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BULLETIN 2008-10

TO: Insurance Producers and Insurance Companies Selling or Servicing Private Passenger Motor Vehicle Insurance in Massachusetts

FROM: Nonnie S. Burnes, Commissioner of Insurance

DATE: August 22, 2008

RE: Documenting Transfers of Private Passenger Motor Vehicle Insurance

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It has come to the attention of the Division of Insurance ("Division") that certain producers are refusing to accept notices of transfer from insureds, other producers and insurers to whom an insured has transferred his/her private passenger motor vehicle insurance coverage, on the purported ground that the notices do not conform to the industry's Form 2A.[1] Objections to the notices of transfer include, but are not limited to: that the notice has an electronic, rather than handwritten, signature; that the insurance company stamp confirming new coverage is not an original, and that the notice has been submitted by an insured rather than by a producer. Some producers have refused to accept the notices because they challenge the accuracy of the information on the form relating to the current coverage. These objections and refusals to forward these notices to the prior insurer potentially constitute unfair or deceptive acts or practices in the business of insurance; Massachusetts law does not require the use of a particular form to advise the former insurer or producer of the transfer of insurance.

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[1] The industry developed a notice of transfer form, commonly known as a Form 2A, that producers historically have used to notify the previous producer of record or prior insurer when an insured transfers the insurance covering a registered vehicle. In the new competitive market, insurers may, and many do, identify a specific notice of transfer form in their rate manuals that are filed with the Division. These notices are used in lieu of the Form 2A.

Certain producers' failure to comply with the notification procedures on a timely basis has resulted in instances in which consumers have found themselves with duplicative coverage and obligations for two premiums. Some consumers' records also may be affected negatively by these practices. If the prior insurer cancels the policy for nonpayment because the prior producer failed to notify the prior insurer that the consumer had transferred his/her policy to a new insurer, an insured may be wrongly identified as someone who failed to pay the premium.

Consumers have a statutory right to cancel insurance on a registered motor vehicle at any time and to obtain coverage from another insurer, subject to certain conditions, pursuant to M.G.L. c. 175, § 113A(2). They also may choose not to renew insurance at the end of a policy period and to replace it with a policy from a different insurer. The Division will not tolerate any interference with these substantive consumer rights.

The producer of record for the new policy must notify the prior producer of record, if known, or the prior insurer of the transfer of coverage as soon as possible. Prior producers of record must accept the notices of transfer or other forms of insurance verification from insureds, insurers or producers of record for the new policies, provided the notices meet at least the following standards:

(1) The notice must be signed by the producer of record for the new policy or, it must be on the company's letterhead, if it is issued by the new insurer; and

(2) The notice must bear the registry stamp of the new insurer. The stamp may be in electronic format.

Producers must accept these notices regardless of whether they are generated in hard copy or in electronic format. They must forward such notices to the prior insurer as soon as possible so that consumers' rights are not affected negatively. Producers also are expected to assist their customers to correct any perceived inaccurate information on a notice of transfer rather than reject these notices automatically.

The Division is committed to monitoring and investigating any complaints regarding these issues.