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STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE

45 Fremont Street, 21st Floor
San Francisco, CA 94105

File No. RH05048846 Date: June 14, 2006

**Regulations Re: Law Enforcement Access
to Insurance Claims Information**

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

SUBJECT OF HEARING:

The Commissioner proposes to adopt Title 10, Chapter 5, Subchapter 9, and Article 2 of the California Code of Regulations regarding law enforcement access to insurance claims information maintained by Claims Analysis Bureaus.

AUTHORITY AND REFERENCE:

The Insurance Commissioner proposes to adopt regulations under the authority of California Insurance Code Section 1875.18(d) (2). These regulations are intended to implement, interpret and make specific these provisions of the California Insurance Code Section 1875.18 (a)-(d) inclusive.

HEARING DATE, TIME AND LOCATION:

Date: Monday, August 14, 2006

Time: 10:30 a.m. - 4:30 p.m.

Location: 45 Fremont Street, 22nd Floor

Administrative Law Bureau Hearing Room

San Francisco, CA 94105

PRESENTATION OF WRITTEN AND/OR ORAL COMMENTS; CONTACT PERSON(S):

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DEADLINE FOR WRITTEN COMMENTS:

All written materials must be received by the Insurance Commissioner, addressed to the contact person and address designated above, **no later than August 14, 2006 at 5:00 p.m.** Any written materials received after that time will not be considered.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE:

The Commissioner will accept written comments transmitted by e-mail provided that they are sent to the following e-mail address dchaum@insuance.ca.gov. Facsimile transmissions should be faxed to the **attention of Debra A. Chaum at (415) 904-5490.**

ACCESS TO HEARING ROOMS

Please contact the contact person listed above.

ADVOCACY OR WITNESS FEES:

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees or other reasonable expenses in accordance with the provisions of Title 10, Subchapter 4.5. Interested persons should contact the Office of the Public Advisor at the following address to inquire as to appropriate procedures:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, 17th Floor,
Sacramento, CA 95814

INFORMATIVE DIGEST:**Summary of Existing Regulations and Policy Statement Overview:**

California Insurance Code Section 1875.18(a) requires that every bodily injury medical payment, or uninsured motorist claim made under a policy of automobile insurance shall be available, upon request, to law enforcement in this state whenever the claim relates to an event that occurred within the state. California Insurance Code Section 1875.18(b) provides that any claim subject to 1875.18(a) shall be made available to law enforcement without regard to any limitation in the Insurance Information and Privacy Information Act or any other provision of law.

Section 1875.18(c) (1) provides that a claims analysis bureau shall provide automobile claims information upon request to law enforcement agency pursuant to the authority of California Insurance Code Section 1875.18 subdivision (a).

Section 1875.18(c)(2) provides that a licensed claims analysis bureau and any person employed by a licensed claims analysis bureau that provides information pursuant to section 1875.18 shall have the immunity provided in CIC 791.21 to any person disclosing personal or privileged information under Article 6.6.

California Insurance Code Section 1875.18(d) (1) provides that claims information requested by law enforcement pursuant to CIC 1875.18 shall be used solely for the purpose of investigating and prosecuting automobile insurance fraud; further, Section 1875.18(d)(1) provides that requests for claims information shall be narrowly formulated in order to protect the privacy rights of the citizens of the state while at the same time obtaining information necessary to conduct specific investigations.

Section 1875.18(d)(2) provides that the Insurance Commissioner has the authority to promulgate regulations that establish rules for the access to and use of any information requested or obtained pursuant to this section, and the circumstances under which that information may be inspected or corrected.

The specific purpose of each adoption, and the rationale for the determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each adoption is

intended to address, is set forth below.

