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Filed February 25, 1972

11:20 am

STATE OF WISCONSIN)
)ss.
OFFICE OF THE COMMISSIONER OF INSURANCE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, S. C. DuRose, Commissioner of Insurance and custodian of the official records of said office, do hereby certify that the annexed order adopting and renumbering rules relating to replacement of life insurance policies; disclosure requirements were issued by this office on February 24, 1972.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the official seal of the Office of the Commissioner of Insurance in the City of Madison, State of Wisconsin, this 24th day of February, 1972.



S. C. DuRose
Commissioner of Insurance

STATE OF WISCONSIN
DEPARTMENT OF STATE
RECEIVED AND FILED

FEB 25 1972

ROBERT C. ZIMMERMAN
SECRETARY OF STATE

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

Renumbering and Adopting Rules

Pursuant to authority vested in the Commissioner of Insurance by section 601.41 (3), Wis. Stats., the Commissioner of Insurance hereby renumbers and adopts rules as follows:

Section Ins 2.07 of the Wisconsin Administrative Code is renumbered to be Ins 2.063.

Section Ins 2.065 (10) as renumbered is adopted to read:

(10) EXPIRY DATE. This rule shall expire June 1, 1972.

Section Ins 2.07 of the Wisconsin Administrative Code is adopted to read:

Ins 2.07 Replacement of Life Insurance Policies; Disclosure Requirements. (1) PURPOSE. The interest of the life insurance and annuity policyholders must be protected by establishing minimum standards of conduct to be observed in the replacement or proposed replacement of such policies; by making available full and clear information on which an applicant can make a decision in his own best interest; by reducing the opportunity for misrepresentation in replacement or possible replacement situations, and by precluding unfair methods of competition and unfair practices in the business of insurance. This rule implements and interprets sections 201.53 (13), 206.41 (10) (a)8., and 207.04 (1) (a), Wis. Stats., by establishing minimum standards for the replacement of life insurance and annuities.

(2) SCOPE. This rule shall apply to the solicitation of life insurance and annuities authorized by section 201.04 (3), Wis. Stats., covering residents of this state, and issued by insurance corporations, fraternal benefit societies, the federal government or the state life insurance fund.

The procedures required by this rule shall not apply to the solicitation of group, industrial or credit life insurance described by subsections (3a), (3b) and (3c) of section 201.04, Wis. Stats., nor to the solicitation of insurance which is not in force but which may be purchased under a guaranteed insurability option, nor to the solicitation of short term nonrenewable life insurance policies written for periods not in excess of 31 days, nor to conversions of term insurance to permanent insurance within the same company. All of the provisions of this rule shall apply to non-group annuities except those provisions relating to the Proposal form described in Exhibit A.

(3) DEFINITION. For the purpose of this rule, "replacement" is any transaction wherein new life insurance or a new annuity is to be purchased and it is known to the agent or company at the time of application that as a part of the transaction, existing life insurance or an existing annuity has been or is to be lapsed, surrendered, converted into paid-up insurance, become extended insurance, be subjected to substantial borrowing of loan values whether in a single loan or under a schedule of borrowing over a period of time, or changed to a lower cash value plan of insurance. For the purposes of this paragraph the word substantial shall be construed to mean either a loan of \$250 or more or a loan in excess of 50% of the policy tabular loan values.

(4) DUTIES OF THE AGENT. (a) The agent must:

1. Obtain with or as a part of each application for life insurance or an annuity a statement signed by the applicant as to whether such insurance will replace existing life insurance or an existing annuity on the same life and he must leave a copy of the statement with the applicant for his records;

2. Submit to his company in connection with each application for life insurance or an annuity a statement as to whether, to the best of his knowledge, replacement is involved in the transaction; and the name of every company whose policy he has reason to believe may be replaced.
- (b) Where replacement is involved, the agent must:
1. Present a written proposal to each prospect solicited not later than at the time of taking the application and leave it with the applicant for his records;
 2. Submit with the application to his company a copy of the proposal and related sales material or a clear identification of the sales material;
 3. Immediately notify every applicable company of the possibility of replacement, and promptly furnish a copy of the proposal, and related sales material to each applicable company;
 4. Present the notice required by subsection (9) of this rule and related sales material to each prospect solicited not later than at the time of taking the application and leave it with the applicant for his records.

