Chapter Ins 2

LIFE INSURANCE

Ins 2.01 Estoppel by report of medical examiner. No company or fraternal benefit society shall issue in this state a contract, based on a medical examination, providing for disability benefits, the provisions of which are in conflict with section 209.07, Wis. Stats., or shall indulge in any practice which is at variance with said section.

Ins 2.02 Stock life insurance corporations writing participating policies. (1) PURPOSE. The repeal of the rule previously in effect and the adoption of this rule is for the purpose of revising the formal interpretation of certain statutes consistent with statutes and business methods now in existence. This rule implements and interprets applicable statutes including sections 201.045, 201.54, 206.27 to 206.32, 206.36, 206.51 (1), 207.04 (1) (a), 601.42 and 601.43 Wis. Stats., and chapters 611 and 618, Wis. Stats.

(2) SCOPE. This rule shall apply to stock insurance corporations when transacting the kinds of insurance authorized by section 201.04 (3), Wis. Stats., in the form of participating policies.

(3) LIMITATION OF PROFITS INURING TO THE BENEFIT OF STOCKHOLDERS. The protection of the interest of the public purchasing participating policies and contracts issued by stock life insurance corporations requires a reasonable limitation of the profits on participating business that shall be made available to stockholders. In consideration of the amount of life insurance customarily transacted in relation to the capital contribution of stockholders and to safeguard the interest of policyholders in this state, no profits on participating policies and contracts in excess of the larger of (a) 10% of such profits or (b) 50¢ per year per $1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(4) LICENSE REQUIREMENTS. No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall file an agreement (evidenced by a resolution of its board of directors or other appropriate body having the power to bind such corporation and its stockholders) to the effect that:

(a) No profits on participating policies and contracts in excess of the larger of

1. 10% of such profits or

2. 50¢ per year per $1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(b) The profits on its participating policies and contracts shall be ascertained annually by allocating to such policies and contracts specific items of gain, expense, or loss attributable to such policies and contracts and an equitable proportion of the general gains or outlays of the company.

(c) Such profits as shall inure to the benefit of stockholders shall be determined and apportioned annually.

(d) The accounts of the participating and nonparticipating classes will be kept separate.

(e) No part of the funds accumulated or belonging to the participating class shall be transferred to the nonparticipating class.

(f) The agreement shall remain in effect so long as any outstanding participating policies or contracts of such company are held by persons resident in Wisconsin except as the applicable requirements of statute or administrative rule may be modified or superseded by subsequent enactments.

(5) EXCEPTIONS. In accordance with section 206.13 (3), Wis. Stats., the agreement required by subsection (4) (e) of this rule may be modified to the extent necessary to be consistent with the existing charter of the stock life insurance corporation.

(6) ANNUAL FILING. No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall annually file the information required by sections 206.27 (Schedule 14, S.), and 601.42, Wis. Stats.

Note: Before issuing a new or renewal license to transact insurance in this state, the commissioner of insurance is required by sections 201.045 and 201.34, Wis. Stats., to be satisfied that the methods and practices of the insurer adequately safeguard the interests of its policyholders and the people of this state. Section 206.13, Wis. Stats., provides for the issuance of participating life insurance policies by stock companies.

The nature of participating policies is that the premium charge includes an additional loading which acts as the safety factor to provide for various contingencies that may develop during the term of the policy. The additional premium thus collected is then returned to the policyholder in the form of dividends. Section 201.36, Wis. Stats., provides for the annual apportionment and return of such sums after making provision for required reserves and liabilities.

In respect to those policies in which the policyholder is entitled to share in the surplus, section 206.36, Wis. Stats., provides for the payment of authorized dividends on capital stock from the surplus accumulations of the participating business of the company. Section 201.54, Wis. Stats., authorizes distribution of savings, earnings, or surplus to any class of policyholder by filing a schedule thereof with the commissioner in those cases where such a distribution was not specified in the policy. In such cases the commissioner has an obligation to be satisfied that the methods and practices of the company are such as to safeguard the interest of the policyholders.

The principal portion of the earnings on participating policies is due to the additional loading in the premium charged for the policy. It would be a misrepresentation of the participating provisions of any such policy or contract if a substantial portion of the profits accruing from such policies or contracts were not to be returned to the policyholders. Sections 206.51 (1) and 207.04 (1) (a), Wis. Stats., prohibit the misrepresentation of the dividends or share in surplus to be received on any policy.

It is evident that a stock insurance corporation should not have complete freedom in determining the amounts that are to be removed from the funds accumulated or belonging to the participating class of policyholders and used for the benefit of stockholders. A reasonable limitation in the amounts that shall inure to the benefit of stockholders is necessary for the fair and equitable treatment of stock life insurance corporations,

stockholders, and policyholders. We find that section 216 (6) of the New York insurance statutes provides for a limitation comparable to that stated in the rule. The record in that state indicates such a limitation to be reasonable and workable and we believe it to be a proper safeguard of the interests of the people of this state.

History: 1-2-56; r. and recr. Register, August, 1962, No. 80, eff. 9-1-62; renum. (4) (d) to be (4) (f) cr. (4) (d), (4) (e), (5) and (6), Register, January, 1964, No. 97, eff. 2-1-64; am (1) and (6), Register, May, 1975, No. 233, eff. 6-1-75.

Ins 2.03 Policies not dated back to lower insurance age. (1) No company shall issue for delivery in this state any policy or contract of life insurance which purports to be issued or take effect as of a date more than 6 months before the application therefor was made, if thereby the premium on such policy or contract is reduced below the premium which would be payable thereon as determined by the nearest birthday of the insured at the time when such application was made. The date of application must be considered to be the date on which the application (Part I) or the medical examination (Part II) is completed, whichever is the later.

(2) This ruling does not prohibit the exchange, alteration or conversion of policies of life insurance as of the original date of such policies if the amount of insurance provided under the new policy does not exceed the amount of insurance under the original policy or the amount of insurance which the premium paid for the original policy would have purchased if the new policy had been originally applied for, whichever is greater; nor prohibit the exercise of any conversion privilege contained in any policy or contract.

Ins 2.04 Substandard risk rates. Life insurance companies may charge premiums in excess of the maximum premiums as defined in section 206.26, Wis. Stats., provided the addition to the maximum premium is made to cover the extra risk owing to the fact that the person is a substandard risk, or is engaged in a hazardous occupation.

Ins 2.05 Separate statement of premiums for certain disability insurance benefits included in life or endowment insurance policies. (1) PURPOSE. This rule provides guidelines to determine which disability coverages may be included in life or endowment insurance policies without a separate statement of premium charge. This rule interprets and implements the separation of premium requirements stated in provision 2 of section 206.18 (1), Wis. Stats., as they relate to the inclusion of disability insurance by policy provision or rider in life or endowment insurance policies such as authorized by sections 201.05 (2) and (3) and 206.03, Wis. Stats.

(2) SCOPE. This rule shall apply to the kinds of disability insurance authorized by section 201.04 (3) and (4), Wis. Stats., when such insurance is provided in a life or endowment policy either by specific policy provision or by a rider attached to such policy.

(3) DEFINITIONS. (a) *Life or endowment insurance.* The basic life or endowment insurance coverage provided by the policy and additional disability benefits which have been determined by the standards in subsection (4) to be benefits which are life or endowment insurance or an integral part of such coverages.

(b) *Disability insurance benefit.* Insurance coverages written under the authority of section 201.04 (3) or (4), Wis. Stats., to indemnify persons in whole or in part for financial loss due to bodily injury, death by accident, or health of persons.

(c) *Separate statement of premium.* Individual statement of the exact gross premium charged for each distinct disability insurance coverage required by this rule to be stated separately from the premium charge for the basic life or endowment insurance coverage.

(4) STANDARDS AND PROCEDURES FOR DETERMINATION. The following criteria or standards in paragraphs (a) through (e) shall be used to determine whether a disability benefit, coverage, or clause may be included in the basic life or endowment policy without a separate statement of the premium charged for such disability benefit. Subject to the approval of the department of insurance, a disability benefit, coverage, or clause which satisfies the standards listed below may be included in the basic life or endowment coverage without a separate statement of cost. Disability coverages not meeting these standards may be included in or attached to the policy only with a separate statement of the premium if they otherwise meet the statutory requirements in respect to combination of coverages. The rule in no way requires that a disability benefit, coverage, or clause be included in the premium charge for the basic life or endowment coverage if the company desires to show the premium separately.

(a) Small or very nominal cost for the disability coverage when compared with the cost of the basic life or endowment coverage.

