

## COMMISSIONER OF INSURANCE

31

(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 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; emerg. am. (1), (2) (a), (4) (a) and (g), eff. 6-22-76; am. (1), (2) (a), (4) (a) and (g), Register, September, 1976, No. 249, eff. 10-1-76.

**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 601.01 (3) (b) and 628.34.

(2) **SCOPE.** This rule shall apply to any solicitation, negotiation, or procurement of any insurance specified in subsection 201.04 (3), of Ins 6.70 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; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76.

**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 601.01 (3), (b), (c), (g) and (j) and 628.34.

(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 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 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.

All present tense statutory references herein are to 1973 Wis. Stats.

**History:** Cr. Register, September, 1972, No. 201, eff. 1-1-73; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76.