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To: Commercial Health Insurers, Blue Cross Blue Shield of Massachusetts, and Health Maintenance Organizations Accredited Pursuant to M.G.L. c. 176O

From: Carol Balulescu, Director, Office of Patient Protection

Re: M.G.L. c. 176R

Date: February 20, 2009

The purpose of this memorandum is to advise you of the enactment of M.G.L. c. 176R ("chapter 176R"), changes made by the Division of Insurance ("DOI") to 211 CMR 52.00, and the effect of both on the Office of Patient Protection ("OPP") and 105 CMR 128.000.

As you know, chapter 176R, which took effect on January 1, 2009, was enacted as part of chapter 305 of the Acts of 2008 ("chapter 305"). Chapter 176R requires insurers to recognize nurse practitioners, defined as registered nurses who hold authorization in advance nursing practice under M.G.L. c. 112, § 80B, as participating providers. Each insurer must additionally provide benefits to insureds who receive covered services from nurse practitioners to the same extent that the insurer provides benefits for identical services rendered by other licensed health care providers and must include participating nurse practitioners in its provider directory. If an insurer requires the designation of a primary care provider, it must provide the opportunity to an insured to select a participating nurse practitioner as his or her primary care provider.

The DOI, which is the agency charged with enforcement of chapter 176R, amended 211 CMR 52.00 to incorporate these changes, as required by section 6 of chapter 176R.

Although chapter 176R did not amend any section of M.G.L. c. 176O ("chapter 176O"), under which OPP operates, there are several sections of 105 CMR 128.000 that are indirectly affected by the passage of chapter 176R. OPP intends to amend its regulation to incorporate these implicit changes, but in the meantime wants to make insurers aware that it expects each insurer to expand its definition of "primary care provider" to include nurse practitioners as required by chapter 176R. Specifically, in 105 CMR 128.500, 128.503, 128.505, and 128.506, all references to "primary care physician" should now be interpreted to mean "primary care provider" as defined in chapter 176R.

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In addition to the changes noted above, OPP will need to amend its regulation to incorporate one other change made by the DOI to 211 CMR 52.16: Material to be Provided to the Office of Patient Protection. In 211 CMR 52.16(2)(b), the DOI added a new reporting requirement for insurers: in addition to an annual report of the number of physicians that are disenrolled, insurers must also report the same information for nurse practitioners. OPP expects that insurers will begin reporting this new information for 2009, i.e., reports due on April 1, 2010 must include disenrollment rates for nurse practitioners as well as for physicians.

If you have any questions about this memorandum, please call me at 617-624-5216 or email me at carol.balulescu@state.ma.us. If you have questions about chapter 176R or 211 CMR 52.00, please call Nancy Schwartz, Director, Bureau of Managed Care at the DOI, at 617-521-7347 or email her at nancy.schwartz@state.ma.us.