(b) Logical reason for including the disability benefit without a separate statement of premium.

(c) There is a demonstrated need for, and the applicant would usually desire, the inclusion of the disability benefit.

(d) Inclusion of the disability coverage could be easily understood by the applicant and is not subject to possible misinterpretation.

(e) Custom of the insurance business has classed the disability coverage as basically a life insurance benefit.

(5) DISABILITY BENEFITS WHICH REQUIRE A SEPARATE STATEMENT. The following list constitutes a partial listing of disability coverages considered by the department to be additional benefits which generally require a separate statement of premium charge if they are attached to or included in life or endowment coverage in accordance with other statutory requirements. Any such benefit may be included in a life or endowment insurance policy without a separate statement of premium if it is demonstrated that it meets the requirements listed in subsection (4) of this rule.

(a) Waiver of premium benefit for death and/or disability of payor.

(b) Loss of sight and/or dismemberment benefit.

(c) Disability income benefit.

(d) Hospital insurance.

(e) Basic or primary medical insurance.
(f) Major medical benefit.
(g) Surgical benefit.

(6) DISABILITY BENEFITS NOT LISTED. Disability benefits which are not specifically listed above will be examined at the time of filing to determine whether a separate statement of premium is required.

(7) RESERVE VALUES. Reserve values, on account of included provisions, will be based upon the requirements of section 206.201, Wis. Stats., or other applicable statues or, in the absence of specific requirements, on such additional standards as the commissioner of insurance may prescribe.

(8) EFFECTIVE DATE. On or after April 1, 1965, no life insurance policy shall be approved for use and no such policy heretofore approved shall be issued or delivered in this state unless it meets the requirements of this rule.

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

Note: The repeal of the previous rule and the adoption of this rule was prompted by the inconsistency which existed between the repealed rule and provision 2 of section 206.18 (1), Wis. Stats. This inconsistency caused an erosion in the application of the old Wisconsin Administrative Code section Ins 2.05 to the point where any of the benefits listed in the new rule were acceptable for inclusion in a life policy without a separate statement—a practice which is in almost complete disagreement with the apparent intent of the statute.

Provision 2 of section 206.18 (1), Wis. Stats., requires an individual statement of the premium charged for any benefit provided in a life or endowment policy separate from the premium charged for the basic life or endowment coverage which is based on a life contingency table and provided by the policy. The department feels that this full disclosure has strong merit even in the present insurance market. However, in the years since the enactment of this statute in 1909 several changes have taken place in the life insurance industry that necessitate a rule providing standards to determine whether certain disability benefits may be included in a life or endowment insurance policy without a separate statement of the premium charge in line with the original intent of the statute. The principal changes are:

1. The automatic inclusion of some benefits in a policy enables an insurance company to provide some additional disability benefits at a relatively small cost in relation to the charge for the basic life or endowment insurance coverage.

2. Custom of the business through the years has now classed some disability coverages as benefits which are a supplemental policy provision in most life or endowment policies and sometimes needed as an integral part of the policy.

The public interest dictates that it is expedient to recognize these two changes when the cost for the disability benefit is low or nominal, the coverage is needed, and is easily understood by the applicant or insured. This rule provides criteria to determine disability coverages which may be defined as an integral part of the basic life and endowment insurance and are, therefore, benefits which may be included without a separate and distinct statement of premium.

The new rule was developed as a result of the following main considerations:

1. The department has a strong concern for disclosure in situations where intentional or unintentional misrepresentation may be present to mislead or confuse prospective purchasers of life insurance. The statutory basis for this authority is set forth in section 207.04, Wis. Stats.

2. The disclosure philosophy in Wisconsin in respect to life insurance coverage premiums originated in the year 1909 when the Legislature enacted section 1948m (now section 206.18 (1), provision 2, Wis. Stats.) requiring that a policy of life insurance specify "separately the premium charged for any benefit promised in the policy other than life or endowment insurance."

The 1908 Wisconsin Insurance Report to tthe Governor stated:

> "Notwithstanding the liberal provisions for expenses which are possible under the new laws, several devices for increasing this amount far beyond the proposed benefits have been submitted to this department for its approval. There is an increasing tendency to introduce into contracts for life insurance provisions for additional benefits such as old age, disability and sick benefits. These forms of insurance in many cases are

very desirable but it is rarely that the addition of these benefits to policies spring from an honest desire on the part of the companies to furnish the insurance protection. Their addition to policies of life insurance ordinarily only serves as a cloak for the addition of a greatly increased premium. The policyholder should be informed separately of what is charged him for the life insurance and what is charged him for the old age, disability or sick benefit insurance. This information should be contained in the contract of insurance. Policyholders can then judge for themselves whether the additional benefits are worth the charges which it is proposed to exact and both the company and the policyholder can get the resulting economy in agency and medical expenses from writing the two contracts at the same time."

These observations apparently prompted the Legislature in the following year to enact section 1948m.

3. Additional insight in respect to the original intent of the disclosure statute is given in Commissioner Cleary's letter on this subject dated October 22, 1915. In this letter the Commissioner had under consideration two filings in which a waiver of premium benefit was included in a policy form previously used. The new coverage with the total and permanent disability benefit was to be sold at the same price previously used only for the basic coverage. Commissioner Cleary indicated the following in respect to liberalization of policies where no direct charge is made for the additional benefit.

"Subdivision 2, of section 1948m, Wisconsin statutes, provides that no policy of insurance (Life) shall be delivered in Wisconsin after the year 1909 unless it contains a table 'specifying separately *the premium charged* for any benefit promised in the policy other than life or endowment insurance * * *.' It is argued that policies such as those proposed by the Prudential are subject to said section, and are required to show in a separate table the charge for such additional benefits.

"I cannot agree with this contention. I do not believe that it was the intention of the Legislature, when it enacted this law, to restrict insurance companies in a liberalizing of their policies where no direct charge to the assured was made for the added benefit and where such additional benefit would not endanger the solvency of the company. I conclude, after considering the statute carefully, that what the legislature had in mind was rather a situation where the company proposed to give benefits other than death and endowment benefits which involved additional premium charges, in which event the company must specifically state what that additional charge is. I take it that this provision was incorporated so that the assured might know what he was paying for the benefit promised; that the cost should not be concealed in a lump premium charge."

Commissioner Cleary also commented on the fact that even though there is no significant premium charge there is an increased company liability because of the provision and that a limited disclosure was needed to obtain approval. The last paragraph of the letter sets forth this position as follows:

"There can be no question that the added benefits promised in these policies cost the company something. The liability of the company on every outstanding policy containing this provision is greater than it would be if pure life or endowment insurance were the only benefits promised. It will be necessary, therefore, to take this additional benefit into account in valuing these policies. For this reason the policy should, by a printed or stamped provision incorporated in the policy, state the amount estimated as the cost of such benefit. This provision may also state that such sum is included in the premium charged. The sum so stated should be adequate, and will be a guide to actuaries in valuing the policies. The approval hereby given to the policies is subject to the incorporation of such a provision."

The above considerations provide a basis for the standards or criteria adopted in this rule.

History: 1–2–56; r. and recr., Register, March, 1965, No. 111, eff. 4–1–65.

Ins 2.06 History: Cr. Register, December, 1958, No. 36, eff. 1–1–59; am. (5) (c), Register, March, 1959, No. 39, eff. 4–1–59; am. (2) (b) 3 and 8; (2) (c) and (d); (5) (e); (6) and (7) (b), Register, October, 1961, No. 70, eff. 11–1–61; am. (3), Register, August, 1962, No. 80, eff. 9–1–62; r. Register, August, 1972, No. 200, eff. 9–1–72.

Ins 2.065 Replacement of life insurance policies; disclosure requirements.

History: Cr. Register, March, 1962, No. 75, eff. 5–15–62; am. (3) and (9) (intro. par.), Register, April, 1965, No. 112 eff. 5–1–65; am. (2), Register, June, 1968, No. 150, eff. 7–1–68; renum. Ins 2.07 to be Ins 2.065, and cr. (10), Register, March, 1972, No. 195, eff. 4–1–72; expires June 1, 1972.

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 Wis. Adm. 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 beheld 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 Wis. Adm. 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.

EXHIBIT A

PROPOSAL

(This form provides information on your present life insurance.) It also provides information on the life insurance which has been proposed to you.)

