

CHAPTER 4
ACTUARIAL SERVICES

Authority

N.J.S.A. 17:1C-6e.

Source and Effective Date

R.2001 d.7, effective November 30, 2000.
See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

Executive Order No. 66(1978) Expiration Date

Chapter 4, Actuarial Services, expires on November 30, 2005.

Chapter Historical Note

Chapter 4, Actuarial Services, was adopted and became effective prior to September 1, 1969.

Subchapter 2, Replacement of Life Insurance Policy, was adopted as R.1972 d.21, effective April 1, 1972.

Subchapter 7, Procedure for the Regulation of Consent to Higher Rate Filings, was adopted as R.1973 d.82, effective April 15, 1973. See: 4 N.J.R. 220(a), 5 N.J.R. 113(b).

Subchapter 8, Charitable Annuities, was adopted as R.1974 d.258, effective September 20, 1974. See: 6 N.J.R. 315(a), 6 N.J.R. 399(c).

Subchapter 11, Life Insurance Solicitation, was adopted as R.1976 d.329, effective October 18, 1976. See: 8 N.J.R. 336(a), 8 N.J.R. 517(a).

Subchapter 13, Group Student Health Insurance, was adopted as R.1977 d.309, effective August 22, 1977. See: 9 N.J.R. 343(c), 9 N.J.R. 438(d).

Subchapter 14, Home Health Care Insurance Coverage, was adopted as R.1977 d.476, effective December 15, 1977. See: 9 N.J.R. 479(f), 10 N.J.R. 16(d).

Subchapter 15, Alcoholism Benefits, was adopted as R.1978 d.165, effective May 22, 1978. See: 10 N.J.R. 162(a), 10 N.J.R. 257(a).

Subchapter 20, Blindness; Partial Blindness or other Physical or Mental Impairments; Unfair Discrimination, was adopted as R.1979 d.434, effective December 6, 1979. See: 11 N.J.R. 384(a), 11 N.J.R. 627(f).

Subchapter 16, Minimum Standards for Individual Health Insurance, Subchapter 17, Health Insurance Solicitation, and Subchapter 18, Individual Health Insurance Rate Filings, were adopted as new rules by R.1980 d.176, effective April 21, 1980. See: 11 N.J.R. 348(a), 12 N.J.R. 342(c).

Pursuant to Executive Order No. 66(1978), Subchapter 16, Minimum Standards for Individual Health Insurance, Subchapter 17, Health Insurance Solicitation, and Subchapter 18, Individual Health Insurance Rate Filings, were readopted as R.1980 d.343, effective August 5, 1980. See: 12 N.J.R. 420(c), 12 N.J.R. 538(b).

Subchapter 21, Limited Death Benefits Forms, was adopted as R.1980 d.265, effective June 18, 1980. See: 12 N.J.R. 279(b), 12 N.J.R. 423(c).

Subchapter 2, Replacement of Life Insurance Policy, was repealed and Subchapter 2, Replacement of Life Insurance Policy, was adopted as new rules by R.1982 d.16, effective February 1, 1982, operative June 1, 1982. See: 13 N.J.R. 18(e), 14 N.J.R. 158(d).

Pursuant to Executive Order No. 66(1978), Subchapter 15, Alcoholism Benefits, expired on May 22, 1983.

Subchapter 22, Individual Life Insurance: Use of Gender Blended Mortality Tables, was adopted as R.1984 d.478, effective November 5, 1984. See: 16 N.J.R. 1452(a), 16 N.J.R. 3040(a).

Pursuant to Executive Order No. 66(1978), Subchapter 6, Reserve Standards for Individual Health Insurance Policies, was readopted as R.1984 d.512, effective November 5, 1984. See: 16 N.J.R. 2225(a), 16 N.J.R. 3039(a).

Subchapter 23, Medicare Supplement Policies and Contracts, was adopted as R.1985 d.70, effective February 19, 1985, operative June 19, 1985. See: 16 N.J.R. 2945(a), 17 N.J.R. 460(a).

Pursuant to Executive Order No. 66(1978), Subchapter 20, Blindness; Partial Blindness or Other Physical or Mental Impairments; Unfair Discrimination, was readopted as R.1985 d.161, effective April 1, 1985. See: 17 N.J.R. 168(a), 17 N.J.R. 820(a).

Pursuant to Executive Order No. 66(1978), Subchapter 16, Minimum Standards for Individual Health Insurance, Subchapter 17, Health Insurance Solicitation, and Subchapter 18, Individual Health Insurance Rate Filings were readopted as R.1985 d.221, effective April 15, 1985. See: 17 N.J.R. 554(a), 17 N.J.R. 1129(a).

Subchapter 21 was readopted as R.1985 d.325, effective June 3, 1985. See: 17 N.J.R. 891(a), 17 N.J.R. 1660(a).

Subchapter 24, Smoker and Nonsmoker Mortality Tables, was adopted as R.1985 d.617, effective December 2, 1985. See: 17 N.J.R. 2348(a), 17 N.J.R. 2907(a).