The Commissioner has determined that the adoption of regulations is necessary in order to effectively administer California Insurance Code Sections 1875.18(a)-(d). The regulations proposed herein would do the following:

- 1) Define the terms "claims analysis bureau," "Commissioner," "communication," "department," "fraud division," "insurance claims information," "insurer," "law enforcement," "match report" and "supplemental information".
- 2) Specify the responsibility of insurers under California Insurance Code Sections 1875.18 (a)-(d) to deposit claims information into a claims analysis bureau within twenty days of receipt of claims information.
- 3) Specify the insurer's responsibility to report selection of a claims analysis bureau within (20) calendar days to the Fraud Division.
- 4) Specify the insurer's obligation to transmit supplemental information received by the insurer during the life of the claim to a claims analysis bureau within 30 days of receipt.
- 5) Specify that a claims analysis bureau is prohibited from charging a fee to insurers for depositing any information required by statute including supplemental insurance claims information.
- 6) Specify that the Commissioner reserves the right to perform audits deemed necessary to determine if insurers are complying with obligations to deposit information in a claims analysis bureau as specified by statute.
- 7) Specify that claims analysis bureaus shall allow law enforcement access to claims information solely for the purposes of detection and deterrence of automobile insurance
- 8) Prohibit claims analysis bureau from charging a fee to law enforcement for access to any information contained in the database.
- 9) Specify that a claims analysis bureau shall provide claims information in the form of a match report to law enforcement within 10 days of a properly executed written request.
- 10) Specify the content of a written request by law enforcement to a claims analysis bureau for claims information.
- 11) Specify procedure to be followed by claims analysis bureau when a written request by law enforcement to a claims analysis bureau for claims information fails to meet criteria established by the Commissioner pursuant to these regulations.
- 12) Specify the procedure to be followed when person believes that any record deposited or maintained by a Claims Analysis Bureau contains claims information that is incorrect.
- 13) Specify the Commissioner's powers to perform an examination of any insurance claims information transmitted to any CAB he or she may deem necessary and further specifies that the Commissioner shall have access to all reports, working papers, correspondence, or other documents, including audit reports and audit working papers relating to the insurer's receipt, compilation and transmission of insurance claims information.
- 14) Specify that the expenses of any examination of insurance claims information conducted pursuant to subsection 2698.84(a) shall be borne by the organization that is the subject of the examination.
- 15) Prohibit a claims analysis bureau from releasing any insurance claims information in response to a Public Records Act Request.
- 16) Prohibit a claims analysis bureau from releasing any insurance claims information received pursuant to the provisions of California Insurance Code 1875.18 for public inspection until: (1) Such time as the release of the information is required in connection with a criminal or civil proceeding, or (2) is necessary to analyze and present information in an insurance claims analysis bureau's annual report.
- 17) Specify the security procedure that a CAB must adopt in order to keep documents deposited in

a CAB secure. Applicable security procedures specified in this section include procedures to be adopted for use by employees and subcontractors as well as training of employees and subcontractors regarding these procedures.

18) Specify that a claims analysis bureau or any person employed therein that provides insurance claims information to any other person or entity pursuant to California Insurance Code Section California Insurance Code Section 1875.18 shall have the same immunity provided under California Insurance Code Section 791.21 to any person that discloses personal or privileged information; however, this subsection does not provide immunity for disclosing or furnishing false information with malice or willful intent to injure any person.

19) Specify the penalties that may be imposed by the Insurance Commissioner for violation of the proposed regulations.

EFFECTS OF PROPOSED ACTION:

The major effects of the regulations are as follows:

Proposed Section 2698.80(a)

Proposed Section 2698.80(a) defines the term "claims analysis bureau" or "CAB" to mean a licensed, non profit corporation that receives, compiles and transmits insurance claims information pursuant to California Insurance Code 1875.11(b). This section is reasonably necessary as it provides a definition of statutorily defined term that is used through out these regulations so that it can be easily understood by the reader and applied. by the regulated entities.

Proposed Section 2698.80(b)

Proposed Section 2698.80(b) defines the term "Commissioner" as the Insurance Commissioner of the State of California. This section is reasonably necessary as it provides a definition of statutorily defined term that is used through out these regulations so that it can be easily understood by the reader and applied by the regulated entities.

Proposed Section 2698.80(c)

Proposed Section 2698.80(c) specifies that "Department" means the California Department of Insurance. The term is used throughout these regulations. This definition avoids confusion as to which department the term refers.

