

April 1, 1988

SUBJECT: INSURANCE

Circular Letter No. 6 (1988)

Dated April 1, 1988

TO: ALL INSURERS WRITING GROUP ACCIDENT & HEALTH INSURANCE

This Circular Letter replaces Circular Letter 8 of 1967, dated November 28, 1967, which indicated that then Section 221(7) of the Insurance Law, since recodified as Section 4235(h)(3), prohibited the payment of higher commissions to insurance agents contingent upon their producing business with a favorable loss ratio. We have reconsidered our previous position and have decided that under certain circumstances this Department would permit the payment of contingent commissions.

Accordingly, this Department will not object to compensation being paid to insurance agents for group accident & health insurance based upon the production of business with a favorable loss ratio, provided the insurer demonstrates that neither conflicts of interest between the insured and the agent, such as the agent having control over payment of claims, nor unlawful discrimination are thereby encouraged or permitted. Situations where such payments are allowed will be closely monitored by this Department.

[SIGNATURE]

JAMES P. CORCORAN

Superintendent of Insurance