



GOVERNMENT OF PUERTO RICO  
**OFFICE OF THE COMMISSIONER OF INSURANCE**

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December 21, 2007

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TO ALL LOCAL INSURERS, FOREIGN INSURERS, HEALTH SERVICES ORGANIZATIONS, GENERAL AGENTS, AUTHORIZED REPRESENTATIVES, PRODUCERS, AND SOLICITORS AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN PUERTO RICO

**SALE, OFFER, AND SOLICITATION OF INSURANCE PRODUCTS THROUGH THE INTERNET**

Dear Sirs and Madams:

As a consequence of advances in computer technology commercial, daily business transactions through the Internet<sup>1</sup> have proliferated. Electronic commerce has brought changes in the way business is done in all markets, at the local and global level, including the insurance industry. In view of this, the Legislature passed Public Law No. 148, enacted on August 8, 2006, known as the "Electronic Transactions Act," for the purpose of developing the necessary legal infrastructure for the citizens of Puerto Rico to participate in a reliable and secure manner in electronic commerce. Under the provisions of Public Law 148 and the provisions of the Puerto Rico Insurance Code,<sup>2</sup> the Office of the Commissioner of Insurance (OCI) deems necessary to establish guidelines to regulate the offer, solicitation, and sale of insurance through the Internet, to protect the rights of consumers who use the Internet to transact their insurance business.

**SALE, OFFER, AND SOLICITATION OF INSURANCE PRODUCTS THROUGH**

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<sup>1</sup> Internet - means the worldwide, decentralized computer network, comprised of computers connect directly by means of a special communications protocol

<sup>2</sup> Article 9.23 of the new Chapter 9 of the Puerto Rico Insurance Code, allows for transactions related to the offer, solicitation, and sale of insurance through the Internet, subject to the provisions of the Code and any other legislation that may be enacted by the Legislature to regulate such activity.

## **SALE, OFFER, AND SOLICITATION OF INSURANCE PRODUCTS THROUGH THE INTERNET**

### **AUTHORIZED REPRESENTATIVES AND PRODUCERS DULY AUTHORIZED BY THE OCI TO TRANSACT INSURANCE BUSINESS**

A. Any authorized representative or insurance producer who is duly authorized by the OCI to transact insurance business in Puerto Rico, may establish a site<sup>3</sup> on the Internet, through which any insurance product may be applied for and acquired, provided that the authorized representative or insurance producer possesses a license.

B. Any Internet site maintained by an authorized representative or insurance producer for the purpose of transacting insurance business shall have a clearly visible notice to the effect that the authorized representative or insurance producer is duly authorized to transact insurance business in Puerto Rico as well as a list of the kinds of insurance that the authorized representative or insurance producer is authorized to transact.

### **GENERAL AGENTS DULY AUTHORIZED BY THE OCI**

A. Any general agent who is duly authorized by the OCI may establish an Internet site through which any insurance product may be applied for and acquired and for which the general agent holds a license as an authorized representative.

B. Any Internet site maintained by a general agent through which insurance products may be applied for and acquired and for which the general agent holds a license as an authorized representative shall contain a clearly visible statement that the general agent is duly authorized by the OCI as an authorized representative; that the agent has been appointed as an authorized representative of a particular insurer; and shall list the kinds of insurance business the general agent is authorized to transact as an authorized representative.

### **INSURERS DULY AUTHORIZED BY THE OCI TO UNDERWRITE INSURANCE AND HEALTH SERVICES ORGANIZATIONS AUTHORIZED BY THE OCI TO OFFER HEALTH CARE PLANS**

A. An insurer may only transact insurance business on an Internet site through an employee who is also an authorized representative of the insurer. Any insurer who is duly authorized by the OCI to underwrite insurance in Puerto Rico and who maintains an Internet site, in which information or orientation is provided, whether in terms of quotes or otherwise, may include hypertext<sup>4</sup> links to Internet sites of authorized

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<sup>3</sup> Site - means a document located on an electronic network and is accessed through hypertext links

<sup>4</sup> Hypertext means text that contains elements that will allow access to other information.