Proposed Section 2698.80(d)

Proposed Section 2698.80(d) clarifies that "Fraud Division" refers to the California Department of Insurance Fraud Division formerly known as the Bureau of Fraudulent Claims. This definition is reasonably necessary in that it clarifies that "Fraud Division" is that part of the organization.

Proposed Section 2698.80(e)

Proposed Section 2698.80(e) defines the term "insurance claims information" to mean the information that insurers are required to report to a licensed claims analysis bureau pursuant to California Insurance Code Section 1876. This definition is reasonably necessary to provide a uniform definition that can be used consistently throughout these regulations.

Proposed Section 2698.80(f)

Proposed Section 2698.80(f) defines the term "insurer" to have the same meaning as set forth in California Insurance Code Section 1874.1. Section 1874.1 provides that an insurer is the automobile assigned risk plan established pursuant to California Insurance Code Section 11620 as well as any insurer writing insurance for any motor vehicles or otherwise liable for any loss due to motor vehicle theft or motor vehicle insurance fraud. This definition is reasonably necessary in that it establishes the applicable definition "insurer" to be used in these regulations. This definition is reasonably necessary in that it provides a uniform definition of a term used throughout these regulations that would otherwise be susceptible to various interpretations.

Proposed Section 2698.80(g)

Proposed Section 2698.80(g) defines the term, "Law Enforcement" to have the same meaning as given

in Penal Code Sections 830.1, 830.2, 830.3., 830.8, 830.37, and 830.39 and shall also include investigators for the Department of Consumer Affairs Bureau of Automotive Affairs. This definition is reasonably necessary in that it establishes the applicable definition "insurer" to be used in these regulations. This definition is reasonably necessary in that it provides a uniform definition of a term

Proposed Section 2698.80(h)

Proposed Section 2698.80(h) defines the term "Match Report or Matched Claims Data Format" to mean the manner in which data is provided to insurers by the Claims Analysis Bureau as a result of a match between claims information submitted by one insurer and information previously submitted. This definition is reasonably necessary in that it provides a uniform definition of a term used throughout these regulations that would otherwise be susceptible to various interpretations.

Proposed Section 2698.80(I)

Proposed Section 2698.80(I) defines the term "supplemental information" as any claims information provided to the insurer after the initial claim has been filed. This definition is reasonably necessary as it provides a uniform definition of a term that is used throughout these regulations.

Proposed Section 2698.81(a)

Proposed Section 2698.81(a) provides that every CAB shall obtain the prior approval of a plan of operation as a CAB from the Insurance Commissioner before it may perform any of the functions described in California Insurance Code Section 1875. This section is reasonably necessary as Section 1875.18(c) (1) requires that a claims analysis bureau shall provide automobile claims information upon request to law enforcement agency pursuant to the authority of California Insurance Code Section 1875.18 subdivision (a) and subdivision (d)(1) further provides that that claims information requested by law enforcement pursuant to CIC 1875.18 shall be used solely for the purpose of investigating and prosecuting automobile insurance fraud. While the language of 1875.18 (d)(1) indicate the scope as well as limitations on the information to be provided to law enforcement in broad and general terms, the cited statutes are silent as to actual mechanisms or processes that the CAB must use in order to ensure full compliance with the law. Proposed Section 2698.81(a) sets forth a preliminary requirement that allows the Commissioner to review and approve of a plan of operation prior to the performance any of the functions described in California Insurance Code Section 1875.11.

Proposed Section 2698.81(b)

Proposed Section 2698.81(b) (1) provides that every plan of operation submitted to the Insurance Commissioner for approval (pursuant to Section 2698.81) shall: expire two years from the initial date of approval by the Insurance Commissioner. This requirement is reasonably necessary to ensure that the Commissioner has an effective and frequent method of monitoring the CAB operational procedures to ensure that procedures full compliance with statutes and regulations controlling the CAB. This requirement is also necessary as it provides specific detailed language that sets forth clear guidance to the regulated entity as to the required content of the plan of operation.

