WEST VIRGINIA INFORMATIONAL LETTER

NO. 65

JULY, 1989

TO: All Insurance Companies Licensed To Do Business
In The State Of West Virginia, Insurance Trade
Associations, Insurance Media Publications And
All Other Interested Persons

The purpose of this Informational Letter is to briefly summarize significant insurance legislation enacted during the 1989 regular session of the West Virginia Legislature. This letter is not to be construed as inclusive of all legislation which may affect the insurance industry or insurance consumers, but rather, is intended to highlight the more important bills.

Persons seeking a copy of particular legislation should contact the West Virginia Legislature, Senate Clerks Office 304/357-7800 or House Clerks Office 304/340-3200, Main Unit, State Capitol, Charleston, West Virginia 25305.

SUMMARY OF 1989 LEGISLATION

HOUSE BILL 2286 -- LICENSING OF FRATERNAL BENEFIT SOCIETY AGENTS

This bill makes Article 12 of the West Virginia Code applicable to all fraternal benefit society agents. This includes the licensure and examination requirements of these agents. Exempted from the examination requirements and the continuing education requirements is any person who is a salaried officer, employee or member of a fraternal benefit society and who as an occasional and incidental duty of such position may solicit a fraternal contract from a fraternal member; they can receive no compensation based upon such solicitation and make no solicitation of persons not members of the fraternal society. Any person acting or serving as an agent for a fraternal benefit society on or before July 1, 1989, is exempt from the examination requirement.

The legislation became effective June 1, 1989.

HOUSE BILL 2391 -- FILING AND APPROVAL OF ACCIDENT AND SICKNESS RATES

This bill grants the Commissioner authority to review and approve individual and group accident and sickness rates prior to use in West Virginia. Experience rated group policies are exempted from rate approval. The Commissioner is directed to promulgate a regulation to establish minimum ratemaking standards in accordance with accepted actuarial principles and practices.

This legislation became effective July 5, 1989.

HOUSE BILL 2417 -- RATE AND FORM FILING REVIEW PERIOD

This bill standardizes the review period for all rate and form filings at sixty (60) days and eliminates extension periods. The exception is medical malpractice rate filings whose review period remains sixty (60) days plus a thirty (30) day extension. When a company files a request for an increase in automobile liability rates in the amount of fifteen (15) percent or more, the Commissioner is directed to provide notice of the increase with the Secretary of States Office.

This legislation became effective July 1, 1989.

HOUSE BILL 2526 -- LONG TERM CARE INSURANCE

This bill establishes disclosure, performance and minimum benefit standards in long term care insurance. The Commissioner is authorized to adopt regulations regarding loss ratio standards.

This legislation became effective July 3, 1989.

HOUSE BILL 2588 -- ANNUAL AUDITED FINANCIAL REPORT AND RATE AND FORM FILING FEES

Pursuant to the section of this bill which deals with rate and form filing fees, the fees are increased from ten dollars ($10) to twenty-five dollars ($25). Those classes of insurers who are subject to these filing fees are: farmers mutual fire, fraternal benefit societies, Blue Cross/Blue Shield plans, dental service corporations, health maintenance organizations and health service corporations as well as standard insurers.

Regarding the matter of annual audited financial reports, this bill requires the following classes of domestic insurers to annually file with the Commissioner an audited financial report prepared by a CPA approved by the Commissioner: stock insurers, mutual insurers, farmers mutual fire insurers, fraternal benefit societies, Blue Cross/Blue Shield plans, dental service corporations, health service corporations, health maintenance organizations, risk retention groups and captives. This bill further requires the CPA to report to the Commissioner and the insurers any material misstatements by the insurers of their financial conditions or any determination by the CPA of the insurers financial conditions. Exemptions to this audit may be granted by the Commissioner if such an audit would constitute financial or organizational hardship to a given insurer.

This legislation became effective July 7, 1989.

HOUSE BILL 2636 -- WEST VIRGINIA HEALTH CARE INSURANCE PLAN ACT

This bill contains legislative findings which note that sixteen (16) percent of West Virginians are without health insurance; eighty (80) percent of these persons are below the federal poverty level and approximately seventy-six thousand (76,000) of these uninsured are employed by small businesses.

The Public Employees Insurance Agency (PEIA) is directed to develop and implement a plan to provide health insurance coverage for these individuals with assistance from the Insurance Commissioner upon the request of the PEIA. This plan is exempt from the provisions of the insurance code and state anti-trust laws.

This legislation became effective July 5, 1989.