representatives or general agents, who have contracted by an insurer to act as authorized representatives, so that consumers may apply for and acquire insurance products through the Internet sites which are maintained for such purpose by said general agents or authorized representatives. Insurers shall be liable for the marketing practices of their authorized representatives,

B. A health services organization may only offer health care plans through its Internet site through an employee who is an authored representative of the organization. Any health services organization that is duly authorized by the OCI to offer health care plans in Puerto Rico and that maintains an Internet site on which information and orientation is provided regarding its plans, whether in the form of quotes or otherwise, may include hypertext links to Internet sites of such authorized representatives or general agents that may have contracted by a health services organization to act as an authorized representative so that consumers may apply for and acquire health care plans through the Internet sites that are maintained for such purposes by said general agents or authorized representatives. The health services organizations shall be liable for the marketing practices of their authorized representatives.

C. All insurers and health care organizations shall keep records of business transacted through the Internet for inspection by the OCI.

### **INSURANCE CODE, REGULATIONS AND CIRCULAR AND RULING LETTERS**

A. The provisions of the Puerto Rico Insurance Code, the Regulations thereof, and such Circular and Ruling Letters that the Commissioner of Insurance may have issued that are not incompatible with this Ruling Letter shall be applicable to all transactions carried out through the Internet.

B. The provisions of the Puerto Rico Insurance Code, the regulations thereof, and Circular and Ruling Letters issued by the Commissioner of Insurance, shall be interpreted as operating in an electronic commerce environment, including insurance business transacted through an Internet site as follows:

- 1) In the provisions using terms such as "document," "form," "enclosure," "certificate," "rider" or equivalent terms, the use of electronic documents<sup>5</sup> will be permitted and it is further provided that all electronic forms or model documents, including applications for insurance through the Internet, shall be subject to approval by the Commissioner of Insurance and all other requirements for printed forms;

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<sup>5</sup> Electronic document - means a file create, generated, sent, communicated, received, or stored in any electronic medium.

- 2) In the provisions where a "signature" is required in a document, the use of electronic signatures will be allowed;<sup>6</sup>
- 3) In the provisions where "deliver," "notice," "advice," or equivalent terms are used, electronic communication will be permitted, including the electronic transmission of application forms, policy forms, contracts, riders, endorsements, and premiums;
- 4) All formatting requirements, including, but not limited to such, pagination, font, printing color or highlighting effects with regard to certain language or the placement of certain text within a document, may be complied with by using computer technology that guarantees the generation, transmission, and receipt of electronic documents equivalent to those provided for under the law.

### **DELIVERY OF THE POLICY TO THE INSURED**

A. All policies shall be mailed to the insured or to such person who has a right to such policy within a reasonable period of time from the date on which the insured requested the policy, as provided in Article 11.230 of the Code. Electronic delivery of the policy will only substitute delivery by mail or personal delivery of the policy to the insured if the insured expressly consents to such electronic delivery in a verifiable manner and provided that before the insured expresses consent, a conspicuous statement is shown advising the insured of the following:

- 1) that the insured has the right to choose to have the policy delivered by mail or by hand
- 2) that the insured has the right to withdraw consent to receive the policy electronically, in which case the insured will be advised of the procedure for requesting delivery by mail or by hand, at no cost;
- 3) information regarding the hardware, software or application required to access and store electronic documents.

As part of the requirements for electronic delivery of the policy, the insured shall consent and confirm that he or she has access to a means for receiving the policy electronically in the format it is to be delivered. The requirement and procedure for consent given by the insured to receive the policy electronically, may not be altered or modified by agreement between the parties.

B. If after the insured has consented to receive the policy electronically, any change is made in the hardware or application by which said insured was advised that the policy was to be delivered, the insured should be advised in detail of the following:

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<sup>6</sup> Electronic signature means all electronic data contained in an electronic message, document or transaction or logically associated with such message, document or transaction that may identify the signer and indicate approval of the information contained in the message, document or transaction

- 1) the procedure which said insured should follow to withdraw consent to electronic delivery, without further charge;
- 2) how a hard copy of the policy may be obtained, without further charge.

