

May 4, 1988

SUBJECT: INSURANCE

WITHDRAWN

Circular Letter No. 10 (1988)

TO: ALL INSURERS LICENSED TO WRITE MEDICAL MALPRACTICE INSURANCE IN NEW YORK

RE: FEDERAL, REPORTING REQUIREMENTS

Otis, Bowen, M.D., Secretary of the United States Department of Health & Human Services, notified this State concerning certain requirements imposed by the Health Care Quality Improvement Act of 1987, PL99-660. Insurers should review the provisions of this Act, because it imposes requirements upon medical malpractice claim payors that complement the reporting requirement of a Section 315 of the New York Insurance Law.

In general, Under this new federal Law, each entity (including an insurance company) that makes payment under a policy of insurance, self-insurance; or otherwise in settlement (or partial settlement) of, or in satisfaction of a judgment in a medical malpractice action or claim must report information respecting the payment and the circumstances under which the payment was made to the appropriate state licensing board and to the designated federal agency. Such information must be reported in regard to all licensed health care practitioners.

This new law authorizes the Inspector General of the Department of Health & Human Services to impose civil monetary penalties of up to \$ 10,000 for failure to so report medical malpractice payments, or for breaching confidentiality concerning information collected under this law. Such penalties would be in addition to any penalties for violation of Section 315 of the New York Insurance Law or the confidentiality provisions of the New York Public Health Law.

The State Health Department will act as the designated state agency to receive this information required by federal law. The federal agency to receive this data has not yet been designated by the Department of Health & Human Services. However proposed Regulations to implement the Act are published in the March 21, 1988 Federal Register (page 9264).

Questions (including the identity of the designated federal agency recipient) concerning reports to the Department of Health & Human Services should be addressed to David N. Sundwall, M.D., Administrator, Health Resources & Services Administration, 5600 Fishers Lane, Room 14-05, Rockville, Maryland 20857. Questions concerning reports to the State Health Department mandated by the Act should be addressed to Peter Millock, Esq. General Counsel, Department of Health, Corning Tower, Empire State Plaza, Albany, New York 12237.

Insurers are also reminded that information on all claims should be reported to the Health Department on DOH 787 by August 15, 1988. Detailed timetables for such reporting were furnished by Circular Letters 6 of 1986 and 1987. Because this information is to be utilized for the medical malpractice study mandated by Section 39 of Chapter 266 of the Laws of 1986, it is critical that this information be furnished on a timely basis.

Very truly yours,

JAMES P. CORCORAN

Superintendent of Insurance