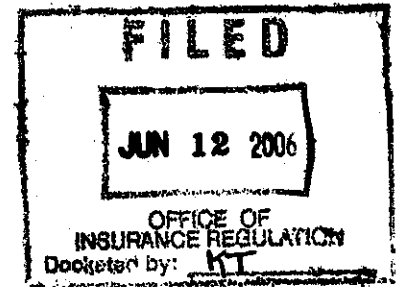




OFFICE OF INSURANCE REGULATION



KEVIN M. MCCARTY
COMMISSIONER

IN THE MATTER OF:

**Suspension of Certain Rules and Statutes
and Policy Provisions Based on State of
Emergency- Natural Disaster**

Early Prescription Refills
Tropical Storm/Hurricane Alberto

CASE NO.: 86447-06-EO

EMERGENCY ORDER

**TO: All Health Insurers, HMOs, and other entities regulated by the
Office of Insurance Regulation that may cover prescription medications.**

THIS CAUSE having come before the Commissioner of the Office of Insurance
Regulation as a result of the state of emergency created by Tropical Storm/Hurricane
Alberto, and being fully informed in the premises,

NOW THEREFORE, the Commissioner hereby **FINDS** as follows:

JURISDICTION AND FINDINGS OF FACT

1. The Office of Insurance Regulation (the "Office") has the duty, pursuant to
Section 624.307(2), Florida Statutes, to enforce the provisions of the Insurance Code
(Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, henceforth, the "Code"). The
Office shall have the powers and authority expressly conferred upon it by, or reasonably
implied from, the provisions of the Code, pursuant to Section 624.307(2), Florida
Statutes.

2. Section 120.569(2)(n), Florida Statutes, provides that "if an agency head finds that an immediate danger to the public health, safety or welfare requires an immediate final order, it shall recite with particularity the facts underlying such finding in the final order..."

3. This Emergency Order is being issued pursuant to Sections 120.569(2)(n), and 252.46, Florida Statutes, because the facts as stated herein demonstrate that there is an immediate threat to the public health, safety and welfare, as a result of the direct effects of the statewide impact of Tropical Storm/Hurricane Alberto. Further, this Emergency Order is being issued pursuant to Section 7 of Governor Jeb Bush's Executive Order Number 06-130, declaring a state of emergency in Florida on June 12, 2006. Executive Order Number 06-130 is attached as Exhibit 1.

4. By this Order, and in accordance with the authority listed in the paragraphs above, the Commissioner of the Office of Insurance Regulation is suspending the operation of certain statutes in the Florida Insurance Code and the rules that implement the Florida Insurance Code relating to insurance, and certain provisions found in policies and group policies for health insurance and health maintenance organizations.

5. Tropical Storm/Hurricane Alberto is threatening the state, and resulting in large scale evacuations.

6. In the ordinary course of business of health insurers and health maintenance organizations, contracts that include coverage for prescription medication have restrictions on such coverage so that covered medication is provided in thirty day batches, refillable every 30 days. Because of the storm damage, mass evacuations and

the inability of many of the insureds to stay in their homes, these restrictions result in many storm victims being without the medications necessary for their health or their very lives. This Order provides temporary emergency relief to the insureds so that they are not left without their necessary medications during the remainder of this crisis.

7. The issuance of this Emergency Order and the procedural safeguards set forth herein are fair under the circumstances due to the potential grave harm described above. As indicated in the Notice of Rights herein, Respondents are afforded an opportunity for a review of this Order. Procedures set forth therein will afford the Respondents an opportunity to challenge these actions.

8. The Florida Legislature in its 2006 session passed HB 7121, Section 29 of which will become effective July 1, 2006. That law has been signed by the Governor and states that "emergency-preparedness prescription medication refills" are to be provided under specified emergency conditions. Health Insurers, HMOs, and other entities offering prescription coverage should become familiar with that law. As of that date, the Office will no longer be required to issue emergency orders relating to prescription medications.

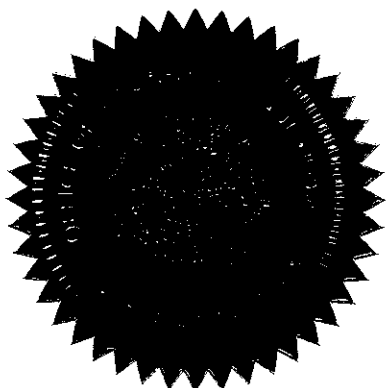
WHEREFORE, pursuant to the Florida Insurance Code and other applicable statutes, including, Sections 120.569(2)(n) and 252.46(2), Florida Statutes, and Governor Jeb Bush's Executive Order Number 06-130, the Office finds that as a result of the direct effects of the statewide impact of Tropical Storm/Hurricane Alberto, an immediate danger to the public health, safety and welfare exists so as to require the issuance of this Emergency Order.

