COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

1000 Washington Street, Suite 810 • Boston, MA 02118-6200
(617) 521-7794 • FAX (617) 521-7475
TTY/TDD (617) 521-7490
http://www.mass.gov/doi

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

GREGORY BIALECKI
SECRETARY OF HOUSING AND ECONOMIC DEVELOPMENT

BARBARA ANTHONY
UNDERSECRETARY

JOSEPH G. MURPHY
COMMISSIONER OF INSURANCE

BULLETIN 2011-07

To: **Insurance Companies Offering Insurance Policies in Massachusetts and Their Insurance Producers**

From: **Joseph G. Murphy, Commissioner of Insurance**

Date: **April 4, 2011**

Re: **Certificates of Insurance, Evidence of Coverage Forms and Binders**

Certificates of insurance, evidence of coverage forms and binders (collectively hereafter referred to as "certificates of insurance") are intended to summarize insurance policies, including liability limits, in lieu of providing the actual polices to insureds or third parties as proof of coverage. The Massachusetts Division of Insurance ("Division") has been informed, however, that some insurance companies and insurance producers are being asked to provide certificates of insurance that purport to amend, extend or otherwise alter the terms of insurance provided by the underlying policy. The purpose of this Bulletin is to advise insurers and insurance producers that certificates of insurance are not the proper method by which to amend a policy, that amending such certificates of insurance may create an errors and omissions exposure, and that this activity may violate the Massachusetts insurance laws.

Certificates of insurance are not actual policies of insurance, and as certificates of insurance, they do not and cannot be used to amend, extend, or alter insurance coverage afforded by the underlying policies. Massachusetts law, specifically M.G.L. c. 175, §§ 2B and 192, requires that all insurance policy forms, as well as riders, endorsements and applications designed to be attached to such policy forms, be filed with the Division. When an insurer or insurance producer executes a certificate of insurance that attempts to do more than merely offer a synopsis or summary of the policy, the insurer or producer risks the creation of obligations that are not payable by the underlying policy. This action may violate M.G.L. c. 175, § 181 and M.G.L. c. 176D, § 3(1)(a) which prohibit the misrepresentation of the terms or benefits of any insurance policy. This action also may violate M.G.L. c. 176D, § 3(9)(a), which makes it an unfair

claim settlement practice to misrepresent the "pertinent facts or insurance policy provisions relating to coverages at issue." Moreover, should the additional terms and conditions contained in the certificate of insurance be in conflict with, or otherwise alter, the policy forms, riders, endorsements or applications the insurer has filed with the Division, the insurer and/or insurance producer may have violated M.G.L. c. 175, § 2B by issuing, delivering or otherwise using a policy form that has not been filed with the Division.

An insurer or insurance producer who issues a certificate of insurance that attempts to amend, extend, or otherwise alter the insurance policy or otherwise intentionally misrepresents the terms of an actual or proposed insurance policy may be in violation of these, and other, insurance statutes. As such, insurers and insurance producers may not execute or otherwise issue a certificate of insurance that includes any statements or language that purport to amend, extend, or alter coverage or indicate that a certificate holder has a right to notice of cancellation, nonrenewal, or any similar notice not specifically contained in the underlying policy. This prohibition applies to certificates of insurance, as well as all other documents that do not purport to be certificates of insurance, such as a formal opinion or other document issued or signed by an insurer or an insurance producer.

The Division urges all insurance companies to forward a copy of this Bulletin to their appointed insurance producers and customer service representatives and to remind them of the consequences of providing improper certificates of insurance. Further, the Division urges all insurers to provide thorough instructions to their appointed insurance producers on how they should meet client expectations, and which expectations they cannot meet under the law.

If you have any questions concerning this Bulletin, please contact Ed Charbonnier, Director of Policy Form Review, at (617) 521-7481 or at edward.charbonnier@state.ma.us.