
Certificates of Liability Insurance

It seems that the pressure on agents to rewrite the terms of a policy on a certificate to satisfy the requirements of a certificate holder grows daily. The CG0001, which is the base form on general liability policies, is 16 pages, not counting declarations, the schedule and amendatory endorsements. The special provisions block on a certificate is 1 inch!

The certificate was never intended to take place of nor to modify the policy. Take a look at the upper right corner of the Acord Certificate, which is most widely used in our industry and you will find these words: "This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies below." This wording is reinforced 5 more times by the wording directly above the coverage's section, the wording in the cancellation section and the 3 paragraphs on the back of the certificate. The courts have consistently held that the certificate does not replace or override the policy.

Abuse of the intent of the use of certificates has apparently become so widespread that North Carolina Insurance Commissioner Jim Long has weighed in on the subject with his memo of September 15, 2006.

The main themes of his two page memo are:

- 1) It is unlawful to alter a certificate issued on behalf of any licensed and admitted company until the alteration has been submitted to and approved by the commissioner based on N.C. General Statute 58-3-150(a).
- 2) He goes on to cite N.C. General Statutes 58-3-46(6)(5) and 58-33-46(a)(8) which talk about penalties he can impose for misrepresenting the terms of an insurance contract and using fraudulent, coercive or dishonest practices. Then he says; "It should also be noted that certain alternations of certificates of insurance may also raise issues of possible criminal misconduct under a variety of criminal fraud statutes."

Three other phrases tend to catch your attention:

- 1) "Some agents have been altering certificates so that it appears that a certificate holder has a right of notice of cancellation against the insurer when there is no such notification provision in the policy itself."
- 2) "The bottom line is that no agent should engage in alterations of insurance certificates."
- 3) "If and only if the policy contains such special provisions, then the insurance agent may properly insert an accurate statement of the special policy provisions in the special provisions block of the certificate of insurance."

The next time you are asked to strike the words "endeavor to" or to delete the last part of that same sentence in the cancellation block on the certificate, you might want to think, is this an admitted company and does the policy actually say that before you do it. Before putting any words in the special provisions block you may want to consider whether or not the policy actually says that.

JSA tells you with every policy we issue that you do not have authority to issue certificates on these policies. We must issue all certificates. We pride ourselves in getting these certificates to you immediately and in many cases can do them from our website and you can print them in your office. By doing the certificates ourselves you are protected from the types of problems the commissioner has addressed. If there is a problem it is our problem, not yours.

JSA's position on the certificates we issue will be to comply fully with the commissioner's memo. For policies written with admitted companies we will not alter the wording on the certificate. For policies written with non-admitted companies we will alter the wording on the certificate "ONLY IF THE POLICY is endorsed to match the alteration. If the policy doesn't say it, we won't say it on the certificate.

This issue is getting lots of attention these days so as they used to say on the TV show Hill Street Blues, "Be careful out there."

By: Gary Anderson, CPCU

