STATE OF ILLINOIS
DEPARTMENT OF INSURANCE
SPRINGFIELD, ILLINOIS 62767

OFFICE OF THE DIRECTOR

March 3, 1988

TO: ALL COMPANIES AUTHORIZED TO WRITE PROFESSIONAL LIABILITY

ATTENTION: CHIEF EXECUTIVE OFFICER

RE: CLAIMS-MADE PROFESSIONAL LIABILITY
CB 88-50

REPLY TO: FRANK WEAVER, SUPERVISING INSURANCE ANALYST (217) 782-4515

During the latter part of 1987, the Department became aware of a growing problem in claims made policy language as it relates to the pricing of extended claims reporting coverage, hereinafter referred to as "tail" coverage. Certain specific policies were found to contain "tail" purchase language whereby the "tail" price was computed as a function of the rates and/or premiums in effect at the point in time the "tail" coverage was purchased.

Since insureds could not predict or be informed of the "tail" cost at the time of policy purchase, insureds were faced with a financial uncertainty. This was especially impacting on the insureds if the company filed upward changes in "tail" factors or premium rates during the insured's policy term. This pricing language had the undesirable effect of hampering free movement in the marketplace.

The Department has concluded that this pricing masquerade is untenable. As a result, the "tail" pricing language in these policies has been amended to make the "tail" premium either a factor of the last twelve months premiums or the premium in effect at policy issuance or expiring annual premium. In either instance, the insured is aware of the price at the time they purchase their last renewal policy.

All indications are that potentially hundreds of similar policies are being used on all facets of professional liability. The Department finds the continued usage of such policies to be unacceptable.

By this letter, the Department places your company on official notice that (1) if you are using such policy language, your company may be deceptively and unfairly affecting the risk to be assumed and should voluntarily file appropriate amendments to correct this language, and (2) if the Department discovers the continued use of such contracts by whatever means available and

such policies have not been amended accordingly, the Department will proceed with a formal Order of Disapproval on all such policies. If the Department finds that the company intentionally sold policies of this type after the date of this notice, with pricing mechanisms which deceptively and unfairly affect the risk purported to be assumed, the Department will take appropriate regulatory action.

Please direct all amendatory filings to the Property & Casualty Product Evaluation Section of the Illinois Department of Insurance.

Very truly yours,

John E. Washburn

John E. Washburn
Director of Insurance

JEW:FW:mjw