Name of Applicant _____

Address _____
Street City State Zip Code

Name of Insured if Other Than Applicant _____

Date of Birth of Insured _____

1. *Comparative Information*

Item	† *Existing Life Insurance*	*Proposed Life Insurance*
Policy Number	_____	XXXXXXX
Insurance Company	_____	_____
Amount of Basic Insurance:		
Currently	$_____	_____
10 Years Hence	$_____	_____
20 Years Hence	$_____	_____
At Age 65	$_____	_____
Basic Plan of Insurance	_____	_____
Present Amount of Term Rider(s)	$_____	_____
Issue Age	_____	_____
Issue Date	_____	XXXXXXX

Premium For:	*Prem.*	*Yr. Prem. Payable to*	*Year Coverage Ceases*	*Prem.*	*Yr. Prem. Payable to*	*Year Coverage Ceases*
Basic Policy	$____	_____	_____	$____	_____	_____
* Accidental Death Ben.	_____	_____	_____	_____	_____	_____
*Waiver of Prem. Ben.	_____	_____	_____	_____	_____	_____
*Disability Income Ben.	_____	_____	_____	_____	_____	_____
Family Income or Increased Protection Rider	_____	_____	_____	_____	_____	_____
Option to Purchase Additional Insurance	_____	_____	_____	_____	_____	_____
Other Benefits (Explain)	_____	_____	_____	_____	_____	_____
Total Current Prem.	$____			$____		
Frequency of Premium Payment	_____				_____	

* If Premium For Benefits: (A) is not separable from basic policy premium, insert "Included in Basic Policy Premium", or (B) is an aggregate premium, show the aggregate premium.

† If more than one existing life insurance policy is to be affected by a transaction included within the definition of a replacement contained in subsection (3) of the rule, (1) the existing life insurance column of a separate signed Proposal form must be completed for each such policy providing the information required by the form with respect to existing policies, and (2) a separate signed Proposal form must be completed for the proposed policy. The latter form must summarize, to the extent possible, the information concerning the existing policies set forth on the separate forms, and must include the information required in items 2 through 6 of the Proposal form.

Tabular Cash Values:	† *Existing Life Insurance*	*Proposed Life Insurance*
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

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.

History: (See also history of Ins 2.065) Cr. Register, March, 1972, No. 195, eff. 6–1–72.

Ins 2.08 Special policies and provisions; prohibitions, regulations, and disclosure requirements. (1) PURPOSE. The interest of the public and the maintenance of a fair and honest life insurance market must be safeguarded by identifying and prohibiting certain types of policy forms and policy provisions and by requiring certain insurance premiums to be separately stated. This rule implements and interprets applicable statutes including sections 200.03 (2), 206.13, 206.17, 206.18, 206.33, 206.36, 206.51 (1) and 207.04 (1) (a), (b), (f), (g), (h), and (i), Wis. Stats.

(2) SCOPE. This rule shall apply to the kinds of insurance authorized by section 201.04 (3), Wis. Stats., and shall also apply to fraternal benefit societies.

(3) DEFINITIONS. For the purpose of this rule certain life insurance policy forms and provisions referred to herein shall have the following meaning:

(a) *Coupon policy* is any policy form which includes a series of coupons prominently and attractively featured in combination with an insurance contract. Such coupons are one-year pure endowments whether or not so identified and whether or not physically attached to the insurance contract. The coupons are devised to give the appearance of the interest coupons that are frequently attached to investment bonds. Although the face amount of the coupon benefit is essentially a refund of premium previously paid by a policyholder, it is frequently represented that it is the earnings or return on the investment of the policyholder in life insurance.

(b) *Charter policy* is a term or name assigned by an insurance company to a policy form. Such a policy is usually issued by a newly organized company and it is sold on the basis that its availability will be limited to a specific predetermined number of units of a fixed dollar amount. Such policies generally provide that the policyholder shall participate in the earnings resulting from either or both participating policies and non-participating policies. It is characteristic of such a policy that in its presentation to the public it is represented that the policyholder will receive a special advantage in any future distribution of earnings, profits, dividends or abatement of premium. It is also represented that such advantage will not be made available

to the persons holding other types of policies issued by the company. Other names such as *Founders, President,* and *Executive Special* are frequently used for policies of the type herein described, and for the purpose of this rule when they are so used they shall be considered as *charter policies.*

(c) A *profit-sharing policy* is any policy form which contains provisions representing that the policyholder will be eligible to participate, with special advantage not available to the persons holding other types of policies issued by the same company, in any future distribution of general corporate profits. Such policy forms are so drafted that it appears to a prospective policyholder that he is purchasing a preferential share of the future profit and earnings of the insurance corporation rather than purchasing a life insurance policy which may be subject to refund of excess premium payments. The provisions of the policy may incorrectly represent the amount and source of surplus that will be available for apportionment and return to policyholders in the form of dividends. Policy forms using such terms as *profits, surplus,* or *surplus-sharing* in the manner herein described shall, for the purpose of this rule, be considered as *profit-sharing policies.*

(4) PROHIBITIONS, REGULATIONS, AND DISCLOSURE REQUIREMENTS. In accordance with the purpose expressed in subsection (1) of this rule and in consideration of the apparent intent of the legislature, the use in this state of certain types of policy forms and policy provisions shall be subject to the following prohibitions and regulations:

(a) *Coupon policy* forms misrepresent, distort, and disguise the true nature of the insurance being purchased. Therefore, no *coupon policy* shall be approved for use and no *coupon policy* heretofore approved shall be issued or delivered in this state on or after June 15, 1962.

(b) Any policy containing a series of one-year pure endowments or a series of guaranteed periodic benefits maturing during the premium-paying period of the policy in which the amount of any pure endowment or periodic benefit or benefits payable during any policy year is less than the total annual policy premium for such year has special characteristics making such policy peculiarly susceptible to misrepresentation and misunderstanding. Such policies are founded on the utmost good faith of the company, and the public interest requires that the premium charged for such benefits shall be fully and fairly disclosed to the policyholder without deception or misrepresentation. Therefore, on or after April 1, 1965, no such policy herein described shall be approved for use and no such policy heretofore approved shall be issued or delivered in this state unless:

1. The policy is nonparticipating,

2. The payment of a pure endowment or guaranteed periodic benefit is not contingent on the payment of premiums falling due on or after the time such pure endowment has matured,

3. The gross premium for the pure endowment or guaranteed periodic benefits is shown prominently and separately in the policy distinct from the regular insurance premium,

4. The gross premium for the pure endowment or guaranteed periodic benefits is based on reasonable assumptions as to interest, mortality, and expense,

5. The number of one-year pure endowment or guaranteed periodic benefits provided by the policy equals the number of annual premiums for such benefits,

6. All advertisements, sales materials, agent's presentations, and other representations of the policy to the public represent the pure endowment or guaranteed periodic benefits of the policy to be nothing other than insurance benefits for which a premium is being paid,

7. All representations of the total premium for the policy contract also show the gross premium for the pure endowment or guaranteed periodic benefits to an extent such that the prospect or purchaser is fully informed as to the separate costs involved.

(c) *Charter policy* forms are defined by section 207.04 (1) (f), Wis. Stats., to be an unfair method of competition. They purport to provide a means to an end result that is not authorized by statute and an end result that is without reasonable expectation of achievement. Such policy forms misrepresent the responsibility and obligation of the company for equitable distribution of dividends or abatement of premiums. Therefore, no *charter policy* shall be approved for use and no *charter policy* heretofore approved shall be issued or delivered in this state on or after June 15, 1962.

(d) *Profit-sharing policy* forms are contrary to statute and the public interest by representing as an inducement to insurance that the person who purchases such a policy is procuring a preferential interest in the future profits and earnings of the insurance corporation. Any distribution to a policyholder of the company of earnings, profits, or surplus is a refund of the excess premiums paid by that policyholder. Such distribution must be fair and equitable to all policyholders, it must not discriminate unfairly between individuals of the same class and equal expectation of life, and it must be in the best interest of the company and its policyholders. Therefore, no *profit-sharing policy* shall be approved for use and no *profit-sharing policy* heretofore approved shall be issued or delivered in this state on or after June 15, 1962. Further, on or after June 15, 1962, no participating policy shall be approved and no participating policy heretofore approved shall be issued or delivered in this state unless the policy provides without deception or misrepresentation that the source of any dividends or abatement of premium is limited to the divisible surplus derived from participating business.

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

Note: The above rule is the end product of a careful study and evaluation of the transcript of the hearing on January 16 and January 17, 1962, on the proposed rule. Due consideration was given to the exhibits and the prepared statements presented at the hearing and to the several briefs filed subsequent to the hearing. This is the first time since the passage of Public Law 15 that such a large amount of legal and actuarial talent was focused on these specific matters of the life insurance business. The number and size of the briefs and exhibits reflect the substantial time involved with their preparation, and the information they contained cast considerable light on the issues under consideration.

