



STATE OF NEW YORK  
INSURANCE DEPARTMENT  
160 WEST BROADWAY  
NEW YORK, NEW YORK 10013

**NOTE: WITHDRAWN EFFECTIVE OCTOBER 11, 2002**

Circular Letter No. 4 (1994)  
April 7, 1994

TO: All Insurers Licensed to Write Motor Vehicle Physical Damage Insurance in New York State and Insurance Producer & Adjuster Organizations

RE: Scope of Referrals to Motor Vehicle Repair Shops

Section 2610 of the New York Insurance Law prohibits insurers who provide collision or comprehensive coverage from requiring any insured to use a particular place or shop to have repairs made to their vehicle. Except for a claim solely involving window glass, under § 2610, an insurer cannot even recommend or suggest repairs to be made to such a vehicle in a particular place or shop once a claim has arisen, unless the insured requests a recommendation or suggestion.

The Insurance Department received numerous complaints alleging that insurers have been "steering" insureds to specific repair shops. As a result, the Department performed market conduct investigations into the practices of the three insurers receiving the most complaints. These investigations uncovered certain practices that might be considered questionable under § 2610. As a result, the insurers have agreed with the Department to modify their procedures.

The purpose of this Circular Letter is to inform the insurance community of what should be learned from these market conduct investigations on so-called steering. Although the investigations involved only three insurers, other insurers may be following procedures that would be at odds with the Insurance Department's interpretation of § 2610.

In order to assure that claims handling procedures do not conflict with the Department's interpretation of § 2610, if the following guidelines are used by insurers licensed to write motor vehicle collision or comprehensive physical damage insurance in New York State and by insurance producers and adjusters, they will be deemed in compliance with § 2610:

1. Once a claim has been reported, there can be no referral or recommendation to a specific repair facility, nor may any listing of repair facilities be given to the insured, unless and until a request is made by the insured or a notice of rights letter has been issued pursuant to the requirements of Regulation 64. This notice of rights letter describes Section 2610 of the New York Insurance Law and must be issued to the insured when the insurer, after negotiating in good faith, fails to reach an agreed price with the insured, the insured's Designated Representative, or repairer of the insured's choice.

The notice of rights letter explains that the insurer's offer is sufficient to repair the insured's vehicle at a repair shop reasonably located conveniently to the insured. It further states that the insurer is able to identify a qualified repair shop that will repair the insured's vehicle at the insurer's estimate, but the insurer cannot make such recommendation unless expressly requested by the insured, as evidenced by the insured's completion of a "Section 2610 of the Insurance Law Disclosure Statement."

2. Insurers may maintain a repair program and in the ordinary course of business disseminate directly or through their agents information and literature fully describing the program's existence and benefits, to prospective customers, to applicants and to policyholders. It is understood that sales or renewal materials of this kind may reach a policyholder who has a pending claim. Consistent with paragraph one above, however, literature referring to any repair program or insurer guarantees concerning repairs, should not be knowingly distributed to a policyholder once a claim has been reported.

3. No insurer should suggest to their policyholders who present claims that the policyholder should request a recommendation or referral, including by distributing copies of § 2610 itself. For example, signs mentioning or describing an insurer's repair program should not be displayed at any drive-in claim facility, sales office or other insurer locations.

However, an insurer is not precluded from maintaining brochures and other written information at those same sites that explain or, indeed, espouse the insurer's repair program, if such materials are not publicly displayed and are not distributed to policyholders, unless a request has first been made by the policyholder or a notice of rights letter has been issued pursuant to the requirements of Insurance Department Regulation 64. This restriction does not apply to non-policyholders, such as prospective customers and applicants.

4. Once the choice of a repair shop has been made by the insured, there should be no discussion with the insured regarding that choice, unless:

- o a subsequent request for a recommendation for a repairer is made;
- o documented complaints from claimants about that repair shop have been logged by the insurer;
- o complaints about that repair shop have been reported to the Department of Motor Vehicles; or
- o a notice of rights letter has been issued pursuant to the requirements of Regulation 64.

The insurer's senior claims officer should, no later than May 1, 1994, acknowledge in writing receipt of this Circular Letter to: Louis Trager, Associate Examiner, Property & Casualty Insurance Bureau, 160 West Broadway, New York, New York 10013. Please direct any questions concerning this Circular Letter to Mr. Trager (212-602-8812).

Very truly yours,

SALVATORE R. CURIALE  
SUPERINTENDENT OF INSURANCE