescission of Insurance Contract for Misrepresentation

Iowa law permits equitable rescission of an insurance contract where fraudulent misrepresentations provided the basis for instituting coverage under a policy. See Rubes v. Mega Life and Health Ins. Co., 642 N.W.2d 263, 269 (Iowa 2002). The elements of an equitable rescission claim include: (1) a representation; (2) falsity; (3) materiality; (4) an intent to induce the other to act or refrain from acting; and (5) justifiable reliance. See id. “In an equitable rescission action, it is not the knowledge of falsity that is at issue, but ‘whether misrepresentations induced the complaining party to contract.’” Id. (quoting Utica Mut. Ins. Co v. Stockdale Agency, 892 F. Supp. 1179, 1195 (N.D. Iowa 1995)). Where an application asks a prospective insured to speculate about the status of his or her health, responses to such general queries must, in good faith, be truthful. See id. at 271. Where, however, an application seeks “straightforward answers to known past information,” an insurer is justified in relying on the answers provided. See id.

Intoxication is also a defense to a life insurance policy including an explicit intoxication exclusion. See Benavides v. J.C. Penney Life Ins. Co., 539 N.W.2d 352 (Iowa 1995). “A person is under the influence of alcohol and therefore intoxicated when one or more of the following are true: (1) the person’s reason or mental ability has been affected; (2) the person’s judgment is impaired; (3) the person’s emotions are visibly excited; and (4) the person has, to any extent, lost control of bodily actions or motions.” Id. at 355. “[I]ntoxication is determined by focusing upon the insured’s reasoning and mental abilities, judgment, emotions and physical control. Many facts are potentially relevant, only one of which is the insured’s blood alcohol level.” Id.

B. Pre-existing Illness or Disease Clauses

1. Small Group Health Coverage

In order for a carrier or organized delivery system (which offers small group health insurance coverage) to impose a pre-existing condition exclusion, with respect to a participant or beneficiary, the following requirements must be met:

(A) The exclusion relates to a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care,
or treatment was recommended or received within the six-month period ending on the enrollment date. However, genetic information shall not be treated as a condition under this subparagraph in the absence of a diagnosis of the condition related to such information. Iowa Code § 513B.10(3)(a)(1) (2017) (emphasis added).

(B) The exclusion extends for a period of not more than twelve months, or eighteen months in the case of a late enrollee, after the enrollment date. Iowa Code § 513B.10(3)(a)(2) (2017).

(C) The period of any such pre-existing condition exclusion is reduced by the aggregate of the periods of creditable coverage applicable to the participant or beneficiary as of the enrollment date. Iowa Code § 513B.10(3)(a)(3) (2017).

A carrier or organized delivery system shall not impose any pre-existing condition exclusions in the following ways:

(A) In the case of a child who is adopted or placed for adoption before attaining eighteen years of age and who, as of the last day of the thirty-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. This subparagraph shall not apply to coverage before the date of such adoption or placement for adoption. Iowa Code § 513B.10(3)(b)(1) (2017).

(B) In the case of an individual who, as of the last day of the thirty-day period beginning with the date of birth, is covered under creditable coverage. Iowa Code § 513B.10(3)(b)(2) (2017).


2. **Long Term Care Insurance**

A long-term care insurance policy or certificate shall not use a definition of pre-existing condition which is more restrictive than the following:

(A) “Pre-existing condition” means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services within six months preceding the effective date of coverage of an individual. Iowa Code § 514G.103(15) (2017); Iowa Code § 514G.105(2)(a) (2017).

A long-term care insurance policy or certificate, other than a policy or certificate issued to a group as described in section 514G.103, subsection 9, shall not exclude coverage for a loss or confinement that is the result of a pre-existing condition under the loss or confinement begins within six months following the effective date of coverage of an insured individual.
More importantly, the definition of “pre-existing condition” does not prohibit an insurer from:

(A) Using an application form designed to elicit the complete health history of an applicant, and on the basis of the answers on that application, underwriting in accordance with that insurer’s established underwriting standards. Unless otherwise provided in the policy or certificate, a pre-existing condition, regardless of whether it is disclosed on the application, is not required to be covered until the waiting period described in Iowa Code § 514G.105(2)(b) expires. A long-term care insurance policy or certificate shall not exclude, or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described pre-existing diseases or physical conditions beyond the waiting period described in Iowa Code § 514G.105(2)(b)&(d)(2017).

3. Individual Health Benefit Plans

The individual basic or standard health benefit plan shall not deny, exclude or limit benefits for a covered individual for losses incurred more than twelve months following the effective date of the individual’s coverage due to a pre-existing condition. A pre-existing condition shall not be defined more restrictively than any of the following:

(A) A condition that would cause an ordinary prudent person to seek medical advice, diagnosis, care or treatment during the twelve months immediately preceding the effective date of coverage;

(B) A condition for which medical advice, diagnosis, care or treatment was recommended or received during the twelve months immediately preceding the effective date of coverage; or

(C) A pregnancy existing on the effective date of coverage. Iowa Code at §§ 513C.7(a) – (c) (2017).