It is of interest to note that the first coupon-type life insurance policy was accepted for use in Wisconsin about 1940. Chapter 207, Wisconsin Statutes, relating to Unfair Insurance Business Methods, was enacted in 1947. In 1959 a newly organized company commenced the use of a charter-type coupon policy with profit or surplus sharing provisions. Because of the infrequent submission of such a type of life insurance policy, the Insurance Department personnel did not fully appreciate the impact of the provisions of Chapter 207 (1947, c. 520) on the provisions of life insurance policies filed pursuant to section 206.17, Wisconsin

Statutes. The information made available as a result of the hearing serves to bring the issues and the requirements of statutes more clearly in focus.

An administrative agency has a responsibility to correct any errors in administration of the statutes which are brought to its attention. The premise suggested at the hearing by the opponents of the proposed rule that a previous administrative ruling (acceptance of the policy) should be controlling and should not be reversed is not supported by the Wisconsin Supreme Court. In Universal Underwriters vs. Rogan, 6 Wis. (2d) 623, the court in effect said that, in case of ambiguity in a statute, practical interpretation over a long period by the agency charged with administration of an act or statute may be deemed controlling, but where there is no ambiguity in the law, a previous administrative ruling thereon cannot be given any weight as an administrative interpretation. The basic responsibility for the drafting and construction of lawful policy forms rests with an insurance company and its actuaries and lawyers. In reviewing policy forms, the Insurance Department, while seeking to protect the public interest to the best of its ability, does not inherit any basic responsibility for the lawfulness of any part or all of an insurance contract. Therefore, it appears proper to make a determination of the matters at hand based on the merits of the issues and without an obligation to be controlled by a previous ruling.

Life insurance contracts, more than any other kind of insurance, are made on the basis of the utmost good faith of the insurance company. It is fundamental that the provisions of such contracts be devised with clarity and precision. The commissioner has an obligation to see that the public interest be served and the statute complied with by refusing to accept policies that are or tend to be misleading or deceptive. Section 201.53 (1), Wisconsin Statutes, states that: "No insurance company shall make any agreement of insurance other than as plainly expressed in the policy."

The principal issues involved are whether or not life insurance coupon policies, charter policies, and profit-sharing policies are consistent with and are authorized by statute. Some life insurance companies issue policy forms embodying one or more of these features in a single policy. It is necessary that each of these types of policies be discussed separately even though there is some overlapping of the issues involved and some of the same considerations are present in two or more of these policies.

In respect to the so-called coupon policies, wherein a series of coupons are sold in conjunction with conventional life insurance, there is no dispute but that the coupons are a series of one-year pure endowments. This being true, they should be properly identified as such. To print the coupon in the color and format of interest coupons commonly attached to investment bonds disguises the true nature of the product being purchased by the public. A series of one-year endowments affords a special type of benefit which the average life insurance buyer would seldom purchase if he were in possession of the full information concerning the premiums paid for the pure endowment benefits provided.

The gross premium cost to the policyholder for the pure endowment benefits can be readily determined by the company by loading the benefits to be afforded with the applicable expense items such as premium taxes, acquisition cost, and company administration expenses, with consideration for items such as interest, mortality, policy lapses, etc. It has been argued that it is only necessary to disclose the net premium cost, which is the premium needed to provide the benefits, without recognition and inclusion of the company administration expenses and overhead. These other expenses do exist and if not shown with the pure endowment premium they then are an additional load on the life insurance being purchased in conjunction with the pure endowment benefit. To argue that it is only necessary to disclose a portion of the premium cost is to argue that it is legal and proper to deceive the public into believing that they are purchasing the endowment benefit at a premium cost that is attractive in relation to the benefits. It is a fact that the gross premium cost will frequently be substantially in excess of benefits returned to the policyholder. At best, the total of the face value of the pure endowment benefits would approximate or be only slightly greater than the total gross premium paid by the policyholder. It is not in the public interest, nor is it consistent with sections 201.53 (1), 206.51 (1), and 207.04 (1) (a), Wisconsin Statutes, to permit such a deception and misrepresentation of the gross premium cost of a series of one-year pure endowments or of any series of guaranteed periodic benefits maturing during the premium-paying period of the policy.

Charter policy is a name given to a life insurance policy, usually by a newly organized insurance company. Its basic purpose is to provide the company agents with a policy form that is especially attractive to the purchaser in order that the new company will have a competitive advantage. The nature of the charter-type policy is that it is profit-sharing or that the policyholder will participate in the long-term earn-

ings of the company. The usual representation is that the policies will be issued to the extent of a predetermined fixed number of units and that the policyholder will be one of a relatively small and limited number of the original policyholders of the company who will ultimately share in the business success of the company. While this may be a useful device to aid a new company in getting started in business, the technique, if it is to be permitted, must be consistent with the requirements of statute. Section 207.04 (1) (f) states that "Issuing . . . any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance" is an unfair method of competition and is an unfair and deceptive act or practice in the business of insurance. Such trade practices are prohibited by section 207.03. The technique of offering returns or profits to a small group of the first policyholders of a company is clearly contrary to statute. It is a characteristic of charter policies that they represent that the policyholder will participate with special advantage in the long-term earnings of the company. This is a misrepresentation when viewed in the light of the requirement of section 206.33 (1) that "No life insurance company shall make or permit any distinction or discrimination between insurants of the same class and equal expectation of life in the amount or payment of premiums or in any return of premium, dividends or other advantages." After consideration of the issues involved it cannot be concluded that charter-type life insurance contracts are consistent with the requirement of statute.

Profit-sharing is a name used to describe any life insurance contract which provides that the policyholder will participate with special advantage in the general surplus accumulations of a life insurance company. If the company issuing such policies issues participating policies exclusively, then the right of each policyholder to participate in the surplus of the company is the same as the right of every other policyholder of the company. In such cases the statutes (206.13 (1), 206.33, 206.36, and 207.04 (1) (g)) require equitable and nondiscriminatory annual apportionment and return of the surplus accumulations.

However, the matters involved are much more complex when a life insurance company issues both participating and nonparticipating policies. Underlying the matters to be considered is the fact that any dividend on a participating policy is essentially a return of excess premium paid by the policyholder. Section 206.13 (1) provides that the participating policy, by its terms, must give the policyholder the full right to participate annually in the surplus accumulations from the participating business of the company. The issue in question is whether the statutes authorize a life insurance company to issue contracts which provide that a class of participating policyholders will participate with special advantage in the long-term corporate earnings of the company on both participating and nonparticipating business. Section 207.04 (1) (g) 1 defines as a prohibited unfair discrimination the "making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, . . ." Section 207.04 (1) (h) defines as rebating, prohibited by section 207.03, the "paying or allowing or giving or offering to pay, allow or give, directly or indirectly, as inducement to such insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, . . ." From this it can be concluded that the statutes do not permit the issuance of a contract which gives the policyholder a promise of rebate of premium or a special advantage in dividend. Section 207.04 (1) (i) provides that, in respect to discrimination and rebates, the provisions of section 207.04 (1) (g) and (h) do not prevent the abatement of premium out of surplus accumulated from nonparticipating business provided that such abatement of premium shall be fair and equitable to policyholders and for the best interest of the company and its policyholders. This statute is the only authorization for payment of dividends from the surplus accumulated from nonparticipating business. The impact of this statute is that any distribution of surplus accumulated from nonparticipating business must be fair and equitable to both participating and nonparticipating policyholders and for the best interest of the company and the participating and nonparticipating policyholders. Thus, a participating policy which purports to provide by its own terms or by the net result of the application of its terms that the policyholder will participate in the surplus accumulated on nonparticipating business is not a true representation of fact since the participating policy can only participate to an extent that is equitable with the participation of the nonparticipating policy, and to be equitable and not misrepresent the rights of the policyholder the nonparticipating policy should have the same provision for participation in the earnings on the nonparticipating business. If such a provision were to be inserted in all nonparticipating policies, such policies then, by their own terms, become participating policies and the distribution of dividends would be governed by the statutes cited above and the purported special advantage would not exist. It can be concluded that participating policy

forms issued by life insurance companies should accurately state the conditions imposed by statute for distribution of surplus accumulations.

It is also worthy of mention that the Wisconsin Securities Law, in section 189.02 (1), defines a security as including "any interest, share or participation in any profits, earnings, profit-sharing agreement, . . ." There appears to be substantial evidence that if the profit-sharing or surplus-sharing type of policy were to be considered as complying with the insurance statutes it would then be considered as within the definition of a security and subject to regulation as such.