C. If any change in the hardware or application by which the insured was advised that the policy would be delivered electronically creates a material risk for said insured that in the future it may not be possible to access or store the policy the insured shall be:

- 1) provided with a revised statement of the hardware and software requirements need to access and store the policy;
- 2) advised in detail of the procedure for withdrawing consent to receive the policy electronically, without any charge;
- 3) advised of how a hard copy of the policy may be obtained.

D. The insured will be provided with a clear and detailed explanation of the procedure for withdrawing consent to receiving the policy electronically, as well as any other procedure the insured must follow to obtain a hard copy of any other document or information the insured may have already received electronically

E. The insured has the right to receive a hard copy of the policy, even after receiving the policy electronically, if the insured so desires and requests.

## **CANCELATIONS AND ENDORSEMENTS**

A. Under the provisions of Public Law No. 148, enacted on August 8, 2006, under no circumstances may notice be given to an insured by electronic means of the cancellation or termination of a policy or insurance contract or the benefits of a medical plan or life insurance.

B. Unilateral endorsements and notice related to policies or insurance contracts may not be made by electronic means.

## **CONFIDENTIALITY**

A. No person may disclose or use personal information of an insurance prospect obtained through an Internet site for purposes other than transacting insurance business.

B. All insurers, health services organizations, general agents, authorized representatives or producers shall provide a clearly visible statement that is easily accessible to the insurance prospect to the effect that personal information obtained from the prospect will not be used for any purpose other than the sale of an insurance policy, and the insurance prospect will be properly advised of the right to non-

disclosure of personal information for purposes other than processing insurance.

C. No general agent, authorized representative or producer may require as part of the personal information of an insurance prospect any information that is protected under federal or local legislation.

D. General agents, authorized representatives, and producers shall have the obligation to provide adequate technological safeguards to protect the personal information requested from or sent by the insurance prospect, which safeguards will be disclosed in an accessible manner on the Internet site.

E. All general agents, authorized representatives, and producers that maintain an Internet site for the purpose of soliciting, selling, quoting or otherwise transacting insurance business, shall comply with OCI Rule No. 75.

F. All general agents, authorized representatives, and producers that maintain an Internet site for the purpose of soliciting, selling, quoting or otherwise transacting insurance business, shall comply with the provisions of federal and state law regarding confidentiality.

## **ADVERTISING AND REFERRALS**

### **PASSIVE ADVERTISING ON INTERNET SITES**

A. The publication of passive advertising on an Internet site that is accessible to residents of Puerto Rico, and containing specific information on an insurer, health services organization, general agent, authorized representative, producer or insurance solicitor shall not be deemed as substituting the solicitation or transaction of insurance business, as defined in Article 9.020 of the Insurance Code, subject to the following:

1) The advertisement shall appear in a clearly visible form and may be displayed on an Internet site, whose host or owner may be a person who does not hold a license issued by the OCI, provided that the advertisement does not include, or is not restricted to recommendations, endorsements of promotions of insurance products or services made by such person.<sup>7</sup>

2) The person who does not hold a license issued by the OCI and who is the host or owner of said Internet site may receive compensation from an insurer, health services organization, general agent, authorized representative, producer or insurance solicitor, which may include a fixed fee for the advertisement, provided that such compensation may not be subject to the closing of any insurance business.

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<sup>7</sup> Examples of such advertisements are those that only contained the name of the insurer, producer etc. or only contain the word "insurance" or the question "Interested in insurance?".

3) Advertising published on an Internet site is subject to any other regulations currently in effect applicable to advertising in any other broadcast media.

## **REFERRALS**

A. Any person who is not licensed by the OCI, may make a referral to an insurer, health services organization, general agent, producer, authorized representative or insurance solicitor duly authorized by the OCI, provided that the following requirements are complied with:

- 1) Specific terms and conditions of the insurance policy are not discussed;
- 2) Compensation paid to the host or owner of an Internet site for the referral may not be tied to the ultimate sale of an insurance product to the person who was referred.

B. It will be deemed that an advertisement on an Internet site contains a referral, if the advertisement includes or is in the context of recommendations, endorsements or promotions related insurance to products or services made by a person who does not have a license issued by the OCI

Strict compliance of the provisions of this letter by all licensees and other components of the insurance industry is required.

Very truly yours,

**SIGNED**

Dorelisse Juarbe Jimenez  
Commissioner of Insurance