Subchapter 26, Annuity Mortality Tables, was adopted as R.1985 d.616, effective December 2, 1985. See: 17 N.J.R. 2349(a), 17 N.J.R. 290(a).

Subchapter 15, Alcoholism Benefits, was adopted as R.1986 d.228, effective June 16, 1986. See: 18 N.J.R. 607(a), 18 N.J.R. 1302(a).

Subchapter 19, Optional Coverage for Pregnancy and Childbirth Benefits, was adopted as R.1988 d.455, effective September 19, 1988. See: 20 N.J.R. 43(a), 20 N.J.R. 2377(c).

Subchapter 28, Group Coordination of Benefits, was adopted as new rules by R.1988 d.499, effective October 17, 1988. See: 20 N.J.R. 1773(b), 20 N.J.R. 2581(a).

Subchapter 29, Homeowners Comparison Survey, was adopted as R.1989 d.50, effective January 17, 1989. See: 20 N.J.R. 2181(a), 21 N.J.R. 164(a).

Subchapter 31, Term Life Insurance Comparison Survey, was adopted as R.1989 d.122, effective February 21, 1989. See: 20 N.J.R. 2990(a), 21 N.J.R. 566(a).

Subchapter 32, Health Service Corporation Notice of Increased Rates, was adopted as R.1989 d.522, effective October 2, 1989. See: 21 N.J.R. 973(b), 21 N.J.R. 3173(c).

Subchapter 33, Excess Interest Reserve Adjustment, was adopted as R.1989 d.523, effective October 2, 1989. See: 21 N.J.R. 1308(a), 21 N.J.R. 3175(c).

Subchapter 34, Long-Term Care Insurance, was adopted as R.1989 d.571, effective November 6, 1989. See: 21 N.J.R. 1964(a), 21 N.J.R. 3465(a).

Subchapter 25, Medicare Supplement Interim Standards, was adopted as R.1990 d.214, effective April 16, 1990. See: 22 N.J.R. 320(a), 22 N.J.R. 1266(b).

Pursuant to Executive Order No. 66(1978), Chapter 4 was readopted as R.1991 d.3, effective November 30, 1990, Subchapter 1, Contracts on a Variable Basis, was repealed by R.1991 d.3, effective January 7, 1991. See: 22 N.J.R. 1689(a), 23 N.J.R. 111(a).

Subchapter 35, Annual Medicare Supplement Policy Survey, was adopted as R.1991 d.122, effective March 4, 1991. See: 22 N.J.R. 1226(b), 23 N.J.R. 698(a).

Petition for Rulemaking. See: 23 N.J.R. 2546(c), 23 N.J.R. 3827(a).

Subchapter 25, Medicare Supplement Interim Standards, was repealed by R.1993 d.26, effective January 4, 1993. See: 24 N.J.R. 12(a), 25 N.J.R. 141(a).

Subchapter 37, Selective Contracting Arrangements of Insurers, was adopted as R.1994 d.45, effective January 18, 1994. See: 25 N.J.R. 4554(b), 26 N.J.R. 381(a).

Subchapter 9, Personal Lines Insurance: Prospective Loss Costs Filing Procedures, was adopted as R.1995 d.406, effective August 7, 1995. See: 27 N.J.R. 1356(b), 27 N.J.R. 2931(a).

Subchapter 30, Accelerated Death Benefits, was adopted as R.1995 d.521, effective September 18, 1995. See: 27 N.J.R. 2046(a), 27 N.J.R. 3613(c).

Subchapter 40, Life/Health/Annuity Forms, was adopted as R.1995 d.569, effective November 6, 1995. See: 27 N.J.R. 2857(a), 27 N.J.R. 2867(a), 27 N.J.R. 4317(a).

Administrative correction. See: 27 N.J.R. 4728(a).

Pursuant to Executive Order No. 66(1978), Chapter 4, Actuarial Services, was readopted as R.1996 d.4, effective November 30, 1995, and Subchapter 5, Amendment to Instructions to Life and Accident and Health Annual Statement Blank, Subchapter 10, Expense Experience, Subchapter 32, Health Service Corporation Notice of Increased Rates, Subchapter 35, Annual Medicare Supplement Policy Survey, and Exhibits A and B of the Appendix to Subchapters 16 and 23 were repealed by R.1996 d.4, effective January 2, 1996. See: 27 N.J.R. 3557(a), 28 N.J.R. 165(a).

Subchapter 47, Actuarial Requirements for Flexible-Factor Policy Forms, was adopted as new rules by R.1996 d.83, effective February 5, 1996. See: 27 N.J.R. 3750(a), 28 N.J.R. 1215(a).

Subchapter 44, Standards for Contracts on a Variable Basis, was adopted as new rules by R.1996 d.149, effective March 18, 1996. See: 27 N.J.R. 3743(a), 28 N.J.R. 1546(a).

Subchapter 45, Periodic Reports, was adopted as new rules by R.1996 d.150, effective March 18, 1996. See: 27 N.J.R. 3744(a), 28 N.J.R. 1548(a).