Accordingly, IT IS HEREBY ORDERED:

(1) All health insurers, HMO's and other licensees that provide prescription medication coverage as a part of any policy or contract shall, through July 31, 2006, waive restrictions on prescription medication refills to enable insureds to fill prescriptions in advance, and shall authorize payment to pharmacies for at least a thirty day supply of any prescription medication, regardless of the date upon which the prescription had most recently been filled.

(2) The provisions of this Emergency Order shall be liberally construed to effectuate the intent and purposes expressed therein and to afford maximum consumer protection.

DONE and ORDERED this 12th day of June, 2006.



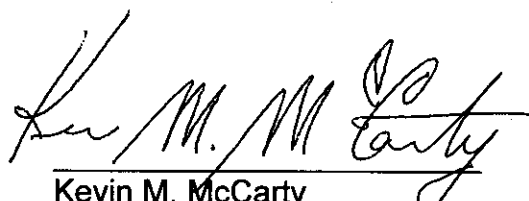

Kevin M. McCarty
Commissioner
Office of Insurance Regulation

EXHIBIT:
Executive Order Number 06-130, June 12, 2006

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of this Order pursuant to Section 120.68, *Florida Statutes*, and Rule 9.110, *Fla.R.App.P.* Review proceedings must be instituted by filing a petition or notice of appeal with the General Counsel, acting as the agency clerk, at 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333, and a copy of the same with the appropriate district court of appeal, within thirty (30) days of rendition of this Order.

**STATE OF FLORIDA
OFFICE OF THE GOVERNOR**

EXECUTIVE ORDER NUMBER 06-130

(Emergency Management/Tropical Storm Alberto)

WHEREAS, on June 10, 2006, the National Hurricane Center advised that Tropical Depression One formed in the vicinity of the Yucatan channel and projected it to take a northerly track and move northeast through the Gulf of Mexico within the next few days; and

WHEREAS, on June 11, 2006, the National Hurricane Center advised that Tropical Depression One strengthened to Tropical Storm Alberto; and

WHEREAS, on June 12, 2006, the National Hurricane Center advised that Tropical Storm Alberto has become more organized and strengthened in the east central Gulf of Mexico and may make landfall Tuesday afternoon along the Nature Coast or Big Bend; and

WHEREAS, on the same date, the National Hurricane Center issued a hurricane warning advisory for the Gulf Coast of Florida from Englewood to Indian Pass; and

WHEREAS, areas along the Nature Coast and Big Bend are prone to storm surge flooding from tropical storms; and

WHEREAS, Tropical Storm Alberto is likely to produce heavy rainfall, storm surge, life-threatening flash floods, and lightening over a widespread portion of the State from South Florida through North and Northeast Florida; and

WHEREAS, isolated tornadoes may also be possible throughout the next few days; and

WHEREAS, special equipment, personnel and other resources may be needed to prepare the threatened communities for severe weather caused by Tropical Storm Alberto; and

WHEREAS, central coordination and direction of such resources are needed to ensure that timely precautions are taken to protect the threatened communities; and

WHEREAS, other precautions may be needed to protect the lives and property of the people in the threatened communities and the general welfare of the State of Florida; and

NOW, THEREFORE, I, JEB BUSH, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, do hereby promulgate the following Executive Order, to take immediate effect:

Section 1. Based on the foregoing, I find that the State of Florida may be threatened with a major disaster, and I hereby declare that a state of emergency exists in the State of Florida, and that the evacuation of multiple counties in the State may be necessary because of Tropical Storm Alberto.

Section 2. I hereby designate the Director of the Division of Emergency Management as the State Coordinating Officer for the duration of this emergency. In exercising the powers delegated by this Executive Order, the State Coordinating Officer shall confer with the Governor to the fullest extent practicable. In accordance with Sections 252.36(1)(a) and 252.36(5), Florida Statutes (2005), I hereby delegate to the State Coordinating Officer the following powers, which he shall exercise as needed to meet this emergency:

- A. The authority to activate the Comprehensive Emergency Management Plan;
- B. The authority to invoke and administer the Statewide Mutual Aid Agreement, and the further authority to coordinate the allocation of resources under that Agreement so as best to meet this emergency;
- C. The authority to invoke and administer the Emergency Management Assistance Compact ("EMAC") and other compacts and agreements existing between the State of Florida and other States, and the further authority to coordinate the allocation of resources from such other states that are made available to the State of Florida under such compacts and agreements so as best to meet this emergency;
- D. The authority to seek direct assistance from any and all agencies of the United States Government as may be needed to meet the emergency;
- E. The authority to distribute any and all supplies stockpiled to meet the emergency;
- F. The authority to suspend existing statutes, rules, ordinances, and orders for the duration of this emergency to the extent that literal compliance with such statutes, rules, ordinances, and orders may be inconsistent with the timely performance of disaster response functions;
- G. The authority to suspend the effect of any statute or rule governing the conduct of state business, and the further authority to suspend the effect of any order or rule of any governmental entity, to include, without limiting the generality of the foregoing, any and all statutes and rules which affect budgeting, printing, purchasing, leasing, procurement, and the conditions of employment and the compensation of

employees; provided, however, that the State Coordinating Officer shall have authority to suspend the effect of any statute, rule or order only to the extent necessary to ensure the timely performance of vital emergency response functions;

H. The authority to relieve any and all state agencies responsible for processing applications or petitions for any order, rule, or other final action subject to the Administrative Procedure Act, as amended, from the deadlines specified in that Act and in other applicable laws for the duration of this emergency, if the State Coordinating Officer finds that such deadlines cannot be met because of this emergency;

I. The authority to direct all state, regional and local governmental agencies, including law enforcement agencies, to identify personnel needed from those agencies to assist in meeting the needs created by this emergency, and to place all such personnel under the direct command of the State Coordinating Officer to meet this emergency;

J. The authority to seize and utilize any and all real or personal property as needed to meet this emergency, subject always to the duty of the State to compensate the owner;

K. The authority to order evacuation, and the authority to direct the sequence of evacuation in which such evacuations shall be carried out, and the further authority to regulate the movement of persons and traffic to, from, or within the affected counties to the extent needed to cope with this emergency;

L. The authority to regulate the return of the evacuees to their home communities;

M. The authority to designate such Deputy State Coordinating Officers as the State Coordinating Officer may deem necessary to cope with the emergency; and

O. The authority to enter such orders as may be needed to implement any or all of the foregoing powers.

Section 3. I hereby order the Adjutant General to activate the Florida National Guard for the duration of this emergency, and I hereby place the National Guard under the direction of the State Coordinating Officer for the duration of this emergency.

Section 4. I hereby direct each county to activate its Emergency Operations Center and its County Emergency Management Plan ("CEMP") to ensure an immediate state of operational readiness, and I further direct all counties in the State of Florida, at the discretion of the State Coordinating Officer, to prepare to activate all shelters to accommodate the evacuees.

Section 5. I hereby direct all state, regional and local agencies to place any and all available resources under the direction of the State Coordinating Officer as needed to meet this emergency.

Section 6. I hereby designate all state, regional and local governmental facilities including, without limiting the generality of the foregoing, all public elementary and secondary schools, all Community Colleges, and all State Universities, at the discretion of the State Coordinating Officer for use as shelters to ensure the proper reception and care of all evacuees.

Section 7. I also find that the special duties and responsibilities resting upon some state, regional and local agencies and other governmental bodies in responding to the emergency may require them to deviate from the statutes, rules, ordinances, and orders they administer, and I hereby give such agencies and other governmental bodies the authority to take formal action by emergency rule or order in accordance with

section(s) 120.54(4) and 252.46(2), Florida Statutes (2005), to the extent that such actions are needed to cope with this emergency. Without limiting the generality of the foregoing, I hereby order the following:

A. I hereby give all agencies whose employees are certified by the American Red Cross, as disaster service volunteers within the meaning of Section 110.120(3), Florida Statutes, the authority to release any such employees for such service as requested by the American Red Cross as needed to meet the emergency;

B. I hereby authorize the Department of Transportation to waive the collection of tolls and other fees and charges for the use of the Turnpike and other public highways, to the extent such waiver may be needed to facilitate the evacuation of the affected counties; to close any and all highways and portions of highways as may be needed for the safe and efficient transportation of evacuees to those counties which the State Coordinating Officer may designate as destination counties for evacuees in this emergency; to waive fuel taxes levied on vehicles registered in other States that are owned or operated by governmental agencies of those States; to waive the registration requirements for such vehicles; to waive the hours of service requirements for such vehicles; and to waive the size and weight restrictions for divisible loads on any vehicles transporting emergency equipment, services and supplies, allowing the establishment of alternate size and weight restrictions for all such vehicles for the duration of the emergency; to the extent such waivers are needed to meet this emergency;

