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BULLETIN

TO: All Workers' Compensation Insurance Carriers writing business in Tennessee

FR: Paula A. Flowers, Commissioner *Paula A. Flowers*
Department of Commerce and Insurance

RE: Waiver of Subrogation Endorsement

DT: April 22, 2004

The purpose of this Bulletin is to state the Department's position with respect to the use of the Waiver of Our Right to Recover From Others Endorsement (also known as the waiver of subrogation endorsement) in this State. The language of this endorsement operates as a waiver of a person's right to collect from a responsible party. It is the position of the Department that the waiver of subrogation endorsement is permitted but insurers may not apply a fee or charge in connection with the waiver.

The Waiver of Our Right to Recover From Others Endorsement is found in the Basic Manual published by National Council on Compensation Insurance (NCCI). The waiver states that "we have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule." Note Six (6) in the Manual states that "no charge or fee is applicable for using this endorsement in the State of Tennessee."

Tennessee Code Annotated § 56-5-320 requires all workers' compensation insurance carriers writing business in the State of Tennessee to adhere to the policy forms and rating rules published by the Commissioner's designated rate service organization. The Commissioner's designated rate service organization is NCCI. Be advised that any violation of the position set forth herein will be treated by this Department as a violation of Tennessee Code Annotated § 56-5-320 and subject an insurer to the sanctions set forth in Tennessee Code Annotated § 56-5-317 which includes the assessment of a civil penalty up to five hundred dollars (\$500) for each violation.

Should you have any questions concerning this bulletin, please contact the Insurance Division at 615-741-2241.