MEMORANDUM

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: INSURANCE FOR HOME CHILD CARE PROVIDERS

DATE: JULY 29, 1997

SUMMARY

Recently, there was a problem in Florida with insurance companies canceling homeowner's insurance policies for persons who provided child care in their homes. This problem reached crisis levels in Florida because the state's insurance company, known as the Joint Underwriting Association, which is a last-chance insurer for many persons, was planning on denying coverage to people providing day care in their homes. Apparently, this is a widespread problem that often does not rise to the surface for several reasons, including the following:

(1) Many insurers simply don't know that their policyholders provide child care in their homes;
(2) Insurance coverage only affects those who provide child care to a certain minimum number of children, usually above 3 to 5 children; and
(3) Many child care providers are able to locate insurance from a few insurers.

HOW THIS AFFECTS OTHER AREAS

- **Welfare.** Home child care facilities are often the main solution for welfare moms who are about to enter the workforce under the new welfare law. For instance, Larry Pintacuda, chief of child-care services for the Florida Department of Children and Families, believes that the insurance companies' restrictions on the number of children would seriously jeopardize Florida's welfare-reform efforts to solve a shortage of infant, evening and weekend care. Pintacuda believes that thousands of poor children will be without affordable day care if the state can't expand the number of neighborhood-based child care homes.

- **Mortgages.** Even if home child care providers obtain separate business liability insurance, their homeowner's insurance still might be canceled. Many mortgage companies require homeowner's policies.

SOME STATES THAT HAVE TAKEN ACTIONS

- **California**. California passed legislation that an insurance company can't cancel a person's homeowner's insurance simply because that person provides home child care services.

- **Florida.** A few weeks ago, a crisis developed because the state's insurance company, the Joint Underwriting Association, was threatening to deny homeowner's coverage to those persons providing child care services in their homes to more than three children. **Solution**: Florida is in the process of negotiating that policies would be issued only to registered and licensed family child-care homes. There are about 7,600 licensed and registered family child-care homes in Florida, but state law does not require them to carry liability insurance.

- **Minnesota.** Minnesota passed legislation that immunizes insurance companies from liability under a homeowner's policy to those persons operating child care facilities out of the home. The insurance company's liability, if at all, would stem from a separate business insurance rider.

- **Oregon.** Oregon passed legislation that prohibits insurers from canceling or refusing to issue or renew homeowner's or renters' liability insurance or fire insurance solely because the policy holder is a family day care provider.

- **Washington.** Washington passed legislation intended to remedy the problem of the unavailability of liability insurance for day care providers by requiring all insurers authorized to write commercial or professional liability insurance to be members of a joint underwriting association created to provide liability insurance for day care providers.

BACKGROUND

- Business liability insurance costs approximately $300-$500.

- In many states, such as Minnesota, there are only one or two insurance companies that will provide the type of coverage needed by home day care facilities.