EARL R. POMEROY
COMMISSIONER OF INSURANCE
STATE OF NORTH DAKOTA
STATE CAPITOL
BISMARCK, NORTH DAKOTA 58505
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BULLETIN 85-9

TO: ALL N.D. LICENSED AGENTS - RESIDENT AND NONRESIDENT AND ALL INSURANCE COMPANIES LICENSED TO WRITE AUTO COVERAGE IN NORTH DAKOTA

FROM: Earl R. Pomeroy, Commissioner of Insurance

DATE: October 28, 1985

SUBJECT: Discrimination in the Area of Auto Insurance

It has come to the attention of the Department that the elderly are experiencing difficulty in:

1) Obtaining automobile coverage, and

2) Rolling over a policy from one company to another (as in the case of Iowa National Mutual Insurance Company insolvency).

The practice of declining an application or terminating current coverage solely on the basis of age is discrimination, and is prohibited by Subsection 4 of Section 26.1-40-11 of the North Dakota Century Code.

Section 26.1-40-11(4) states:

> "Termination - Declinations - Prohibited Reasons. The declination of an application for, or the termination of, a policy by an insurer, agent, or broker is prohibited if the declination or termination is:
> 4. Based solely upon the age, sex, or marital status of an applicant or an insured, except that this subsection does not prohibit rating differentials based upon age, sex, or marital status."

If you as an agent or broker or insurer are refusing to extend automobile insurance coverage solely on the basis of age, you are in violation of the above-cited statute and are subject to the sanctions which are set forth in Section 26.1-40-12 of the North Dakota Century Code:

> "Sanctions. If the commissioner after hearing determines that an insurer has violated section 26.1-40-42, 26.1-40-10, or 26.1-40-11, the commissioner may require the insurer to: accept the

> application or written request for insurance coverage at a rate and on the same terms and conditions as are available to its other risks with similar characteristics, or reinstate insurance coverage to the end of the policy period; or continue insurance coverage at a rate and on the same terms and conditions as are available to its other risks with similar characteristics. If the commissioner has determined, after hearing, that any person has violated sections 26.1-40-02 through 26.1-40-12, the commissioner may: issue a cease and desist order to restrain the person from engaging in practices which violate these sections, or assess a penalty against the person of up to five hundred dollars for each violation, or assess a penalty against the person of up to five thousand dollars for each willful and knowing violation, or cancel, revoke, or refuse to renew a company's certificate of authority to do business in this state."

The North Dakota Insurance Department expects full cooperation from all licensed insurance agents, brokers, and companies doing business in North Dakota. In the event the Department, after investigation, determines that a violation has occurred, appropriate administrative action will be initiated.