The provisions of Wisconsin Administrative Code section Ins 2.08 are intended to apply only to policies issued on or after its effective date, and it does not apply to contracts issued prior to the effective date. The adoption of the rule should not disturb or cast doubt about the validity of previously issued contracts of the type described in the rule. Such contracts were issued in good faith by the insurance companies, and there is no retroactive impact of the rule.

The amendment to subsection (4) (b) of this rule, effective December 1, 1964, does not impair the validity of any contracts in force prior to the effective date and does not prevent a company from performing on any such contracts.

History: Cr. Register, May, 1962, No. 77, eff. 6–15–62; am. (4) (b), Register, August 1964, No. 104, eff. 12–1–64; am. (4) (b) (intro. par.), Register, March, 1965, No. 111, eff. 4–1–65.

Ins 2.09 Separate and distinct representations of life insurance. (1) PURPOSE. The interests of policyholders and purchasers of life insurance which is sold in connection with any security must be safeguarded by providing them with clear and unambiguous written proposals and statements in which all material relating to life insurance is set forth separately from any other material. This rule implements and interprets sections 201.05 (3) (a); 201.53 (1), (2), (8), and (13); 206.41 (10) (a) 7 and 8; 206.51; 207.04 (1) (a), (f) and (h); and 208.33, Wis. Stats., by establishing minimum standards for the form of proposals and statements used to solicit, service, or collect premiums for life insurance which is sold in connection with a mutual fund or other security.

(2) SCOPE. This rule shall apply to the solicitation of, negotiation for, procurement of, or joint billing of any insurance specified in section 201.04 (3), Wis. Stats., within this state or involving a resident of this state where it is known to the insurer or the insurance agent that the sale of any mutual fund or other security has been, may become, or is a part of any such transaction.

(3) DEFINITIONS. For the purposes of this rule:

(a) "Proposal" includes any estimate, illustration, or statement which involves a representation of any premium charge, dividends, terms, or benefits of any policy of life insurance within subsection (2).

(b) "Life insurance" includes life insurance, annuities, and endowments.

(4) RESPONSIBILITY OF INSURER AND AGENT. No insurer and no insurance agent shall make, in connection with any transaction within subsection (2), a proposal or billing other than in accordance with this rule. Every insurer must inform its agents involved with the solicitation of life insurance on residents of this state of the requirements of this rule.

(5) WRITTEN PROPOSAL. In any solicitation or sale within subsection (2), the prospect or policyholder must be furnished with a copy of a clear and unambiguous written proposal not later than at the time the solicitation or proposal is made.

(6) CONTENTS OF PROPOSAL. Any proposal referred to in this rule must:

(a) Be dated and signed by the insurance agent or by the insurer if no agent is involved;

(b) State the name of the company in which the life insurance is to be written;

(c) Be accurate and complete;

(d) Contain no misrepresentations or false, deceptive or misleading statements;

(e) Show the premium charge for life insurance separately from any other charge;

(f) If values which may accrue prior to the death of the insured are involved in the presentation, show the value of the life insurance separately from any other values;

(g) Show, if it is involved in the presentation, the amount of the death benefit for the life insurance separately from any other benefit which may accrue upon the death of the insured;

(h) Set forth all matters pertaining to life insurance separately from any matter not pertaining to life insurance;

(i) Contain only such representations as will accurately reflect the actual conditions applicable to the proposed insured.

(7) STATEMENTS TO BE SEPARATE. Any bill, statement, or representation sent or delivered to any prospect or policyholder must show the premium charge for the life insurance and any other information mentioned concerning life insurance separately from any other charges or values shown in the same billing.

(8) VIOLATION. Any violation of this rule shall be deemed to be a misrepresentation of the nature of the life insurance involved.

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

History: Cr. Register, October, 1963, No. 94, eff. 11-1-63.

Ins 2.10 "In the same industry", definition of. (1) The phrase "in the same industry", as used in section 206.60 (4), Wis. Stats., may be construed so that establishments engaged in one of the following activities may be considered as being in the same industry: (a) retail trade, (b) wholesale trade, (c) service, (d) mining, (e) contract construction, (f) finance, insurance and real estate, (g) transportation, communication and other public utilities, and (h) manufacturing

(2) The principal activity of an establishment shall control its classification.

(3) An insurer may submit other classifications of establishments subject to the approval of the commissioner, which it believes may properly be considered as engaging in activities which are "in the same industry".

Note: The above rule is an outgrowth of the hearings held by the department on December 17, 1963, to consider the formulation of rules and guidelines which insurance companies could use to determine what groupings of employers might be permitted by the

phrase "in the same industry" in sections 206.60 (4) and 204.321 (1) (c), Wis. Stats., to obtain group insurance coverage for their employees through the establishment of a trust. As a result of the hearing, the department has reviewed the background and history of the "in the same industry" provision which was adopted as a part of the "Group Life Insurance Definition" and "Group Life Insurance Standard Provisions", revised at New York on December 15, 1948, by the National Association of Insurance Commissioners and enacted as a part of the Wisconsin Statutes in 1949. The department has concluded that the phrase "in the same industry" should be liberally construed. It provides a means whereby a small employer, not having a sufficient number of employees to qualify for a group plan of his own, may join with others and provide the benefits of group insurance to his employees and thereby compete in the labor market with the large employer. It has been emphasized to the department that the statutes involved are insurance statutes and that there is no underwriting reason which dictates greater detail or narrower classifications under the law. To require a more detailed breakdown only has the effect of adding to the administrative detail and expense of setting up such a plan, and such does not appear to be required nor in the public interest.

The rule was amended April 1, 1975 so that it would apply to organizations engaged in manufacturing. This was accomplished by adding reference to manufacturing in subsection (1). This in effect removes the application of the advisory opinions of the Attorney General dated January 16, 1958 and December 30, 1958 on this subject.

For a general guide as to the types of organizations which fall within each of the groupings listed in subsection (1) of this rule, the department suggests that insurers refer to the division headings found in the "Standard Industrial Classification Manual" prepared by the United States Bureau of the Budget, Technical Committee on Industrial Classification, Office of Statistical Standards, 1957, and to other similar material such as the industrial classification starting on page XI of the "U.S. Census of Population 1960—Classified Index of Occupations and Industries," published by the United States Department of Commerce, Bureau of the Census, 1960; and Volume V, No. 1, "Wisconsin Commerce Reports," Bureau of Business Research and Service, Madison, Wisconsin, April 1, 1957.

History: Cr. Register, February, 1964, No. 98, eff. 3-1-64; am. (1), Register March, 1975, No. 231, eff. 4-1-75.

Ins 2.11 Franchise life insurance. (1) DEFINITION-EXCEPTION. Franchise life insurance, as used in section 206.64, Wis. Stats., shall not include policies issued in connection with:

(a) Employe benefit trusts or plans conforming to the requirements of subsection 272.18 (31) (a), Wis. Stats.;

(b) Employe trusts and plans established under the Fereral Self-Employed Individuals Tax Retirement Act of 1962;

(c) Tax sheltered annuity programs for certain organizations exempt from federal income tax and for public schools;

(d) Salary savings, salary allotment, payroll deduction, or similar premium payment plans.

(2) FRANCHISE UNIT HEADQUARTERS. A franchise unit as defined in subsection 206.64 (1) (b), Wis. Stats., need not have its headquarters or other executive offices domiciled in Wisconsin.

(3) ACCOUNTING. All premiums paid in connection with franchise life insurance on Wisconsin residents shall be reported for annual statement purposes as Wisconsin business and shall be subject to the applicable Wisconsin premium tax.

History: Cr. Register, May, 1964, No. 101, eff. 6-1-64.

Ins. 2.12 Exceptions to unfair discrimination. The following practices, without being all-inclusive, shall not be considered unfairly discriminatory as considered by sections 206.33 (1) and 207.04 (1) (g), Wis. Stats.:

(1) Issuing life insurance policies or life annuity contracts on a salary savings, salary allotment, bank draft, pre-authorized check, or payroll deduction plan or other similar plan at a reduced rate or with

special underwriting considerations reasonably related to the savings made by use of such plan.

(2) Issuing life insurance policies or annuity contracts at premiums determined by rating plans which provide for modification of premi-

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ums based on the amount of insurance; but any such rating plans shall not result in reduction in premiums in excess of the savings reasonably related to the savings made by use of the plan. All cost factors must be given proper recognition in order to preserve equity between various classes of policyholders.