C. At the request of the Director of Emergency Management of any county, I hereby direct the Department of Health to take over the operation of all shelters in that county that are intended for use by those evacuees with special personal, medical or

psychological needs, and to station licensed medical professional and paraprofessional personnel at those shelters as needed to provide appropriate reception and care for such evacuees;

D. I hereby give the Department of Environmental Protection the authority to close state parks and other state recreational facilities under its jurisdiction in those counties of the State affected by the emergency, as needed to meet the emergency;

E. I hereby give all agencies of the State, including the collegial bodies within those agencies, the authority to suspend the effect of any statute, rule, ordinance, or order of any state, regional, or local government entity, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources, to include, without limiting the generality of the foregoing, any and all statutes, rules, ordinances, or orders which affect budgeting, printing, purchasing, leasing and the condition of employment and the compensation of employees, but any statute, rule, ordinance, or order shall be *suspended only to the extent necessary to ensure the timely performance of disaster response functions as directed by the State Coordinating Officer*;

F. I hereby give all agencies of the State the authority to allow overnight stays by employees of the State who travel a distance of less than fifty (50) miles for the performance of official duties in connection with the emergency, and the authority to allow employees of the State reimbursement for the cost of meals during Class C travel incurred in connection with this emergency;

G. I hereby give all agencies of the State responsible for the use of state buildings and facilities the authority to close such buildings and facilities in those

portions of the State affected by this emergency, to the extent to meet this emergency;
and

H. I hereby give all agencies of the State, including the collegial bodies within those agencies, the authority to abrogate the time requirements, notice requirements, and deadlines for final action on applications for permits, licenses, rates, and other approvals under any statutes or rules under which such application are deemed to be approved unless disapproved in writing by specified deadlines, and all such time requirements that have not yet expired as of the date of this Executive Order are hereby suspended and tolled to the extent needed to meet this emergency.

Section 8. Medical professionals and workers, social workers, and counselors with good and valid professional licenses issued by States other than the State of Florida may render such services in the State of Florida during this emergency for persons affected by this emergency with the condition that such services be rendered to such persons free of charge, and with the further condition that such services be rendered under the auspices of the American Red Cross.

Section 9. I hereby find that the demands placed upon funds appropriated to the agencies of the State of Florida and to local agencies may be inadequate to pay the costs of this disaster. In accordance with section 252.37(2), Florida Statutes (2005), to the extent that funds appropriated to the agencies of the State and to local agencies may be inadequate to defray the costs of this disaster, I hereby direct the transfer of sufficient funds from any unappropriated surplus or from the Budget Stabilization Fund. As directed by the State Coordinating Officer, agencies of the State and local agencies receiving these funds shall timely seek reimbursement for the State as provided under

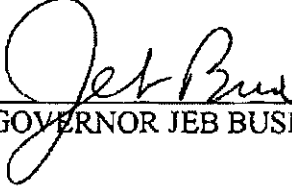
section 252.929, Florida Statutes (2005), the EMAC, and other compacts, agreements, and laws.

Section 10. In accordance with section(s) 501.160(2) and 501.160(3), Florida Statutes (2005), I hereby place all persons on notice that it is unlawful for any person in the State of Florida to rent or sell, or offer to rent or sell at an unconscionable price, any essential equipment, services, or supplies, the consumption or use of which is necessary because of this emergency. Such services shall include, without limiting the generality of the foregoing, any rental of hotel, motel, or other transient lodging facilities, and any rental of storage facilities. In accordance with section 501.160(1)(b), Florida Statutes (2005), any price exceeding the average price for such essential equipment, services, or supplies for the thirty (30) days immediately preceding the date of the Executive Order shall create a presumption that the price is unconscionable unless such increase is caused by actual costs incurred in connection with such essential equipment, services, supplies, or is caused by national or international economic trends.

Section 11. All state agencies that enter emergency final orders or take other final actions based on the existence of this emergency shall advise the State Coordinating Officer in writing of the action taken as soon as practicable, but in no event later than the expiration of sixty (60) days from the date of this Executive Order.

Section 12. This Executive Order shall be deemed to have taken effect on June 12, 2006, and all actions taken by the Director of the Division of Emergency Management with respect to this emergency before the issuance of this Executive Order are hereby ratified. This Executive Order shall expire sixty (60) days from the date hereof unless extended.

IN TESTIMONY WHEREOF, I have hereunto set
my hand and caused the Great Seal of the State of
Florida to be affixed, at Tallahassee, the Capitol,
this 12 day of June 2006.


GOVERNOR JEB BUSH

ATTEST:

Sue M. Cobb
SECRETARY OF STATE