In addition to the foregoing, section 514A.3B has several additional requirements. Section 514A.3B requires an insurer that accepts an individual for coverage under an individual policy, or contract of accident and health insurance to waive any time period applicable to a pre-existing condition exclusion, or limitation period requirement of the policy or contract with respect to particular services in an individual health benefit plan for the period of time the individual was previously covered by qualifying previous coverage as defined in section 513C.3, by chapter 249A or 514I, or by Medicare coverage provided pursuant to Tit. XVIII of the federal Social Security Act that provides benefits with respect to such services, provided that the coverage was continuous to a date not more than sixty-three days prior to the effective date of the new policy or contract. Iowa Code § 514A.3B(1)(2017). An insurer issuing an individual policy or contract of accident and health insurance which provides coverage for children of the insured shall permit continuation of existing coverage or re-enrollment in previously existing coverage for an individual who meets the requirements of
section 513B.2, subsection 14, paragraph "a", "b", "c", "d", or "e", and who is an unmarried child of an insured or enrollee who so elects, at least through the policy anniversary date on or after the date the child marries, ceases to be a resident of this state, or attains the age of twenty-five years old, whichever occurs first, or so long as the unmarried child maintains full-time status as a student in an accredited institution of postsecondary education. Iowa Code § 514A.3B(2) (2017). A carrier or an organized delivery system shall not modify a basic or standard health benefit plan with respect to an individual or dependent through riders, endorsements or other means to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan. Iowa Code at § 513C.7(3) (2017).

C. Statutes of Limitations

The statute of limitations in an insurance coverage claim depends on whether the plaintiff asserts a cause of action based upon contract or tort theories. Actions based upon a breach of written contract are subject to a ten year limitations period. Iowa Code § 614.1(5) (2017). Alternatively, personal injury actions based on a tort claim are subject to a two year limitations period. Iowa Code § 614.1(2) (2017). This two year limitation period commences when the plaintiff discovers the injury, or by reasonable diligence should have discovered it. Nixon v. State, 704 N.W.2d 643, 646 (Iowa 2005) (citations omitted). Similarly, actions based on a medical malpractice claim are limited to two years after the date the claimant knew, or through reasonable diligence should have known, of the injury or death for which damages are sought. Iowa Code § 614.1(9) (2017).

Under common law, this exception to the two year statute was referred to as the "discovery rule." Chrischilles v. Griswold, 150 N.W.2d 94, 100 (Iowa 1967), superseded by statute as stated in Rathje v. Mercy Hosp., 745 N.W.2d 443 (Iowa 2008). Under the common law discovery rule, knowledge of the injury was imputed when a person gained knowledge sufficient to put the person on inquiry notice, triggering a duty to investigate even though the person might not possess full knowledge or facts of the nature of the problem that caused the injury. Langner v. Simpson, 533 N.W.2d 511, 517 (Iowa 1995).

Iowa case law has raised the question, at least with respect to cancer, of whether the statutory language of Iowa Code section 614.1(9) has eliminated "inquiry notice" with respect to the common law discovery rule, and replaced it with the requirement that a claimant actually be diagnosed with the injury that forms the basis of the claim and have knowledge of its factual cause before the limitation commences. See Murtha v. Calahan, 745 N.W.2d 711 (Iowa 2008) (holding that an "injury" does not occur merely upon the existence of the continuing undiagnosed condition, but rather occurs when the problem grows into a more serious condition which poses greater danger to the patient or which requires more extensive treatment); Rathje v. Mercy Hosp., 745 N.W.2d 443 (Iowa 2008) (holding the limitations period under 614.1(9) does not begin until discovery of both the injury and its factual cause); see also Rock v. Warhank, 757 N.W.2d 670 (Iowa 2008) (holding that plaintiff could not, and should not, have known of her injury until the day of diagnosis and that common law notions of inquiry notice should not be incorporated into the statute). Iowa courts continue to cite these cases with approval. Accordingly, it is unclear whether, or to what extent, the elimination of inquiry notice with regard to medical malpractice claims will impact tort actions generally.
Additionally, the Iowa Supreme Court has recognized that reduced contractual limitations periods, established within an insurance policy, are enforceable if the limitations period is reasonable. *Nicodemus v. Milwaukee Mut. Ins. Co.*, 612 N.W.2d 785, 787 (Iowa 2000). Such a contractual limitation period “must provide a reasonable period of time for filing actions to recover under the insurance contract.” Id. (citation omitted). Notably, in a case where the Iowa Supreme Court found a contractual limitation period to be clearly unreasonable and, therefore, invalid, the court adopted the standard ten-year limitations period for written contracts under Iowa Code section 614.2 as the applicable limitations period. *Faeth v. State Farm Mut. Auto. Ins. Co.*, 707 N.W.2d 328, 334-35 (Iowa 2005).

