

Subchapter 11, Life Insurance Solicitation, was repealed and Subchapter 11, Life Insurance Disclosure, was adopted as new rules by R.2008 d.71, effective April 7, 2008 (operative July 6, 2008). See: 39 N.J.R. 4065(a), 40 N.J.R. 1882(a).

Subchapter 31, Term Life Insurance Comparison Survey, was repealed by R.2011 d.007, effective January 3, 2011. See: 42 N.J.R. 1845(a), 43 N.J.R. 54(b).

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terest that occurs when the carrier responsible for providing benefits has sole discretionary authority to decide what benefits are due.

(b) This subchapter shall apply to all individual and group health insurance policies and contracts; all individual and group life insurance policies and contracts; all individual and group long-term care insurance policies; and all annuity contracts delivered or issued for delivery in this State.

11:4-58.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

“Annuity” means a contract not included within the definition of life insurance or health insurance, as set forth in this section, under which an insurer obligates itself to make periodic payments for a specified period of time, such as for a number of years, or until the happening of an event, or for life, or for a period of time determined by any combination thereof. A contract which includes extra benefits, of the kinds set forth in the definitions of life insurance or health insurance, as set forth in this section, shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.

“Carrier” means an insurance company, health service corporation, hospital service corporation, medical service corporation or health maintenance organization authorized to issue health benefits plans in this State; any person or persons, corporation, partnership or company authorized or admitted to transact the business of life insurance or annuities in this State pursuant to Title 17B of the New Jersey statutes; and an insurance company, health service corporation, hospital service corporation, medical service corporation or fraternal benefit society authorized to issue long-term care insurance in this State.

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Department” means the New Jersey Department of Banking and Insurance.

“Discretionary clause” means a clause included in a life or health insurance policy or contract, a long-term care insurance policy or contract, or an annuity contract, that provides the carrier with sole discretionary authority to determine eligibility for benefits under the policy or contract and to interpret the terms and provisions of the policy or contract.

“Health insurance” means a contract or agreement whereby a carrier is obligated to pay or allow a benefit of pecuniary value with respect to the bodily injury, disablement, sickness, death by accident or accidental means of a human being, or because of any expense relating thereto, or because of any expense incurred in prevention of sickness, and includes every risk pertaining to any of the enumerated risks. Health insur-

ance includes disability income protection coverage. Health insurance does not include workers’ compensation coverage.

“Life insurance” means a policy or contract whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the cessation of human life. Life insurance also includes the granting of endowment benefits and optional modes of settlement of proceeds of life insurance, as well as provisions for additional benefits in the event of death by accident or accidental means or in the event of dismemberment or loss of sight; or safeguarding such insurance against lapse or giving a special surrender value, or special benefit or annuity in the event that the insured shall become totally and permanently disabled, whether such provisions are incorporated in a policy or contract of life insurance or in a policy or contract supplemental thereto. Life insurance does not include worker’s compensation coverage.

“Long-term care insurance” means any insurance policy, certificate or rider advertised, marketed, offered or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. The term includes group and individual annuities and life insurance policies or riders which provide directly, or which supplement long-term care insurance. The term also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. The term shall also apply to qualified long-term care insurance contracts. Long-term care insurance may be issued by insurers; fraternal benefit societies; health, hospital, or medical service corporations; prepaid health plans; or health maintenance organizations. Long-term care insurance shall not include any insurance policy that is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, or limited benefit health coverage. With regard to life insurance, this term does not include life insurance policies which accelerate the death benefit specifically for one or more qualifying events, and which provide the option of a lump-sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care. Notwithstanding the foregoing, any product advertised, marketed or offered as long-term care insurance shall be subject to the provisions of this subchapter.

11:4-58.3 Discretionary clauses prohibited

No individual or group health insurance policy or contract, individual or group life insurance policy or contract, individual or group long-term care insurance policy or contract, or annuity contract, delivered or issued for delivery in this State may contain a provision purporting to reserve sole discretion

to the carrier to interpret the terms of the policy or contract, or to provide standards of interpretation or review that are inconsistent with the laws of this State. A carrier may include a provision stating that the carrier has the discretion to make an initial interpretation as to the terms of the policy or contract, but that such interpretation can be reversed by an internal utilization review organization, a court of law, arbitrator or administrative agency having jurisdiction.

11:4-58.4 Noncomplying forms

As of January 1, 2008, forms previously filed, approved or acknowledged by the Commissioner that contain provisions not in compliance with this subchapter shall be deemed withdrawn and shall not be delivered, issued, executed or renewed.