



**ARKANSAS INSURANCE DEPARTMENT
LEGAL DIVISION**

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Directive 2000 – 1

TO: ALL SMALL GROUP INSURERS, TRADE ASSOCIATIONS,
NATIONAL ASSOCIATION OF INSURANCE
COMMISSIONERS, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: HIPAA VIOLATIONS

Under federal and state HIPAA statutes, health insurance issuers which provide health insurance coverage in the small group employer market, as defined by HIPAA, are required to provide coverage to each small employer that applies for such coverage. *42 U.S.C. 300 gg-11 and Ark. Code Ann.23-86-312*. The Arkansas Insurance Department is aware that some issuers are taking steps to avoid this law with regard to insuring high-risk small groups. Such issuers selectively discourage small group employers from applying for health insurance coverage by taking actions which include, but are not limited to, the following:

- Requiring medical exams at either the employer's or employee's expense;
- Refusing to take the time to provide a quote, because the quote would be at the maximum rate and probably be refused by the employer;
- Adjusting agent commissions; and
- Threatening to cancel an agent's appointment for submitting high-risk groups.

The above examples do not constitute a comprehensive list of ways in which health insurance issuers can violate HIPAA. The law prohibits an issuer or agent or agencies from taking any action designed to avoid insuring small groups. Health insurance issuers will be subject to federal and state penalties for violations of HIPAA, including violations committed by agents or agencies working for such insurers.

Please direct any questions to Associate Counsel Sara Farris, Legal Division, (501) 371-2820.

MIKE PICKENS