Proposed Section 2698.81(b) (2)

Proposed Section 2698.81(b) (2) requires that the plan of operation submitted for approval (pursuant to Section 2698.81) shall set forth written procedures and physical controls to: prevent the unauthorized access to its system of records, prevent unauthorized disclosure of records and prevent physical damage to or destruction of records. This subsection goes on to provide that at a minimum all written procedures and physical controls set forth in a plan submitted to the Commissioner shall [at a minimum] comply controls set forth in a plan submitted to the Commissioner shall comply with Section 2698.87(a)(1)-(5). [See: Section 2698.87(a) (1)-(5) for full discussion of cited provisions.] This section is reasonably necessary to fully implement California Insurance Code Section 1875.18(d) (2). The cited statutory section provides only that the Commissioner shall promulgate regulations that establish rules for the access to and use of any information requested.

The proposed section is reasonably necessary in that it clarifies and delineates the specific requirements

that a CAB must follow in order to ensure prevent the unauthorized access to its system of records, to prevent unauthorized disclosure of records and to prevent physical damage to or destruction of records.
Proposed Section 2698.81(b) (3)

Proposed Section 2698.81(b)(3) requires that the plan of operation submitted for approval (pursuant to Section 2698.81) shall set forth written procedures regarding the use of subcontractors to perform any function described by California Insurance Code Section 1875.11(b). The proposed subsection goes on to provide that at a minimum the CAB should provide training to subcontractors as specified in 2698.87 (b) and provide to the Insurance Commissioner a list of taxpayer identification numbers of all subcontractors that perform work for the CAB.

The proposed section is reasonably necessary in that it delineates the specific requirements that a CAB must follow in order to: prevent the unauthorized access to its system of records; prevent unauthorized disclosure of records; and to prevent physical damage to or destruction of records by subcontractors. The specificity of these requirements helps provide clarity and assists regulated persons or entities to fully comply with the law.

Proposed Section 2698.82(a)

Proposed Section 2698.82(a) requires that insurers deposit claims information to a licensed Claims Analysis Bureau within 20 calendar days of receipt of claims information. This section is reasonably necessary because California Insurance Code Section 1876 requires that insurers report all automobile claims to a claims analysis bureau within in 20 days of receipt. This section is reasonably necessary in order to fully implement the statutory scheme established by California Insurance Code Section 1875.18 (d)(2) .and is not duplicative of the statute as it provides clarity.

Proposed Section 2698.82(b)

Proposed Section 2698.82(b) requires insurers to deposit any supplemental claims information provided to the insurer during the life of the claim to the CAB within 30 days of receipt of the supplemental claims information. This section is reasonably necessary because, California Insurance Code Section 1876 requires that insurers report all automobile claims information to a licensed claims analysis bureau within 20 days of receipt of the information but does not explicitly specify the time within which an insurer must report supplemental claims information to the licensed CAB. This section is reasonably necessary in order to fully implement the statutory scheme established by California Insurance Code Section 1875.18.

Proposed Section 2698. 82(c)

Proposed Section 2698.82(c) prohibits any licensed CAB from charging a fee to an insurer for the deposit of any claims information including supplemental claims information. This section is reasonably necessary in order to clarify that the statutory prohibition against charging fees to insurers set forth in 1875.12(b)(6) is operative for both initial as well as supplemental claims information. Further, this regulation is reasonably necessary to fully implement the statutory scheme established by California Insurance Code Section 1875.18.

Proposed Section 2698.82(d)

Proposed Section 2698.82(d) provides that the Commissioner may perform audits as he or she deems necessary to determine that the appropriate claims information is deposited within the time frames specified by these regulations. This section is reasonably necessary in order to fully implement the statutory scheme established by California Insurance Code Section.1875.18 and to ensure full compliance by all regulated entities.

Proposed Section 2698.83(a)

Proposed Section 2698.83(a) specifies that access to the claims information required by these regulations shall be made available to law enforcement agencies solely for the purpose of detection and

investigation of insurance fraud. This section is reasonably necessary in order to fully implement the statutory scheme established by California Insurance Code Section.1875.18.