(5) DUTIES OF THE COMPANY. (a) If agents are involved with the solicitation of life insurance or annuities on residents of this state, every authorized company must inform its agents of the requirements of this rule and:

1. Secure with or as part of the application a statement signed by the applicant as to whether the new insurance or annuity will replace existing insurance and also ascertain that a copy of the statement was left with the applicant;

2. Where replacement is involved:

- a. Secure a copy of the proposal, and the name of every company whose policy there is reason to think may be replaced;
- b. Immediately ascertain that a copy of the proposal, and notice of the possibility of replacement has been furnished to every company which issued the insurance being replaced;
- c. Examine the proposal, and be satisfied that it meets the requirements of this disclosure rule and Wisconsin Administrative Code section Ins 2.14;
- d. Keep a copy of the proposal, and the applicant's signed statement in its home office for at least 3 years indexed so as to be readily available to the Office of the Commissioner of Insurance;

(b) If agents are not involved with the solicitation of life insurance or annuities on residents of this state, every authorized company must:

1. Secure with or as part of the application a statement signed by the applicant as to whether the new insurance will replace existing insurance and the name of every company whose policy there is reason to think may be replaced.
2. Where replacement is involved, the company must:
 - a. Immediately notify every applicable company of the possibility of replacement and furnish such company with the details of the proposed insurance and related sales material;

b. Keep records of these notifications in its home office for at least 3 years indexed so as to be readily available to the Office of the Commissioner of Insurance.

(6) CONTENTS OF PROPOSAL. The written proposal required by this rule must be in a form substantially as described in Exhibit A and contain no misrepresentations or deceptive, false, or misleading statements.

(7) VIOLATION. Any violation of this rule shall be deemed to be a misrepresentation for the purpose of inducing a prospect to purchase insurance and any person guilty of such violation shall be subject to section 601.64, Wis. Stats.

(8) SEPARABILITY. If any provision of this rule shall be held invalid, the remainder of the rule shall not be affected thereby.

(9) NOTICE TO APPLICANT. When replacement is involved, the agent must attach the following notice to the written proposal which is delivered to the applicant:

NOTICE TO APPLICANT

This notice to you is for your protection and is required by Wisconsin Administrative Code section Ins 2.07, Rules of Office of the Commissioner of Insurance.

- I. If you are urged to purchase life insurance and it is suggested that you surrender or lapse or in any other way change the status of your existing insurance in the process, you are entitled to request and receive from the person soliciting insurance a written proposal signed by him setting forth all the pertinent facts bearing on the transaction and the advantages and disadvantages of changing to the proposed coverages.
- II. In every case, it is to your advantage to secure the advice and recommendations of your present life insurance company regarding the proposed replacement or change in such existing policies. You may secure this information by notifying your present insurance company or its agent about the proposed replacement or change. In the event the replacement or change suggested is presented by a person representing the company in which you already have existing insurance,

you are entitled to secure the views of the home office or of a management representative of this company regarding the desirability of such replacement or change.

- III. If you are considering replacement of your present insurance, you are advised that, as a general rule, it is not to your advantage to drop or change any of your existing life insurance for the purpose of replacing it with new life insurance in the same or another company. Some of the reasons for this are as follows:
- A. When a new policy is issued, its acquisition costs must be paid. Almost invariably such costs are higher on a new policy than the current costs on an existing policy.
 - B. The incontestable and suicide clauses begin anew in a new policy. This could result in a claim under a new policy being denied by the company which would have been paid under the policy which was replaced.
 - C. A new policy usually will be issued at an age higher than that of the existing policy and thus usually will have a higher premium rate.
 - D. Existing policies often have more favorable provisions than new policies in such areas as settlement options and disability benefits.
 - E. Your present insurance company can often make a desired change on terms which would be more favorable to you than if you replaced your existing insurance with new insurance.
- IV. For the above reasons it is also generally not to the policyholder's advantage to put the original policy on reduced paid-up or extended insurance or to borrow its loan value beyond ability or expectation to repay in order to have sufficient funds to pay premiums on a new policy in the same or another company.
- V. There may be a few very occasional cases where a replacement might be to your advantage. However, your best protection in every case is to secure the comments and views of your present insurance company before arriving at any decision on such an important matter.

VI. If, in the negotiation to replace existing insurance, it is suggested by an agent or employee of the present company that the existing insurance not be replaced, you are entitled to request from the person making the suggestion a written statement setting forth all the pertinent facts bearing on the advantages of the suggestion.

(10) EFFECTIVE DATE. This rule shall become effective June 1, 1972.

Office of the Commissioner of Insurance



S. C. DuRose
Commissioner of Insurance

Dated February 24, 1972.

STATE OF WISCONSIN
DEPARTMENT OF STATE
RECEIVED AND FILED

FEB 25 1972

ROBERT C. ZIMMERMAN
SECRETARY OF STATE

<u>Tabular Cash Values:</u>	<u>+Existing Life Insurance</u>	<u>Proposed Life Insurance</u>
At Present	\$ _____	\$ _____
1 Year Hence	_____	_____
5 Years Hence	_____	_____
10 Years Hence	_____	_____
At age _____ (Highest age shown in Cash Value Table of existing Policy)	\$ _____	\$ _____
Cash Value of any existing Dividend Additions or Accumulations (if available from applicant)	\$ _____	\$ _____
Amount of Loan Now Outstanding, if any	\$ _____	\$ _____
Annual Loan Interest Rate	% _____	% _____
Date Contestable Period Expires	_____	_____
Date Suicide Clause Expires	_____	_____
Settlement Option at Age 65 Monthly Life Income - 10 Years Certain - per \$1,000 Proceeds	\$ _____	\$ _____

