WEST VIRGINIA INFORATIONAL LETTER

NO. 110

MAY, 1998

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 1998 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, nor should it be construed as a comprehensive explanation of the bills addressed. Rather, it 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.

S.B. 25 – Women's Direct Access To Health Care

No individual or group health benefits policy may require, as a condition for coverage of primary and preventive obstetrical and gynecological services, that a woman first obtain a referral from a primary care physician. For those policies providing surgical services, coverage may not be denied for breast reconstruction following a mastectomy or reconstructive/cosmetic surgery required because of an injury sustained by an act of family violence. Each policy must disclose, in writing, the females right to direct access of a health care provider as well as any specific policy exclusions or policy limitations of coverage. No additional co-pays or deductibles for women's direct access to in-network participating providers may be imposed unless the same additional cost-sharing is imposed on other types of health care services.

This bill becomes effective **June 12, 1998.**

S.B. 361 - HMO Patients Bill Of Rights & Women's Direct Access To Health Care

Health maintenance organizations are mandated to provide a "bill of rights" to their subscribers. Those rights to be addressed to the subscribers are listed in the bill. The notice of these rights will be on a form prescribed by the Insurance Commissioner.

This bill also puts into effect provisions regarding women's direct access to health care. With the exception of establishing as mandated benefits breast reconstruction following a mastectomy and reconstructive/cosmetic surgery for an injury sustained through an act of family violence, all other provisions noted in S.B. 25 have been placed into law under this bill as well.

This bill becomes effective **June 12, 1998.**

H.B. 2388 - Hearing Impairment Testing For Newborns

The physician or midwife in attendance of an infant at birth is required to perform a test for hearing loss unless the infant's parents refuse to have the test conducted. This testing is a mandated benefit for all policies issued by individual accident and sickness insurers, group accident and sickness insurers, health maintenance organizations, hospital service corporations, medical service organizations, dental service corporations and health service corporations. The Director of the Division of Health is to establish by rule a date for implementation of the testing protocol. The date of implementation cannot be any later than July 1, 1999.

This bill becomes effective **June 12, 1998.**

H.B. 2550 - Auto Liability Cancellation Notice

A notice of cancellation for nonpayment of premiums of an automobile policy is not considered void because the notice includes the amount of premium due or the date by which the payment of premiums was to be paid.

This bill becomes effective **June 12, 1998.**

H.B. 4038 - Parity For State-Chartered Banks In Selling Of Insurance

State-chartered banking institutions with a main or branch office in a place with a population of no more than five thousand (5,000) may, from that place or through a controlled subsidiary, act as an agent in the selling of insurance for companies authorized in this State to do such business. State-chartered banks are also granted the authority to act as agents in the selling of annuities. The Commissioner of Banking is to promulgate a regulation regarding the policies and procedures to be followed in these activities.

This bill becomes effective **May 17, 1998.**

H.B. 4043 - Emergency Medical Services

Insurers must provide coverage for emergency medical services necessary to screen and stabilize an emergency medical condition. No prior authorization of the screening or stabilization services is required if a prudent layperson, acting reasonably, believes that an emergency medical condition exists. These provisions must be adhered to from July 1, 1998, through June 30, 2000. Definitions are established for "Emergency medical services", "Prudent layperson" and "Emergency medical condition." Health maintenance organizations must submit to the Insurance Commissioner periodic reports regarding their emergency services utilization and costs. Individual accident and sickness insurers, group accident and sickness insurers, hospital service corporations, medical service corporations, dental service corporations, health service corporations, health care corporations and health maintenance organizations must comply with this bill.

This bill becomes effective **June 12, 1998.**

H.B. 4220 - Delivery Method For Cancellation Notice Of Auto Liability Insurance

The method in delivering notice to an insured that his/her automobile liability policy will be canceled has been amended from registered or certified mail to regular mail.

This bill becomes effective **June 12, 1998.**

H.B. 4259 - Limited Benefits Policies

Level premium limited benefits forms must achieve certain minimum loss ratios like other limited benefits forms. For purposes of computing loss ratios for such forms, reserves against future claims are regarded as claims actually paid; this treatment is available until the year 2003, at which time the Legislature is expected to reevaluate the matter. Any limited benefits insurer which falls short of the applicable minimum loss ratio may respond by issuing, a cash refund, or by changing the premiums of benefits associated with the form in question to achieve the minimum ratio over the lifetime of the form. Premium refunds must be made at three year intervals beginning in the year 2000. Civil penalties have been established for failure to comply.

This bill becomes effective **June 12, 1998.**

H.B. 4283 -- Annuity Mortality Tables

A rule, adopting the National Association of Insurance Commissioners model proposal "Recognizing Annuity Mortality Tables For Use in Determining Reserve Liabilities for Annuities," must be proposed. The N.A.I.C. model proposal incorporates the "Annuity 2000 Mortality Table" and the " 1994 Group Annuity Reserving Table." The rule must be proposed by July 1, 1998.

This bill becomes effective **June 12, 1998.**

H.B. 4299 – Children's Health Program

There is created the West Virginia children's health program. This program will be administered by a division director within the Department of Health and Human Resources. A board is established with its purpose being to develop plans for health services or health insurance that are specific to the needs of children and to bring fiscal stability to the program. The board will design the benefit plans, establish the maximum levels of reimbursement to providers and establish the types and levels of cost to families of covered children. During the states fiscal year 1999, benefits shall be made available to children ages six (6) through eighteen (18) whose custodial parents or guardians have an income equal to or less than one hundred fifty percent (150%) of the federal poverty level.

This bill became effective **March 14, 1998.**

H.B. 4518 -- HMO Municipal B & O Tax

Municipal business and occupation tax for health maintenance organizations is limited to one-half of one percent (.5%). When gross income is received from government sources, this rate applies only to the portion of the income used for "administrative expenses," which are defined in the bill as "expenditures.. . other than expenses paid for claims incurved or payments made to providers for the benefits received by enrollees." When gross income is received from private sources, this limitation does not apply and the rate applies to all of the gross income. The limits on rates established in this bill are retroactive to January 1, 1997, and the bill provides that an HMO may recover any municipal B&O tax payments made prior to that date.

This bill becomes effective **June 12, 1998.**