(3) Issuing so-called "family plan" life insurance policies which include insured, spouse, and their children with the premium calculated on the basis of the family unit. The rating plan must give recognition to all cost factors in order to preserve equity between various classes of policyholders.

(4) Issuing policies under the authority of sections 201.04 (3), (3a), (3b) or (3c), 206.60, 206.63, or 206.64, Wis. Stats., with the premium calculated on the basis of the average age of those insured or calculated in some other manner which is appropriate for the coverage offered, provided that the rate must be reasonably related to the coverage provided and to the savings made by use of the rating procedure.

(5) Issuing life insurance policies or life annuity contracts at special rates or with special underwriting considerations, reasonably related to the savings made, in connection with:

(a) Employe benefit trusts or plans conforming to the requirements of section 272.18 (31) (a), Wis. Stats.

(b) Plans used to fund retirement benefits under the Federal Self-Employed Individuals Tax Retirement Act of 1962.

(c) Plans used to fund retirement benefits for employes of certain organizations exempt from Federal income tax and public schools (so-called tax sheltered annuity plans).

(d) Franchise life insurance provided under the provisions of section 206.64, Wis. Stats.

History: Cr. Register, May, 1964, No. 101, eff. 6–1–64.

Ins 2.13 Separate accounts and variable contracts. (1) PURPOSE. This rule creates standards for establishing separate accounts and for issuing contracts on a variable basis, both as provided by section 206.385, Wis. Stats.

(2) DEFINITION. (a) The term "contract on a variable basis" or "variable contract," when used in this rule, shall mean any policy or contract which provides for insurance or annuity benefits which may vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract, as provided for in section 206.385, Wis. Stats.

(b) "Agent," when used in this rule, shall mean any person licensed as a life insurance agent under the laws of this state.

(c) "Variable contract agent," when used in this rule, shall mean an agent who shall sell or offer to sell any contract on a variable basis.

(d) A "satisfactory alternative examination" to part I of the written examination called for by paragraph (c) of subsection (9) of this rule shall include any securities examination which is declared by the commissioner to be an equivalent examination on the basis of content and administration. The following examinations are deemed to be a satisfactory alternative examination:

1. The state securities sales examination;

2. The National Association of Securities Dealers, Inc. examination for principals, or examination for qualification as a registered representative;

3. The various securities examinations required by the New York Stock Exchange, the American Stock Exchange, Pacific Stock Exchange, or any other registered national securities exchange;

4. The Securities and Exchange Commission test given pursuant to section 15 (b) (8) of the Securities Exchange Act of 1934 (15 U.S.C. section 780 (8));

5. The examination recommended for the testing of variable contract agents by the National Association of Insurance Commissioners, when adopted by the insurance department of any state or territory of the United States and approved for use by such department by the Securities and Exchange Commission.

(3) QUALIFICATION OF INSURANCE COMPANIES TO ISSUE VARIABLE CONTRACTS. (a) No company shall deliver or issue for delivery variable contracts within this state unless:

1. It is licensed or organized to do a life insurance or annuity business in this state; and

2. The commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In determining the qualification of a company requesting authority to deliver such contracts within this state, the commissioner shall consider among other things:

a. The history and financial condition of the company;

b. The character, responsibility and fitness of the officers and directors of the company, and

c. The law and regulation under which the company is authorized in the state of domicile to issue variable contracts.

(b) If the company is a subsidiary of an admitted life insurance company, or affiliated with such company by common management or ownership, it may be deemed by the commissioner to have satisfied the provisions of subsection (3) (a) 2. of this rule if either it or such admitted life company satisfies the aforementioned provisions; provided, further, that companies licensed and having a satisfactory record of doing business in this state for a period at least 3 years may be deemed to have satisfied the commissioner with respect to subsection (3) (a) 2. of this rule.

(c) Before any company shall deliver or issue for delivery variable contracts within this state it shall submit to the commissioner:

1. A general description of the kinds of variable contracts it intends to issue;

2. If requested by the commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable contracts and

3. If requested by the commissioner, biographical data with respect to officers and directors of the company.

(4) SEPARATE ACCOUNTS. (a) A domestic company issuing variable contracts shall establish one or more separate accounts pursuant to section 206.385, Wis. Stats., subject to the following provisions:

1. Except as hereinafter provided, amounts allocated to any separate account and accumulation thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; provided, that to the extent that the company's reserve liability with regard to a. benefits guaranteed as to dollar amount and duration, and b. funds guaranteed as to principal amount or stated rate of interest is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be, except as the commissioner may otherwise approve, invested in accordance with the laws of this state governing the investments of life insurance companies. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations applicable to the investments of the company.

2. With respect to 75% of the market value of the total assets in a separate account, no company shall purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal or interest by the United States, if immediately after such purchase or acquisition the market value of such investment, together with prior investments of such separate account in such security taken at market, would exceed 10% of the market value of the assets of said separate account; provided, however, that the commissioner may waive such limitation if, in his opinion, such waiver will not render the operation of such separate account hazardous to the public or the policyholders in this state.

3. No company shall, whether for its separate accounts or otherwise, invest in the voting securities of a single issuer in an amount in excess of 10% of the total issued and outstanding voting securities of such issuer provided that the foregoing shall not apply with respect to securities held in separate accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interests in such accounts.

4. The limitations provided in subsection (4) (a) 2. and 3. of this rule shall not apply to the investment with respect to a separate account in the securities of an investment company registered under the Investment Company Act of 1940, as amended, provided that the investments of such investment company comply in substance with subsection (4) (a) 2. and 3. of this rule.

(b) Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; provided, that the portion of the assets of such separate account equal to the company's reserve liability with regard to the benefits guaranteed and funds guaranteed referred to in subsection (4) (a) 1. a. and b. of this rule, if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

(c) If and to the extent so provided under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

(d) Notwithstanding any other provision of law, a company may:

1. With respect to any separate account registered with the Securities and Exchange Commission as a unit investment trust exercise voting rights in connection with any securities of a regulated investment company registered under the Investment Company Act of 1940, as amended, and held in such separate accounts in accordance with instructions from persons having interests in such accounts ratably as determined by the company, or

2. With respect to any separate account registered with the Securities and Exchange Commission as a management investment company, establish for such account a committee, board, or other body, the members of which may or may not be otherwise affiliated with such company and may be elected to such membership by the vote of persons having interests in such account ratably as determined by the company. Such committee, board, or other body may have the power, exercisable alone or in conjunction with others, to manage such separate account and the investment of its assets.

A company, committee, board, or other body may make such other provisions in respect to any such separate account as may be deemed appropriate to facilitate compliance with requirements of any federal or state law now or hereafter in effect; provided that the commissioner approves such provisions as not hazardous to the public or the company's policyholders in this state.

(e) No sale, exchange, or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made

1. by a transfer of cash, or

2. by a transfer of securities having a valuation which could be readily determined in the marketplace, provided that such transfer of securities is approved by the commissioner. The commissioner may authorize other transfers among such accounts if, in his opinion, such transfers would not be inequitable.

(f) The company shall maintain in each such separate account assets with a value at least equal to the reserves and other contract liabilities with respect to such account, except as may otherwise be approved by the commissioner.

(g) Section 201.24 (4) (b), Wis. Stats., shall apply to the members of any separate account's committee, board, or other similar body. No officer or director of such company nor any member of the committee, board, or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate account.

(5) FILING OF CONTRACT FORMS. (a) No variable contract may be issued or delivered in this state until the commissioner has approved the form or until the form and rates have been filed with the commissioner for 30 days.

(b) The filing letter shall be in duplicate and shall contain the following information:

1. An identifying form number and title for each form submitted.

2. A general description of the form(s).

3. A listing of the types of policies to which rider or endorsement forms will be attached.

4. The form number and date of approval by the commissioner of any form to be superseded.

(c) One copy of all forms or rates submitted for approval shall be submitted with a copy of the application attached if the application is to be a part of the contract. If the application was previously approved, the form number and date of approval will suffice.

(d) All forms should be completed with hypothetical data to show their use and should include a correct table of values. Variable information in forms should be explained.

(e) An actuarial statement of methods used to calculate values in the contract should be included.

(6) CONTRACTS PROVIDING FOR VARIABLE BENEFITS. (a) Any variable contract providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate issued thereunder, shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page, in a prominent position, a clear statement to the effect that the benefits thereunder are on a variable basis.

(b) Illustrations of benefits payable under any contract providing benefits payable in variable amounts shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided that nothing contained herein is intended to prohibit use of hypothetical assumed rates of return to illustrate possible levels of annuity payments.