Dividends**

Is Policy Participating?	_____	_____
Annual Dividend (current scale)	_____	_____
1 year hence	_____	_____
2 years hence	_____	_____
5 years hence	_____	_____
10 years hence	_____	_____
Total 10 years	\$ _____	\$ _____

**Dividends are based on the 19 _____ dividend scale. The dividends shown are not to be construed as guarantees or estimates of dividends to be paid in the future. Dividends depend on mortality experience, investment earnings and other factors, and are determined each year at the sole discretion of the company's board of directors.

The agent is responsible for furnishing required dividend information. It is recommended that he obtain this for the policy being replaced from the company issuing the original insurance. As an alternative, however, he may show dividends on closest comparable policy, amount, age and duration from current statistical manuals (interpolating where necessary) provided the premium rate for such closest comparable policy is the same as, or differs only inconsequentially from, the premium rate for the policy to be replaced. It is to be recognized that dividend information under this alternative method, with respect to existing insurance is not likely to be as accurate as dividend information obtained directly from the company issuing the original insurance.

Source of dividend information used: _____

2. Advantages of Continuing any Existing Life Insurance:

3. Advantages of the Proposed Replacement of the Existing Life Insurance:

4. Additional Information:

(A) The Existing Life Insurance Cannot Fulfill Your Intended Objectives for the Following Reason(s):

(B) The Existing Life Insurance (Can) (Cannot) be Changed to Provide the Benefits Desired Under the Proposed Life Insurance. If it Can be Changed, the Reason for Proposing New Life Insurance Rather than Changing the Existing Life Insurance is as Follows:

(C) Under the Proposal, the Existing Life Insurance Policy Will Be Treated as Follows:

5. The Primary Reason for the Proposed Replacement of the Existing Life Insurance by New Insurance is as Follows:

6. Additional Remarks:

Date

Signature of Agent

Address

I hereby acknowledge that I received the above completed "Proposal" and the "Notice to Applicant" before I signed the application for the proposed new insurance.

Date

Signature of Applicant

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Note: It is the position of the commissioner that the changing of a policy to one with lower cash values is replacement if the freed premium dollars are to be used to purchase additional life insurance. This position is not intended to discourage the programming of life insurance as it is recognized that insurance needs change. Rather, it is intended that the insured should be given as many facts as possible to aid him in making his decision.

Subsection (4) (a) requires that a copy of the replacement statement be left with the applicant for his records. This requirement is satisfied if the statement is included in the application and the application is made a part of the policy.

The rule under paragraph (a) of subsection (4) requires a distinct and separate statement by the applicant as to his knowledge of replacement and a distinct and separate statement by the agent as to his knowledge of replacement. A statement made by the applicant and subscribed to by the agent does not meet this requirement.

Subsection (4) (b)3. makes a purposeful distinction between the "immediate" notice and the "prompt" submission of the required items. It is important that "immediate" notice of replacement be sent to the company whose policy is being replaced. That company may then offer recommendations to its policyholder before the replacement policy is issued. In some cases the replacement proposal may contain some inadvertent errors which should be corrected before the proposal is forwarded. If notice of replacement were held up until these corrections were made, the transaction might be completed before the original company has an opportunity to make its recommendations to its policyholder. To give effect to the distinction between immediate notice and prompt submission of the proposal:

- (1) Compliance with the requirement of immediate notification under the rule will be deemed sufficient if the notice is forwarded within 24 hours of the taking of the application, or if such forwarding precedes all other steps, such as ordering an inspection report or medical examination.
- (2) The replacing company may, by written agreement, assume the agent's responsibility of immediate notification. In so doing, however, the company must delay policy issuance for a period commensurate with the delay resulting from its action and must be prepared to handle any dissatisfaction of the applicant with appropriate remedy as, for example, cancellation with full return of premium.
- (3) The replacing company may, by written agreement, assume the agent's duty to satisfy the requirements as set forth in subsection (4) (b)3. It is reasonable to expect that the required items will be sent to the replacing company within 3 working days of the time the application is received at the home office unless the proposal has to be returned to the agent for corrections or additional information. In no event should the replacement policy be issued until after the required items have been sent to the other company.

The procedures in (1) and (2) comprise a prima facie means of compliance but do not preclude such other means as may prove to give immediate notification and which would come within the generally accepted definition of "immediate".

It is recognized that the present "Notice to Applicant" is not entirely appropriate for use in cases involving annuities. This rule makes no attempt to prescribe the specific wording of this notice because of the many variables in the few replacement cases that are contemplated. However, it is expected that the company will assume the responsibility of adapting the notice to fit annuity cases when they arise.

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