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July 8, 2010

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RE: PRINCIPALLY AT-FAULT REGULATIONS

Gentlemen:

Commissioner Poizner asked me to inform you of his decision not to file with the Office of Administrative Law the rulemaking file for the "Proposed Amendment to Principally At-Fault Regulation" before the one-year deadline expires on July 9, 2010.

The department intends to continue working on updating the principally at-fault regulations, however. Within 30-60 days the CDI will open a new rulemaking file to amend 10 CCR §2632.13 -- with an initial draft proposal very similar to the most recent draft from the current regulations file. A workshop will be scheduled with interested parties at the outset of this process.

In reviewing the comments the insurance industry offered in response to the current proposed regulations, it has become apparent to CDI staff that some insurers misunderstand the current regulatory requirements governing principally at-fault determinations. Current regulation 10 CCR §2632.13, subsections (c) and (d) establish the standards for determining whether a driver was principally at fault in an accident. To sustain a determination of principally at-fault, an insurer must determine that the elements described in subsection (c) are present and that none of the exceptions listed in subsection (d) apply. An insurer may not rely solely on a report from a subscribing loss underwriting exchange carrier for a determination that a driver was principally at-fault in an accident unless the

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report specifies that both elements described in subsection (c) are present and that none of the exceptions listed in subsection (d) apply.

In approximately 90 days, the CDI will commence market conduct examinations of insurers to determine compliance with §2632.13. Information developed through these examinations will inform the development of the new regulations governing principally at-fault. This timeline would also provide an opportunity for the industry to update company processes relating to determining principally at-fault -- including the contents of CLUE reports -- prior to the start of the examination process.

Please contact me if your association or a member company has any suggestions or comments.

Sincerely,

A handwritten signature in cursive script that reads "Peter Conlin".

PETER CONLIN
Counsel to the Commissioner