(c) No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this state unless it contains in substance the following provisions or provisions which in the opinion of the commissioner are more favorable to the holders of such contracts:

1. A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom;

2. A provision that, at any time within 3 years from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom;

3. A provision specifying the options available in the event of default in a periodic stipulated payment. Such options may include an option to surrender the contract for a cash value as determined by the contract, and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

(d) Any individual variable annuity contract delivered or issued for delivery in this state shall stipulate the expense, mortality, and investment increment factors to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. "Expense," as used in this paragraph, may exclude some or all taxes, as stipulated in the contract. In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

1. The annual net investment increment assumption shall not exceed 5%, except with the approval of the commissioner;

2. To the extent that the level of benefits may be affected by mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a higher mortality rate at any age.

(e) The reserve liability for variable annuities shall be established pursuant to the requirements of section 206.201, Wis. Stats., in accordance with actuarial procedures that recognize the variable nature of the benefits provided.

(7) REQUIRED REPORTS. (a) Any company issuing individual variable contracts providing benefits in variable amounts shall mail to the contractholder at least once in each contract year after the first at his last address known to the company, a statement or statements reporting the investments held in the separate account and, in the case of contracts under which payments have not yet commenced, a statement reporting as of a date not more than 4 months previous to the date of mailing:

1. The number of accumulation units credited to such contracts and the dollar value of a unit, or

2. The value of the contractholder's account.

(b) The company shall submit annually to the commissioner a statement of the business of its separate account(s) in such form as required by the annual statement form designated as Life and Accident and Health—Separate Account Business (22–46). (See Wis. Adm. Code section Ins 7.01 (5) (e)).

(8) FOREIGN COMPANIES. If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially equal to that provided by this rule, the commissioner, to the extent deemed appropriate by him in his discretion, may consider compliance with such law or regulation as compliance with this rule.

(9) EXAMINATION OF AGENTS AND OTHER PERSONS. (a) 1. No agent shall be eligible to sell or offer for sale a contract on a variable basis unless prior to making any soliciation or sale of such a contract, he also be licensed as a variable contract agent.

2. Any agent who participates only in the sale or offering for sale of variable contracts that are not registered under the Federal Securities Act of 1933, as amended, need not be licensed as a variable contract agent.

(b) Any agent applying for a license as a variable contract agent shall do so by filing with the commissioner:

1. Request for Agent Qualification Examination, Notice to Report for Examination, Notice of Examination Grades (11–4, 11–4A, and 11–4B). (See Wis. Adm. Code section Ins 7.01 (4) (m)).

2. Application for Resident Insurance Agent License (11–1). (See Wis. Adm. Code section Ins 7.01 (4) (c)).

3. Resident Insurance Agent License (11–2). (See Wis. Adm. Code section Ins 7.01 (4) (d)).

(c) The licensing as a variable contract agent of any agent complying with paragraph (b) of this subsection shall not become effective until such agent shall have satisfactorily passed a written examination upon securities and variable contracts. Such examination shall be divided into 2 parts. Part I shall be on securities generally. Part II shall deal with variable contracts, and shall be composed of at least 15 questions, but not more than 50 questions, concerning the history, purpose, regulation, and sale of contracts on a variable basis.

(d) The examination will be given in such places and at such times as the commissioner shall from time to time designate. Upon application for license as a variable contract agent, the applicant shall be notified of the date of the next examination.

(e) Any applicant for license as a variable contract agent shall not be required to take part I of the NAIC examination if, at the time of application, evidence is presented that the applicant

1. Has previously passed a satisfactory alternative examination as defined in subsection (2) (d) of this rule or

2. Is currently registered with the federal Securities and Exchange Commission as a broker-dealer, or is currently associated with a broker-dealer and has met qualification requirements with respect to such association.

(f) Every applicant applying for license as a variable contract agent shall satisfactorily complete part II of the examination required by paragraph (c) of this subsection, with a grade of at least 70%, or shall present evidence of successful completion, prior to July 1, 1968, of either a variable contract examination given under the supervision of an insurance department of any state or territory of the United States which has adopted part II of the examination recommended for the testing of variable contract agents by the National Association of Insurance Commissioners or has been examined and licensed by any such department prior to its adoption of the National Association of Insurance Commissioners model regulation approved by that association at its June, 1968, meeting.

(g) 1. Any applicant who fails to pass part I of the examination required by paragraph (c) of this subsection may not take Part I of the examination again until 30 days after initially taking it. After a second such failure, such applicant may not take the examination

again until 60 days after taking the second examination. After a third and any subsequent such failure, such applicant may not take the examination again until 90 days after the third and any subsequent examinations.

2. Any applicant failing to pass part II of the examination may take part II again 20 days after the first and any subsequent examinations.

(h) Every request to take a variable contract examination (see subsection (9) (b) 1. of this rule) shall be accompanied by an examination fee of $5. A fee of $5 will be charged for each reexamination administered to an applicant.

(i) Report of the results of any examination given pursuant to this rule shall be made on Notice of Examination Grades form 11–4B. (See Wis. Adm. Code section Ins 7.01 (4) (m)). Notice will also be given to the Securities and Exchange Commission on forms supplied.

(j) Except as modified by this rule, the rules of the commissioner of insurance governing the licensing of life insurance agents, including examinations therefor, shall apply to subsection (9).

(k) Part I of the written examination provided for in paragraph (c) of this subsection shall also be administered to other persons who are not required to be licensed to sell life insurance in this state upon their submission of the forms required in subsection (9) (b) 1. of this rule and payment of the examination fee.

(l) 1. Results of the examination administered pursuant to paragraph (c) of this subsection will be reported by the commissioner to the applicant's company. In addition, examination results will be reported by the commissioner to any other state insurance department requesting confirmation of the examination grade, either upon request of such department or upon request of the applicant or his company.

2. A charge of $1 shall be made for the second and each subsequent report of examination results.

(m) Records of the examination grade of each applicant upon an examination administered by the office of the commissioner of insurance, or upon an examination deemed to be a satisfactory alternative examination and administered by another agency or authority and reported to the commissioner, will be retained in the file pertaining to said applicant.

(n) Any person licensed in this state as a variable contract agent shall immediately report to the commissioner:

1. Any suspension or revocation of his variable contract agent's license or life insurance agent's license in any other state or territory of the United States,

2. The imposition of any disciplinary sanction (including suspension or expulsion from membership, suspension or revocation of or denial of registration) imposed upon him by any national securities exchange, or national securities association, or any federal, state, or territorial agency with jurisdiction over securities or contracts on a variable basis,

3. Any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or regulation.

(o) The commissioner may reject any application or suspend or revoke or refuse to renew any variable contract agent's license upon

any ground that would bar such applicant or such agent from being licensed to sell life insurance contracts in this state. The rules governing any proceeding relating to the suspension or revocation of a life insurance agent's license shall also govern any proceeding for suspension or revocation of a variable contract agent's license.

(p) Renewal of a variable contract agent's license shall follow the same procedure established for renewal of an agent's license to sell life insurance contracts in this state.

Note: Copies of the Securities Act of 1933, May 27, 1933, 48 Stat. 74, Pub. L. 22, ch. 38, Title 15, U.S.C., as amended; Section 15 (b) (8) Securities Exchange Act of 1934, as amended August 20, 1964, Pub. L. 88-467, sec. 6, 78 Stat. 570, 15 U.S.C., sec. 780 (8); and the Investment Company Act of 1940, August 22, 1940, Pub. L. 768, ch. 686, Title 15, U.S.C., as amended, are available for inspection at the Office of the Commissioner of Insurance, or the enactments may be procured for personal use from the U. S. Government Printing Office, Washington, D. C.

Copies of the Annuity Mortality Table for 1949, Ultimate are available for inspection at the office of the commissioner of insurance, the secretary of state and the revisor of statutes, and may be procured for personal use from the Society of Actuaries, 208 South La Salle Street, Chicago, Illinois 60604.

The examination given to meet the requirements of subsection (9) (c) will be based upon the examination recommended for testing of variable contract agents by the National Association of Insurance Commissioners in its present form or as it may be amended.

History: Cr. Register, October, 1968, No. 154, eff. 11-1-68.

Ins 2.14 Sale of life insurance policies; disclosure requirements and deceptive practices. (1) PURPOSE. The interests of prospective purchasers of life insurance must be safeguarded by providing such persons with clear and unambiguous statements, explanations and written proposals concerning the life insurance contracts offered to them. This purpose can best be achieved by requiring disclosure of certain information and defining those acts or practices which are deceptive or misleading or misrepresent the terms of the contract or in some other way are contrary to Wisconsin statutes. This rule interprets and implements, including but not limited to the following Wisconsin statutes: Sections 201.53 (1) and (13), 206.41 (10) (a) 7. and 8., 206.51, 207.04 (1) (a) and (f), and 601.01 (3) (b).

