



**STATE OF NEW YORK
INSURANCE DEPARTMENT**
25 BEAVER STREET
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George E. Pataki
Governor

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**Circular Letter No. 5 (2003)
March 7, 2003**

**TO: ALL INSURERS AUTHORIZED TO WRITE PROPERTY/CASUALTY INSURANCE IN NEW YORK STATE
AND INSURANCE PRODUCER ORGANIZATIONS**

RE: TREATMENT OF POLICYHOLDERS SERVING IN ACTIVE MILITARY DUTY

With the activation of U. S. military personnel including the Reserves and National Guard (many of whom are New Yorkers) for service both overseas and to protect our homeland, concerns regarding the continuation of insurance coverage for affected individuals have been raised. Given the situation, the Department urges the New York insurance community to take steps to avoid imposing additional burdens and hardships on those who have put aside their personal and professional interests in order to serve their country.

Accordingly, the Department requests that all property/casualty insurers notify their insureds, as soon as practicable, that if they are called to active duty, they may designate an adult third party to receive bills and other notices related to their insurance coverage. The third party's name, address, and telephone number, along with a statement signed and dated by the third party indicating their agreement to become a third party designee should be submitted to the insurer.

The notice should also indicate that the insured has the option of suspending coverage without any penalties. With respect to automobile insurance, insureds should be reminded that applicable conditions for suspension need to be complied with, such as surrender of registration and plates to the Department of Motor Vehicles.

With respect to claims-made professional liability policies, it is the Department's position that, during the period of active duty, the professional liability insurance policy of an affected individual should continue to permit reporting of claims arising out of incidents that took place prior to that period, but should be suspended in all other respects, including payment of further premiums, until the insured returns from military duty to professional practice. At the point of such return, coverage and premium payments for such coverage should resume, based on the claims-made step at the time of activation, with the policy's expiration date adjusted in order to reflect the duration of the individual's intervening military service.

For example, a physician, who began the third year of claims-made coverage on November 1, 2002, is called into active military service on March 1, 2003. The physician is discharged, and returns to civilian practice, on June 1, 2003. During the three-month period of military service, the physician's policy will provide coverage for any claims arising out of medical incidents which took place prior to March 1, 2003, and the physician is not billed for any remaining premium due on the policy. Upon return to practice on June 1, 2003, third-year claims-made coverage as well as premium billing resume, and the expiration date of the policy will become February 1, 2004 (November 1, 2003 + three months).

Many professional liability insurers already have appropriate rules and policy language on file which were filed in response to the Department's request in connection with the Gulf War in 1990. Insurers should file appropriate manual rules and endorsements to provide for this suspension of coverage if they do not currently have such provisions.

Due to the difficulty in effecting replacement coverage, insurers should give special consideration to military personnel by refraining from nonrenewing policies while the named insured remains in active duty status and all premium payments remain current.

Very truly yours,

Mark Presser
Assistant Deputy Superintendent and
Chief Examiner
Property Bureau