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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

August 27, 2002

Honorable M. Diane Koken, Commissioner  
Insurance Department  
1326 Strawberry Square  
Harrisburg, PA 17120

Re: Regulation #11-209 (IRRC #2257)  
Insurance Department  
Privacy of Consumer Health Information

Dear Commissioner Koken:

In our review of this regulation, we noted a drafting error that we discussed with your staff on August 26, 2002. We recommend that you toll the review period in order to make the following revisions.

1. Section 146b.11(d) contains a blanket prohibition against the disclosure of nonpublic personal health information by a non-licensed third party other than for the purpose of carrying out certain insurance functions. In Preamble to the regulation, the Department states that it may hold a licensee responsible for improper disclosures by a non-licensed third party. We suggest that Subsection (d) be revised as follows to clearly reflect the Department's intent:

*(d) Insurance functions performed by third parties on behalf of the licensee.* A licensee may disclose nonpublic personal health information to a third party not licensed by the Department provided that [the third party is prohibited from disclosing or using] the nonpublic personal health information IS DISCLOSED ONLY for [a] THE purposeS OF [other than to] carryING out one or more of the insurance functions identified in subsection (b). THE DEPARTMENT MAY HOLD A LICENSEE RESPONSIBLE FOR DISCLOSURES MADE BY A THIRD PARTY THAT VIOLATE THE REQUIREMENTS OF THIS CHAPTER.

If the Department chooses to toll the review period, it must deliver written notice to both the Standing Committees and the Commission on the same day. The written notice must be delivered prior to any Standing Committee action on the regulation, or before the end of the Standing Committee's review period on September 3, 2002, whichever occurs first.

Honorable M. Diane Koken, Commissioner

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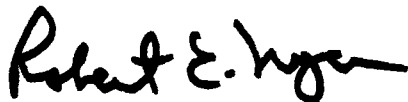
As required by Section 307.5 of our regulations, written notice must include:

1. A citation to the section(s) the Department is considering revising,
2. A description of the revisions being contemplated, and
3. An explanation of how the revisions will satisfy our concerns.

If the Commission objects to tolling the review period, we will notify you and the Standing Committees within two business days after receipt of your tolling notice. In the event the Commission objects to your tolling notice, the review period will not be tolled and your regulation will be considered by the Commission at our public meeting on September 12, 2002. If the Commission does not object, the review period is tolled for up to 30 days beginning with receipt of your letter and ending on the day you resubmit the regulation.

If you have any questions, please call me at 783-5506.

Sincerely,



Robert E. Nyce  
Executive Director

wbg

cc: Honorable Nicholas A. Micozzie, Majority Chairman, House Insurance Committee  
Honorable Anthony DeLuca, Democratic Chairman, House Insurance Committee  
Honorable Edwin G. Holl, Chairman, Senate Banking and Insurance Committee  
Honorable Jack Wagner, Minority Chairman, Senate Banking and Insurance Committee  
David J. DeVries, Esq., Office of Attorney General  
Stephen F. Tuckey, Esq., Office of General Counsel  
Peter Salvatore

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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

August 30, 2002

Honorable M. Diane Koken, Commissioner  
Insurance Department  
1326 Strawberry Square  
Harrisburg, PA 17120

Re: IRRC Regulation #11-209 (IRRC #2257)  
Insurance Department  
Privacy of Consumer Health Information

Dear Commissioner Koken:

We received your letter informing us of your intent to toll the subject regulation and your revisions to the regulation on August 29, 2002. The Commission does not object to your request.

Pursuant to Section 5.1(g)(3) of the Act (71 P.S. § 745.5a(g)(3)), the Committees will now have until September 9, 2002, to complete their review. The Commission will act on this regulation at its public meeting on September 12, 2002.

If you have any questions, please contact me at 783-5506 or [bobn@irrc.state.pa.us](mailto:bobn@irrc.state.pa.us).

Sincerely,

Robert E. Nyce  
Executive Director  
cae

cc: Honorable Nicholas A. Micozzie, Majority Chairman, House Insurance Committee  
Honorable Anthony DeLuca, Democratic Chairman, House Insurance Committee  
Honorable Edwin G. Holl, Chairman, Senate Banking and Insurance Committee  
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