Proposed Section 2698.83(b)

Proposed Section 2698.83(b) clarifies that claims analysis bureaus shall not charge law enforcement any fee for access to claims information. Insurance Code Section.1876 requires that insurers deposit claims information into a licensed claims analysis bureau and further California Insurance Code Section 1875.18(a) law enforcement be allowed access to the information reported by insurers. The proposed subsection is reasonably necessary as it provides needed clarity by specifying that the claims analysis bureau shall not charge any fee to law enforcement.

Proposed Section 2698.83(c)

Proposed Section 2698.83(c) requires that claims analysis bureaus provide claims information to law enforcement in the form of a "match report" within 10 calendar days of receipt by the claims analysis bureau of a properly executed request. Insurance Code Section 1876 requires that insurers deposit claims information into a licensed claims analysis bureau and California Insurance Code Section 1875.18(d) requires that claims analysis bureau provide law enforcement information reported by insurers; however, the statute is silent as to the time, and manner in which the claims analysis bureau must respond to a law enforcement request for information. The proposed subsection is reasonably necessary as it provides needed clarity by specifying that the claims analysis bureau shall provide insurance claims information to law enforcement in the form of a "match report" within 10 calendar days of receipt of a request by law enforcement.

Proposed Section 2698.83(d)

Proposed Section 2698.83(d) requires that a properly executed written request for claims information (required by Proposed Section 2698.32(c)) shall contain the following information: (1) the specific claims information requested and (2) the identity of the requesting party.

Section 1875.18(c) (1) requires that a claims analysis bureau provide law enforcement information reported by insurers; however, his statute is silent as to the content of the written request for claims information by law enforcement. The proposed subsection is reasonably necessary for the implementation of California Insurance Code Section 1875.18 clarity by specifying the necessary elements to be contained in the written request by law enforcement.

Proposed Section 2698.83(e)

Proposed Section 2698.83(e) provides that where a claims analysis bureau receives a written request for information from a law enforcement agency that does not comply with the provisions of 2698.83(e) (1)-(4) the claims analysis bureau shall specify the manner of non-compliance and return the request to the law enforcement agency making the request for either correction, amendment and re-submittal or withdrawal of the request.

Proposed Section 1875.18(a) requires that claims analysis bureau provide to law enforcement claims information reported by insurers to a CAB; however, the statute is silent as to procedure to be followed by Claims Analysis Bureau when it written request for claims information by law enforcement. The proposed subsection is reasonably necessary as it provides needed clarity by specifying the necessary elements to be contained in the written request.

Proposed Section 2698.84(a)

Proposed Section 2698.84(a) provides that any person who believes that any information deposited or maintained by a claims analysis bureau (CAB) is incorrect may proceed under the provisions of California Insurance Code Section 12929 and request in writing that the Commissioner investigate whether or not the information set forth is correct. This provision is reasonably necessary as California Insurance Code Section 1875.18(d)(2) specifically requires that the Commissioner establish rules governing the access to and use of information requested or obtained pursuant to California Insurance Code Section 1875.18 and the circumstances under which that information may be inspected or

corrected. This proposed section provides specificity in that it clearly directs an individual that believes that records with respect to that individual (or any vehicle owned by that individual) are incorrect to proceed under the provisions of California Insurance Code Section 12929.

Proposed Section 2698.84(b)

Proposed Section 2698.84(b) provides that if after an investigation conducted by the Commissioner, pursuant to California Insurance Code Section 12929, the Commissioner determines that the information deposited or maintained by the CAB is incorrect the Commissioner shall issue an order that requires the claims analysis bureau (CAB) to correct the information within the time period specified by order. This provision is reasonably necessary as California Insurance Code Section 1875.18(d)(2) specifically requires that the Commissioner establish rules governing the access to and use of information requested or obtained pursuant to California Insurance Code Section 1875.18 and the circumstances under which that information may be inspected or corrected.