(2) SCOPE. This rule shall apply to any solicitation, negotiation, or procurement of any insurance specified in section 201.04 (3), Wis. Stats., occurring within this state. This rule shall apply to fraternal benefit societies and the State Life Insurance Fund. This rule shall not apply to solicitations that constitute an invitation to inquire about an insurance product and which solicitations are not, in themselves, a solicitation of insurance. Subsection (3) (c) of this rule shall not apply to credit life insurance nor to group life insurance.

(3) DISCLOSURE REQUIREMENTS. In connection with the selling of life insurance the agent or insurer shall in every case to which this rule applies:

(a) Inform the prospective purchaser that he is acting as an insurance agent.

(b) Inform the prospective purchaser of the name of the insurance company for which he is a licensed agent.

(c) Provide to the prospective purchaser prior to or with the delivery of a contract, a dated, written proposal describing the significant elements of the contract including but not limited to:

1. The name and signature of the insurance agent, or the name of

the employee of the insurer if no agent is involved, who assumes responsibility for the proposal.

2. The name of the company in which the life insurance is to be written.

3. The name of the policy or contract and any supplemental riders.

4. Except for such combinations as are authorized by Wis. Adm. Code section Ins 2.05, the premiums for the life insurance shown separately from the premiums for each additional or supplemental benefit provided in the contract.

5. The face amount of the life insurance shown separately from the amounts of coverage shown for any additional or supplemental benefit provided in the contract.

6. All matters pertaining to life insurance set forth separately from any matter not pertaining to life insurance.

(4) DECEPTIVE PRACTICES DEFINED. The following are defined to be prohibited unfair practices or deceptive acts in the selling of the insurance described in subsection (2) above:

(a) The making of any misrepresentation or false, deceptive or misleading statement.

(b) The use of terms such as financial planner, investment adviser, financial consultant or financial counselling to imply that the insurance agent is generally engaged in advisory business in which compensation is unrelated to sales unless such is actually the case.

(c) The use of comparisons or analogies or the manipulation of amounts and numbers in such a way as to mislead the prospective purchaser concerning the cost of the insurance protection to be provided by the insurance contract or any other significant aspect of the contract.

(d) The reference to an insurance premium as a deposit, an investment, a savings or the use of other phrases of similar import when referring to an insurance premium.

(e) In respect to participating policies, the description of the policy dividend as other than a refund or return of part of the premium paid, which is not guaranteed and which is determined by the investment earnings, mortality experience and expense experience of the company.

(f) The making by the agent or insurer of any misleading statement concerning:

1. The cash surrender values and nonforfeiture benefits.

2. The source of the increase in cash surrender value, including the period of time to which such increase is related.

3. The valuation interest rate used to establish the reserve value of the contract or the relationship of such rate to the determination of cash surrender values.

(g) Recommending to a prospective purchaser the purchase or replacement of any life insurance policy or annuity contract without reasonable grounds to believe that the recommendation is not unsuitable for the applicant on the basis of information furnished by such person after reasonable inquiry as may be necessary under the circumstances concerning the prospective buyers insurance and annuity needs and means.

(5) EFFECTIVE DATE. This rule shall apply to all solicitation of life insurance on or after June 1, 1972.

(6) PENALTY. Violations of this rule shall subject the insurance company or agent to section 601.64, Wis. Stats.

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

History: Cr. Register, March, 1972, No. 195, eff. 4–1–72.

Ins 2.15 Life insurance surrender value comparison index. (1) PURPOSE. The interests of prospective purchasers of life insurance can be safeguarded by providing such persons with an index of the surrender value of the policy prepared on a basis suitable for comparison with similar plans of insurance. It is in the public interest to develop such a surrender value index so that price competition in the life insurance market is encouraged and stimulated. This rule interprets and implements, including but not limited to the following Wisconsin statutes: sections 201.53 (13), 206.41 (10) (a) 7. and 8., 206.51, 207.04 (1) (a) and (f), and 601.01 (3), (b), (c), (g) and (j).

(2) SCOPE. (a) Except as provided in paragraph (b) this rule shall apply to any solicitation, negotiation, or procurement of life insurance occurring within this state.

(b) This rule shall not apply to:

1. Annuities,
2. Credit life insurance,
3. Franchise life insurance,
4. Group life insurance,
5. Term life insurance,
6. Plans of life insurance with benefits which vary by policy duration including but not limited to such plans as retirement income and variable life insurance,
7. Benefits which are supplemental to basic life insurance benefits such as accidental death and dismemberment, waiver of premium, or guaranteed insurability benefits (if the cost of any of these benefits are included in the price of the basic life insurance without separate identifiable charge, then in calculating the life insurance surrender value comparison index a reasonable adjustment in the annual premium payable on a per $1,000 basis may be made),
8. Benefits purchased by a special option applicable to dividends,
9. Life insurance policies wherein the face amount of insurance is $5,000 or less,
10. Life insurance on substandard risks.

(3) LIFE INSURANCE SURRENDER VALUE COMPARISON INDEX DEFINED. (a) The Life Insurance Surrender Value Comparison Index for level premium plans of insurance shall be calculated by applying the following steps:

1. Select the 10 year or 20 year period over which the analysis is to be made.
2. Determine the cash value (and terminal dividend, if any) available at the end of the period selected.
3. For participating policies, accumulate the annual dividends at 4% interest compounded annually to the end of the period selected and add this accumulation to the result of step 2.
4. Divide the results of step 3 (step 2 for non-participating policies) by an interest factor that converts it into a level annual amount accruing over the period selected in step 1. If the period is 10 years, this factor is 12.486 and if the period is 20 years, the factor is 30.969.

5. Subtract the result of step 4 from the annual premium payable.

6. Divide the result of step 5 by the number of thousands of the amount of insurance to arrive at the life insurance surrender value comparison index.

(b) The Life Insurance Surrender Value Comparison Index for plans of insurance with premiums which are not level shall be calculated as follows:

1. Select the 10 year or 20 year period over which the analysis is to be made.

2. Determine the cash value (and terminal dividend, if any) available at the end of the period selected.

3. For participating policies, accumulate the annual divideds at 4% interest compounded annually to the end of the period selected and add this accumulation to the result of step 2.

4. Divide the result of step 3 (step 2 for non-participating policies) by an interest factor that converts it into a level annual amount accruing over the period selected in step 1. If the period is 10 years, this factor is 12.486 and if the period is 20 years, the factor is 30.969.

5. Subtract the result of step 4 from the equivalent level premium determined by accumulating the annual premium payable at 4% interest compounded annually to the end of the period in step 1 and dividing the result by the factor stated in step 4.

6. Divide the result of step 5 by the number of thousands of the amount of insurance to arrive at the life insurance surrender value comparison index.

(4) DISCLOSURE REQUIREMENTS. In connection with the selling of life insurance to which this rule applies the agent or insurer shall furnish, upon request of a sales prospect and in all cases prior to or with the delivery of the contract, the Life Insurance Surrender Value Comparison Index, or a similar index prepared by a method approved by the commissioner which makes allowance for the incidence of payments and the value of money at 4% interest compounded annually, calculated for both a 10 year and a 20 year period. The index need not be provided for a period which extends beyond the end of the premium payment period for the plan.

(5) EFFECTIVE DATE. This rule shall become effective January 1, 1973.

(6) PENALTY. Violations of this rule shall subject the insurer or agent to section 601.64, Wis. Stats.

Note: The Life Insurance Surrender Value Comparison Index must be used with caution. Only *similar* plans of insurance should be compared. Much research remains to be done to develop comparison indices which may be appropriately used to compare the values of benefits and contracts in relation to the premiums charged for the policy when the intent is that the life insurance be kept in force and not surrendered.

Any dividend used in calculating the Life Insurance Surrender Value Comparison Index shall, pursuant to section 206.51 (2), Wis. Stats., be based on the current dividend scale in actual use by the insurer. In respect to participating policies, care must be taken to accurately describe the policy dividend as a refund or return of part of the premium paid which is not guaranteed and which is determined by the investment earnings, mortality experience, and expense experience of the insurer.

It is not the intent of this rule to prohibit preparation of a life insurance surrender value comparison index at other interest rates if it is used only in cases wherein the comparison index for other policies is prepared on exactly the same basis.

History: Cr. Register, September, 1972, No. 201, eff. 1-1-73.