



**STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004**

Eliot Spitzer
Governor

Eric R. Dinallo
Acting Superintendent

**Circular Letter No. 1 (2007)
January 29, 2007**

TO: All licensees, all persons engaged in the business of insurance who are exempted from the licensing requirements of the New York Insurance Law, State Insurance Fund

RE: Fraud Reporting and Cooperation with the Insurance Frauds Bureau

STATUTORY REFERENCE: Section 405 of the Insurance Law

New York Insurance Law Section 405(a) requires that any person licensed under the Insurance Law ("licensee") and any person engaged in the business of insurance in this state who is exempted from compliance with the licensing requirements of the Insurance Law ("exempted person") shall file reports of suspected insurance fraud. These reports are used by the Department as the basis for determining if a matter warrants criminal investigation and/or civil penalties. The report shall include a brief description of the facts and circumstances that are the basis for the person's suspicion that an insurance fraud has been committed. Conclusory statements such as "suspicious claim" or nonresponsive statements such as "claim under investigation," without further amplifying or clarifying factual information are insufficient. The report should contain a factual basis articulating the reason why insurance fraud is suspected. Providing a report, assistance or cooperation to a private entity or law enforcement organization does not satisfy the licensee's or exempted person's responsibility under Section 405(a). The report must be filed within 30 days after the licensee or exempted person determines that the transaction appears to be fraudulent.

Licensees and exempted persons have a continuing duty to actively assist the Insurance Frauds Bureau in the detection, investigation and prosecution of suspected fraudulent insurance acts. After a report of suspected insurance fraud has been filed, Section 405(a) of the Insurance Law requires a licensee or exempted person to provide the Insurance Frauds Bureau with any additional information developed by the licensee or exempted person relative to the factual circumstances of the suspected fraudulent transaction and the parties involved. This information may affect the Frauds Bureau's evaluation of the original report of suspected insurance fraud and its decision to begin a criminal investigation and/or seek civil penalties. It may also have a significant impact upon an investigation that is already under way. Additional information must be provided to the Frauds Bureau in a timely fashion.

Failure to disclose in a timely manner any material information that could reasonably be expected to lead to the opening of a criminal investigation or to have a significant impact upon an open investigation being conducted by the Insurance Frauds Bureau may lead to disciplinary action by the Insurance Department. Similarly, a pattern of avoidance of the Insurance Frauds Bureau as the agency responsible for the monitoring and review of such reports of suspected insurance fraud and/or initiation of criminal investigations may also result in disciplinary action.

This Circular Letter supersedes [Circular Letter No. 3 \(1997\)](#), which is withdrawn.

Very Truly Yours,

Charles Bardong
Director,
Insurance Frauds Bureau