Where an insurance policy is ambiguous as to when the limitations period begins to run, the “general rule is that the contract statute of limitations commences upon the date the contract is breached.” *Hamm v. Allied Mut. Ins. Co.*, 612 N.W.2d 775, 784 (Iowa 2000) (referencing *Diggan v. Cycle Sat, Inc.*, 576 N.W.2d 99, 102 (Iowa 1998)). A breach occurs when an insurer denies an insured’s request for benefits. *Hamm*, 612 N.W.2d at 784.

VI. **Beneficiary Issues**

Iowa Code section 514A.3 requires all accident and sickness policies to include a “Change of Beneficiary” provision. Specifically, section 514A.3 provides:

> Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

(The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.).

With respect to dissolution of marriage, the general rule in Iowa is that dissolution of marriage does not automatically void a beneficiary designation naming the former spouse. See *Schultz v. Schultz*, 591 N.W.2d 212, 214 (Iowa 1999) (citing *Sorensen v. Nelson*, 324 N.W.2d 477, 479 (Iowa 1984)). Rather, courts will look to the language of the dissolution decree, and any stipulations or settlement agreements governing the parties’ property rights to determine how the parties intended to address pre-dissolution beneficiary designations. See *Schultz v. Schultz*, 591 N.W.2d at 214. The court will examine these documents to determine whether the dissolution court disposed of the parties’ contingent interest or whether the parties waived such interests as part of the dissolution of marriage. See id.

VII. **Interpleader Actions**

Under Iowa law, interpleader actions are governed by the Iowa Rules of Civil Procedure, not statute. Iowa’s interpleader rules are located at Iowa Rules of Civil Procedure 1.251 through 1.257. Interpleader actions may be initiated by a plaintiff, see Iowa R. Civ. P. 1.251 (2017) or defendant, see Iowa R. Civ. P. 1.252 (2017). To protect the subject of an interpleader action, the court may enjoin all parties to the action from beginning or prosecuting any other suits regarding the subject of the interpleader until
it provides further notice. See Iowa R. Civ. P. 1.255 (2017). This injunctive relief is available once the interpleader petition and the original notices have been filed. See id.

The object of an interpleader action is not to protect a party against double liability, but a double vexation with respect to one liability. See Hoyt v. Gouge, 101 N.W. 464, 464 (Iowa 1904)(citations omitted). A party seeking interpleader must be a stakeholder, but that party must contest his liability to one or all claimants, and he must be exposed to claims of the same kind, debt or duty. See Spahn & Rose Lumber Co. v. Iowa Steel & Const. Co., 131 N.W.2d 791, 793 (Iowa 1964).

In interpleader proceedings, the first proposition to be established is the plaintiff’s entitlement to maintain interpleader. See C.F. Sales, Inc. v. Amfrt, Inc., 334 N.W.2d 542, 550 (Iowa 1983)(citation omitted). Once plaintiff establishes that proposition, trial and adjudication of defendants’ claims follows. See C.F. Sales, Inc., 334 N.W.2d at 550. After plaintiff’s right to maintain interpleader is established, the various claims, cross-claims and counterclaims of the parties to the interpleader action are either tried in equity or at law according to their nature. See C.F. Sales, Inc., 334 N.W.2d at 551. With regard to the dispute to be tried at law, parties are entitled to a jury trial of issues upon proper jury demand. See id.

A. Availability of Fee Recovery

Pursuant to Iowa Rule of Civil Procedure 1.256, “[c]osts may be taxed against the unsuccessful claimant in favor of the successful claimant and the party initiating the interpleader.” The Iowa Supreme Court instructed “[w]e do not think that the term costs should be given a narrow interpretation of court costs only.” See C.F. Sales, Inc.,334 N.W.2d at 551. In C.F. Sales, the interpleader stored certain personal goods that were the subject of the interpleader action incurring storage cost. See id. Based on a broad reading of the term “costs,” the Court awarded the successful interpleader its storage costs incurred during the pendency of the interpleader action.

What is less clear, however, is whether costs include attorneys’ fees. In C.F. Sales, Inc., the Iowa Supreme Court applies the majority rule regarding recovery of attorneys’ fees in interpleader actions to award the interpleader its attorneys’ fees, but the Court does not explicitly indicate that it adopts the majority rule. See 334 N.W.2d at 552-53. The rule the Court applied is the following:

[A] party who is faced with conflicting claims to funds or property in his possession, or has reasonable doubt as to the party entitled thereto, who stand indifferent between the claimants and claims no interest in the funds or property, and who in good faith interpleads the various claimants, is entitled to an allowance for fees.

See C.F. Sales, Inc., 334 N.W.2d at 552. In this analysis, the Court notes that the key question is whether the interpleader is “indifferent” to the claimants. See id.

B. Differences in State vs. Federal Circuit

When the Iowa Supreme Court adopted civil rules, it followed the substance of Federal Rule 22, but made some changes in structure. See C.F.
Sales, Inc., 334 N.W.2d at 550 (citations omitted). Accordingly, Iowa’s interpleader rules echo the broad form of interpleader adopted by the United States Supreme Court. See id.; see also Iowa Rule of Civil Procedure 2.251 (2017) Official Comment.