



February 9, 2009

Eric R. Dinallo, Superintendent
New York State Insurance Department
Albany Executive Offices
One Commerce Plaza
Albany, NY 12257

**PROFESSIONAL
INSURANCE
AGENTS**

RE: Draft 1/29/09 NYSID Regulation: (11 NYCRR 30)
Producer Compensation Transparency

Dear Superintendent Dinallo:

Thank you for the opportunity to review, in advance, and offer our comments regarding the Department's draft Producer Transparency regulations. In addition to the general comments submitted herewith, PIANY would also like to formally request a meeting with you and your staff to further discuss a large number of specific concerns our members have with the draft regulation. Moreover, we request to be included in any work group discussions organized by the Department relative to this issue.

PIANY staff have completed a comprehensive line-by-line review of the draft regulation and outlined a large number of issues of concern to insurance producers. For the purposes of this initial correspondence, however, we will concentrate on our general impressions and reserve the detailed list of concerns for further discussion at our meeting.

Let's make clear that we support transparency to the consumer with respect to the insurance transaction. From the outset, however, we would like to convey our disappointment with this draft as it sharply departs from high-level, principles-based guidance model based on the regulatory goal of transparency. Instead, the draft is a narrowly prescriptive, and therefore troubling to insurance producers who would be responsible for compliance.

Principles-based regulation, as announced by the Department in November of 2007, aims to reduce unnecessary regulatory and administrative burdens, ensure that regulation and its enforcement are proportionate, accountable, consistent, transparent and targeted, and provide benefits for consumers from more efficient markets, more effective protection, and better responsiveness to consumers' needs. We suggest that this draft fails to embody these principles. The disclosure set out in this draft is not proportionate to any documented harm resulting from the market conduct of Main Street level agents or brokers.

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Contrary to the purpose of principles-based regulation, this draft does not accomplish “the essential goal of regulation” to ensure appropriate outcomes, but seeks instead “rote compliance with a long list of rules.” Furthermore, this draft neither tells regulated companies the Department’s expectations for how they will conduct their business, nor does it provide the flexibility to fit the different business models of thousands of different companies, while improving consumer protection.

Moreover, the clear implication of the draft is that one distribution channel (which offers the greatest variety of market access, options and choice) is singled out for the imputation of conflict through the prejudicial wording of the proposed disclosure. We strongly object to any approach that disadvantages one distribution method vis-à-vis another.

Perhaps most importantly, the regulation as currently drafted is very onerous and costly for small business to comply with in this time of economic hardship. The draft regulation places the burden of compliance, disclosure and record keeping squarely on the backs of insurance producers and requires them to engage in speculative estimations that are, quite frankly, impossible to execute with any degree of accuracy. This draft does not meet the Department’s goals of reasonable rules that can be easily incorporated into the business philosophy and operations of regulated parties with little or no expense. In fact, reasonable estimates of compliance suggest that these rules carry with them considerable expense for those seeking to comply.

And finally, the draft regulation conflicts with your promise to move away from situations where New York is inconsistent with other jurisdictions in its requirements. As previously identified and acknowledged by the Department, these types of inconsistencies are likely to drive insurance business transactions to be consummated in other states to avoid onerous, costly compliance. Yet, this draft departs from the prior movements toward regulatory uniformity and instead places New York producers under a considerably unfair burden when compared to their counterparts in other states.

We sincerely hope that you will take these comments into consideration. Moreover, we hope that we are afforded the opportunity to meet with you and your staff to further discuss the issues and concerns of our members relative to this undertaking. We eagerly await your reply.

Sincerely,

cc: Matt Gaul , Special Counsel