

August 30, 1990

SUBJECT: INSURANCE

WITHDRAWN

Circular Letter No. 11 (1990)

TO: ALL AUTHORIZED PROPERTY/CASUALTY INSURERS WRITING "CLAIMS-MADE" INSURANCE FOR PROFESSIONALS IN THIS STATE

RE: CONTINUATION OF COVERAGE WHEN PROFESSIONAL PRACTICE IS INTERRUPTED DUE TO MILITARY SERVICE ACTIVATION

The current call-up of reservists to active military duty in the Middle East creates a need to assure that individuals so activated who, in their civilian lives are professionals insured on a claims-made basis, will be able to maintain appropriate insurance protection, without having to incur the substantial expense of either continuing coverage while on active duty as if still practicing or terminating coverage and purchasing extended reporting period coverage.

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, 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 May 1, 1990, is called into active military service on September 1, 1990. The physician is discharged, and returns to civilian practice, on December 1, 1990. 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 September 1, 1990, and the physician is not billed for any remaining premium due on the policy. Upon Return to practice on December 1, 1990, third-year claims-made as well as premium billing resume, and the expiration date of the policy will become August 1, 1991 (May 1, 1991 + three months).

To the extent necessary, insurers should file appropriate manual rules and endorsements to provide for this suspension of coverage. Any questions concerning this Circular Letter should be directed to Laurel Presser (212-602-382), Supervising Examiner, Property & Casualty Insurance Bureau, at the Insurance Department.

Very truly yours,

[SIGNATURE]

SALVATORE R. CURIALE

SUPERINTENDENT OF INSURANCE

INSURANCE NEWS

LIABILITY INSURANCE COVERAGE FOR PROFESSIONALS CALLED INTO ACTIVE MILITARY DUTY

SHOULD BE ADJUSTED

Superintendent of Insurance Salvatore W. Curiale today announced that it is the Department's position that insurers should make appropriate adjustments to professional liability coverage for those doctors, dentists, engineers and support for U.S. troops in the Middle East.

The Department's position, as outlined in Circular Letter No. 11 (1990), is that the affected professional's claims-made policies should continue, to provide coverage for claims arising out of incidents that took place before being called into active duty, but 'should be otherwise suspended until the professional returns from military service. Payment of further premiums due after that point should also be held in abeyance pending the professional's return to practice and civilian' life. At that future point, coverage and premium payments would resume, with the policy's expiration date adjusted to. reflect he length of active military service.

Under claims-made policies, the insurers are responsible to defend and settle only those claims against the insured that are reported while the policy is in effect. Under ordinary circumstances, this feature does not pose a problem since, professionals 'typically renew coverage continuously throughout their working careers. No existing provision addresses the current situation, however, in which a professional is required to interrupt practice due to military service.

The Department believes that professionals called into active duty should not be faced with two difficult alternatives: continue to pay the full premium on' their professional liability policies, while engaged in military service, or cancel their "policies and pay a substantial one-time premium charge for an extended reporting period endorsement (or "tail" coverage).

Superintendent Curiale said:

New York professionals called to military duty in the Mid-East should not have to face financial hardship because their practice is disrupted. We want these men and women to receive continued insurance protection for incidents that took place prior to active duty, and when they return to practice, have professional liability insurers resume providing coverage.