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M E M O R A N D U M

November 17, 1953

MR. LINCOLN
VICE-PRESIDENT AND GENERAL COUNSEL.

Attached is a request from the Columbia Mills, which I believe has already been taken up with you, resulting in Fehnel's authorization as witness.

Attached also is a memorandum from Dr. Lanza bringing out a number of important points in this situation and indicating the desirability of official authorization as to our future policy in the matter of our dust survey services for these Group policyholders. As Dr. Lanza implies, suits against these companies are bound to be numerous, and unless we shape our policy with reservations, we are apt to be swamped with demands for testimony.

It occurs to me that there are several alternatives concerning which we would like your judgment and guidance:

1 - We can discontinue this service and these studies for policyholders entirely, though that would no doubt be ill received by them, and perhaps be embarrassing for the Group Division. Our activities to date give us a considerable potential involvement, in any case.

2 - We can continue to make dust and similar industrial hygiene surveys but have a definite and rigid understanding that our reports are not to be used in damage suits and that our representatives will not testify. This is the policy followed by the United States Public Health Service, but whether it is legally possible for us I do not know.

3 - We can continue the studies but with certain definite understandings:

a - The data may be used in suits, but our representatives, if called, will testify simply for the purpose of identifying and interpreting the reports and figures and not as a general expert witness, as seems to have been the tendency with Mr. Fehnel in the recent Charleston case.

b - If studies are made they will, as far as possible, be of a general, comprehensive character and not selective and for a specific defense against individual, current suits, as seems to have been the case in the recent Columbia Mills study.

c - When studies are made at the request of Group policyholders the insured party will meet ordinary incidental expenses (with possible exceptions), such as transportation and field maintenance, as already approved by Mr. Kavanagh.

d - All studies will, of course, have the approval of the Group Division.

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4 - Other alternatives or possible combinations of the above.

We are all inclined to favor procedure number 3, as outlined above, but your approval of any policy at this time will be helpful in meeting future inquiries, even though it may be necessary to take up individual cases with you as they arise.

D. B. Armstrong, M.D.
Third Vice-President.