This proposed section provides specificity as it describes the procedure the Commissioner is required to follow if the Commissioner's investigation reveals that the information deposited or maintained in a claims analysis bureau (CAB) is incorrect. This subsection is not duplicative or a mere rephrasing of California Insurance Code Section 12929 as it provides clear guidance regarding the applicability of the section and makes the regulation easier to understand and apply.

Proposed Section 2698.84(c)

Proposed Section 2698.84(c) requires that any Claims Analysis Bureau that is ordered by the Commissioner to correct claims information shall send a copy of the Order of the Commissioner to any person requesting verification that within 10 days of the receipt of the request. This section is necessary as it provides needed specificity to fully implement California Insurance Code Section 1875.18 and clarifies the obligations of the Claims Analysis Bureau to send a copy of the Order of the Commissioner to any person requesting verification of the Order within ten days of receipt of the request.

Proposed Section 2698.85(a)

Proposed Section 2698.85(a) sets forth the Commissioner's right to perform an examination of insurance claims information transmitted to any CAB that the Commissioner may deem necessary. The subsection goes on to provide that the Commissioner shall have access to all reports and audit reports and audit working papers relating to the insurer's receipt, compilation and transmission and of insurance claims information. This section is necessary to fully implement California Insurance Code Section 1875.18 in that it clarifies and delineates the full scope of the Insurance Commissioner's statutory powers conferred upon him by California Insurance Code Sections 1875.18 to examine insurance claims information as well as all reports and audit reports and audit working papers relating to the insurer's receipt, compilation and transmission of insurance claims information.

Proposed Section 2698.85(b)

Proposed Section 2698.85(b) provides that the expenses of any examination conducted. This section is necessary to fully implement California Insurance Code Section 1875.18 in that it clarifies and delineates the full scope of the Insurance Commissioner's statutory powers conferred upon him by California Insurance Code Sections 1875.18 to examine insurance claims information as well as all reports and audit reports and audit working papers relating to the insurer's receipt, compilation, and transmission of insurance claims information.

Proposed Section 2698.86(a)

Proposed Section 2698.86(a) provides that a claims analysis bureau shall not release any insurance claims information in response to a Public Records Act Request. This section is necessary as it sets forth the statutory prohibition found at California Insurance Code 1875.16 against disclosure of insurance claims information in response to a Public Records Act Request is applicable to a CAB. This section is not duplicative, as it simply clarifies the applicability of California Insurance Code Section 1875.16 to claims analysis bureaus.

Proposed Section 2698.86(b)

Proposed Section 2698.86(b) provides that a claims analysis bureau shall not release any insurance claims information for public inspection unless: (1) such time as its release is required in connection with a criminal or civil proceeding; or (2) is necessary to analyze or present information for release in an insurance claims information annual report.

This section is necessary as it delineates the circumstances under which a claims analysis bureau may disclose insurance claims information in accordance with the provisions of California Insurance Code 1875.16. This section is not duplicative of 1875.16 as it simply clarifies the applicability of statutory provisions and allows regulated entities to more clearly and easily understand the scope of permissible conduct.

Proposed Section 2698.87(a)

Proposed Section 2698.87(a) provides that every CAB shall establish and adopt administrative policies and procedures and physical controls to: prevent the unauthorized access to its system of records, to prevent unauthorized disclosure of records and to prevent physical damage to or destruction of records. The section goes on to provide that at a minimum the administrative policies and procedures and physical controls shall require that:

1) the records are protected from public view;

2) the area in which records are kept is supervised during business hours to prevent unauthorized persons from having access to them;

3) the records are inaccessible to unauthorized persons outside of business hours;

4) the records are not disclosed to unauthorized persons or under unauthorized circumstances in either oral or written form; and,

5) direct access to the records is restricted to only those individuals who must have direct access to records in order to perform their duties.

This section is reasonably necessary to fully implement California Insurance Code Section 1875.18(d) in that it clarifies and delineates the specific requirements that a CAB must follow in order prevent the unauthorized access to its system of records, to prevent unauthorized disclosure of records and to prevent physical damage to or destruction of records.

