

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

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BULLETIN B97-04

TO: HEALTH CARE PROVIDER LICENSEES AND INDIVIDUAL AND FIRM INSURANCE LICENSEES

RE: RISK BEARING ENTITIES

The Division of Insurance has been receiving inquiries from the general public, health care providers and some insurance professionals regarding the possible legality under the Insurance Code, Alaska Statute (AS) 21, for entities that are not licensed as insurers to bear insurance risk. The unequivocal answer is and has been that any entity that bears insurance risk is subject to AS 21 and must be licensed by the division as an insurer in order to transact the business of insurance in this state.

The trend in the health care industry in recent years has been away from the use of traditional indemnity insurance arrangements to managed care. An emerging trend within the health care provider community is a collaborative effort to be recognized as a distinct group of players in the managed care market. Different forms of managed care organizations have been evolving that assume varying degrees and forms of risk. How risk is assumed and whether it is shifted from a person to the managed care organization determines if the organization is transacting the business of insurance. Any entity, including an entity of health care providers, that assumes insurance risk is an insurer as defined in AS 21.90.900(24) and is subject to all the requirements of AS 21.

Licensees are reminded that a person may not directly or indirectly act as an agent for, or otherwise represent, assist, or aid on behalf of another, an unlicensed insurer transacting business in this state. Licensees are specifically reminded that acting for, representing, assisting, or aiding on behalf of another risk bearing provider entity in this state that assumes insurance risk without a certificate of authority from this division is a violation of the insurance code. In addition, if such an entity failed to pay a claim, a person who assisted or in any manner aided directly or indirectly in the procurement of the insurance contract would be liable to the insured for the full amount of the covered claim.

A person who is considering assuming some degree or form of risk should consider the division as a resource for evaluating the insurance regulatory implications of becoming a risk bearing entity.

The division is committed to assisting anyone, including a risk bearing provider entity, who wishes to assume insurance risk to comply with AS 21 and to secure an appropriate certificate of authority.

Initial inquiries should be directed to Stan Garlington in the division's Anchorage office at (907) 2697900 or (800) 4678725 within Alaska.

Dated this 6th day of February 1997.



Marianne K. Burke

Director of Insurance