HOUSE BILL 2583 -- LEGISLATIVE RULE AUTHORIZATION OF THE MEDICARE SUPPLEMENT TRANSITIONAL REGULATION

This bill authorizes the Insurance Commissioner to promulgate as a legislative rule the Medicare Supplement Transitional Regulation currently in effect on an emergency basis.

This legislation became effective April 8, 1989.

SENATE BILL 252 -- TEMPOROMANDIBULAR JOINT DISORDER (TMJ) BENEFITS

This bill requires the Insurance Commissioner to promulgate a regulation governing TMJ benefits in individual and group accident and sickness policies.

This regulation must specifically address: 1) that benefits apply whether services are rendered by a dentist or physician; 2) the manner in which coverage shall be offered and 3) the projected actuarial costs of implementing regulations. The bill further directs the Commissioner to appoint a six (6) member advisory panel which consists of a general practicing dentist, an oral and maxillofacial surgeon, a physician, a member of a health service corporation and a member representing commercial health insurers. The selection of this panel must be made by July 31, 1989. This regulation applies to Blue Cross/Blue Shield plans and health maintenance organizations as well as standard insurers.

This legislation became effective July 1, 1989.

SENATE BILL 264 -- DECLINATION OF AUTOMOBILE INSURANCE

This bill identifies nine (9) specific incidences in which an insurer, agent or broker may not decline auto insurance coverage to consumers. The insurers are required to notify applicants in writing of reasons for any declinations within thirty (30) days of receipt by the insurers of non-binding request for coverage.

The definition of "declination" includes cancellation of an auto policy in effect less than sixty (60) days and nonrenewal of an auto policy in effect less than two (2) years. The definition of "declination" does not include offering coverage with a company within an insurance group which is different than a company requested on an application or offering coverages and rates substantially less favorable than that request on the application. A list of penalties has been provided for violations of this statute. Disciplinary fines for each willful violation may be assessed up to five-thousand dollars ($5,000) per occurrence.

This legislation became effective July 5, 1989.

SENATE BILL 296 -- WEST VIRGINIA ESSENTIAL INSURANCE ASSOCIATION

This bill amends Section 33-20A-5 of the West Virginia Code to provide that operating deficits off WVEIA are recouped from insurers rather than insureds. Insurers are provided with a premium tax credit of the rate of twenty (20) percent for five (5) successive years following payments by the insurers of any operating deficit assessments. It is further directed that the WVEIA is exempt from the requirements of the valued policy law under Section 33-17-9 of the West Virginia Code.

This legislation became effective July 5, 1989.

SENATE BILL 440 -- AGENT, BROKER, SOLICITORS AND EXCESS LINE BROKER DISCIPLINARY MATTERS

This bill establishes a list of twelve (12) specific reasons for which an agent, broker, solicitor and excess line broker can be fined or have his/her license suspended or revoked.

Disciplinary fines are increased from up to one hundred dollars ($100) per occurrence to up to one thousand dollars ($1,000) per occurrence. Insurers are required to notify in writing both the agent and the Commissioner of termination of the agents authority to represent the insurers. Notice of termination must be provided within five (5) working days of termination and state the causes and circumstances of termination. In the absence of fraud or bad faith, the Commissioner, the insurer and their representative employees are given immunity for furnishing information as to the causes and circumstances of the termination.

This legislation became effective July 5, 1989.

SENATE BILL 523 -- REIMBURSEMENT FOR MAMMOGRAPHY AND PAP SMEAR TESTING UNDER ACCIDENT AND SICKNESS POLICIES

This bill requires that any individual or group accident and sickness policy which provides reimbursement or indemnity for laboratory or x-ray services must also provide reimbursement or indemnity for mammograms or pap smears when performed for cancer screening or diagnostic purposes. Minimum benefit standards for these tests are provided. This statute applies to Blue Cross/Blue Shield plans and health maintenance organizations in addition to standard insurers.

This legislation became effective July 1, 1989.

SENATE BILL 576 -- MEDICAL MALPRACTICE LIABILITY COVERAGE FOR OBSTETRIC TREATMENT OF MEDICAID PATIENTS

This bill directs the State Board of Risk and Insurance Management to provide medical malpractice liability coverage for all medical practitioners who provide obstetric treatment which is reimbursed or reimbursable by state medicaid funds. Such coverage is to be in an amount determined by the State Board of Risk, but in no event less than one million dollars ($1,000,000) for each occurrence.

This legislation became effective April 8, 1989.

HANLEY C. CLARK
INSURANCE COMMISSIONER