Proposed Section 2698.88 (a)

Proposed Section 2698.88(a) provides that a claims analysis bureau or any employee of a claims analysis bureau that provides insurance claims information to another person or entity pursuant to California Insurance Code Section 1875.18 shall have the same immunity provided under California Insurance Code Section 791.21 to any person that discloses personal or privileged information. This subsection goes on to provide, however, that the immunity provided by this subsection shall not be provided for the disclosure of false information with malice or willful intent to injure any person.

This section is necessary as it sets forth the scope of statutory immunity afforded by California Insurance Code Section 1875.16 from civil actions for persons that disclose insurance claims information in accordance with the provisions of California Insurance Code 1875.18. This section is not duplicative of existent law as it is necessary to clarify the law and inform the regulated entities of the immunities law provided by existent law.

Proposed Section 2698.89(a)

Proposed Section 2698.89(a) provides that the Commissioner may suspend or revoke the license of any CAB if the CAB fails to comply with any provisions of this subchapter. This section is necessary to clarify existent law and inform the regulated entities of the potential consequences of violation of these regulations.

Proposed Section 2698.89(b)

The Commissioner shall conduct any proceeding to suspend or revoke any license granted to a CAB in accordance with the Administrative Procedures Act, Chapter 5(commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. This section is necessary to clarify existent law and inform the regulated entities of the consequences for violation of these regulations.

Proposed Section 2698.89(c)

Proposed Section 2698.89(c) provides that penalties for noncompliance are cumulative and shall be in addition to any other penalties or remedies provided by the Insurance Code. This section is necessary to clarify existent law and inform the regulated entities of the penalty that may be levied for violation of these regulations.

MANDATES:

These regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COSTS OR SAVINGS TO STATE/LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING:

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary costs or savings imposed on local agencies, and no cost or savings in federal funding to the state.

ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE:

The Commissioner has made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

IMPACT ON PRIVATE PERSONS/BUSINESSES:

The Commissioner is not aware of any cost impacts that are representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ALTERNATIVE STATEMENT:

The Commissioner must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FINDING OF NECESSITY:

The Commissioner finds that it is necessary for the welfare of the people of the state that law enforcement have access to insurance claims information.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA:

The Commissioner is required to assess any impact the regulations may have on the creations or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

IMPACT ON HOUSING COSTS:

The Commissioner has preliminarily determined that the matters proposed herein will have no effect on housing costs.

IMPACT ON SMALL BUSINESS:

The Claims Analysis Bureau (a licensee of the commissioner) is the principle entity regulated by the proposed rules. These entities are not small business within the meaning of the California Government Code, as they are required by statute to be non profit. The Commissioner has preliminarily determined that these regulations should have no impact on any small business.

COMPARABLE FEDERAL LAW:

There are no existing federal regulations or statutes comparable to the proposed regulations. However, see the reference to 28 Code of Federal regulations 16.51-2 in the **Initial Statement of Reasons** regarding section 2698.87 for further discussion.

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS:

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed adoption of the regulations. Upon request, the initial statement of reasons will be made available for inspection and copying. Written requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING:

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

WEBSITE POSTINGS:

Documents concerning this proceeding are available on the Department's website. To access them, go to: <http://www.insurance.ca.gov>. Find in the leftmost column the link entitled 'Legal.' Click on it. On the 'Legal' page select the 'Proposed Regulations' link, near the top of the page. When the 'Search or Browse for Documents for Proposed Regulations' screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name.

To search, enter (RHO504886, the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Insurance Code section number of a code section that the regulations implement (for instance, "1875.18"), or search by keyword ("law enforcement access to claims information"). Then, click on the 'Submit' button to display links to the various filing documents.

To browse, click on the 'Browse All Regulations' button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the Regulations Re: Law Enforcement Access to Insurance Claims Information and click it. Links to the documents associated with these regulations will then be displayed.

MODIFIED LANGUAGE:

If the regulations adopted by the Department differ but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

Dated:

JOHN GARAMENDI
Insurance Commissioner
By:

RICHARD KRENZ
Assistant General Counsel

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