Subchapter 43, Individual Annuity Contract Form Standards, was adopted as new rules by R.1996 d.181, effective April 1, 1996. See: 27 N.J.R. 3740(a), 28 N.J.R. 1885(a).

Subchapter 48, Unfair Discrimination, was adopted as new rules by R.1996 d.182, effective April 1, 1996. See: 27 N.J.R. 3756(a), 28 N.J.R. 1887(a).

Subchapter 23A, Medicare Supplement—Under 50 Coverage, and Subchapter 23B, Medicare Supplement—Age 50 through 64 Coverage were adopted as new rules by R.1996 d.195, effective April 15, 1996. See: 27 N.J.R. 3719(a), 28 N.J.R. 1987(a).

Subchapter 42, Group Life, Group Health and Blanket Insurance: General Standards for Contract Provisions, was adopted as new rules by R.1996 d.196, effective April 15, 1996. See: 27 N.J.R. 3735(a), 28 N.J.R. 2003(a).

Subchapter 41, Standards for Individual Life Insurance Policy Forms, was adopted as new rules by R.1996 d.197, effective April 15, 1996. See: 27 N.J.R. 3727(a), 28 N.J.R. 1992(a).

Subchapter 25, Funeral Insurance Policies, was adopted as new rules by R.1996 d.328, effective July 15, 1996. See: 288 N.J.R. 1656(a), 28 N.J.R. 3671(a).

Subchapter 49, Mandated Diabetes Benefits, was adopted as new rules by R.1997 d.86, effective February 18, 1997. See: 28 N.J.R. 4340(a), 29 N.J.R. 562(a).

Subchapter 46, Synthetic Guaranteed Investment Contract Forms, was adopted as new rules by R.1997 d.332, effective August 4, 1997. See: 29 N.J.R. 1472(a), 29 N.J.R. 3452(b).

Subchapter 50, Reimbursement of Inmate Health Care Costs, was adopted as new rules by R.1997 d.513, effective December 1, 1997. See: 29 N.J.R. 2232(a), 29 N.J.R. 5066(a).

Subchapter 52, Life Insurance Illustrations, was adopted as new rules by R.1998 d.338, effective July 6, 1998. See: 30 N.J.R. 47(a), 30 N.J.R. 2495(a).

Subchapter 32, Valuation of Life Insurance Policies, was adopted as new rules by R.1999 d.442, effective December 20, 1999 (operative January 1, 2000, except as provided in N.J.A.C. 11:4-32.6). See: 31 N.J.R. 2845(a), 31 N.J.R. 4268(c).

Pursuant to Executive Order No. 66(1978), Chapter 4, Actuarial Services, was readopted as R.2001 d.7, effective November 30, 2000. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. NEW JERSEY INSOLVENT HEALTH MAINTENANCE ORGANIZATION ASSISTANCE ASSOCIATION

- 11:4-1.1 Purpose and scope
- 11:4-1.2 Definitions
- 11:4-1.3 Establishment of Association and Fund
- 11:4-1.4 Relief
- 11:4-1.5 Application procedures and filing format
- 11:4-1.6 Informational filing requirements
- 11:4-1.7 Confidentiality of request for relief
- 11:4-1.8 Disposition of request for relief
- 11:4-1.9 Rates
- 11:4-1.10 Penalties

SUBCHAPTER 2. REPLACEMENT OF LIFE INSURANCE POLICY

- 11:4-2.1 Purpose
- 11:4-2.2 Definitions
- 11:4-2.3 Exemptions
- 11:4-2.4 Duties of agent
- 11:4-2.5 Duties of replacing insurers
- 11:4-2.6 Duties of insurers with respect to direct-response sales
- 11:4-2.7 Duties of the existing insurer
- 11:4-2.8 Penalties
- 11:4-2.9 Separability

SUBCHAPTER 3. COUPON POLICIES AND POLICIES CONTAINING GUARANTEED ANNUAL ENDOWMENT BENEFITS

- 11:4-3.1 Payments
- 11:4-3.2 Gross premium shown
- 11:4-3.3 Gross premium regarding additional insurance
- 11:4-3.4 Coupons
- 11:4-3.5 Guaranteed annual endowments
- 11:4-3.6 Severability
- 11:4-3.7 Effective date

SUBCHAPTER 4. PASSBOOKS USED IN CONNECTION WITH COUPON POLICIES OR POLICIES CONTAINING GUARANTEED ANNUAL ENDOWMENT BENEFITS

- 11:4-4.1 General provisions
- 11:4-4.2 Unfair practice
- 11:4-4.3 Scope
- 11:4-4.4 Severability
- 11:4-4.5 Effective date

ACTUARIAL SERVICES

SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. MINIMUM RESERVE STANDARDS FOR INDIVIDUAL AND GROUP HEALTH INSURANCE CONTRACTS

- 11:4-6.1 Purpose and scope
- 11:4-6.2 Definitions
- 11:4-6.3 Claim reserves—general requirements
- 11:4-6.4 Claim reserves—minimum standards for claim reserves
- 11:4-6.5 Claim reserves—claim reserve methods
- 11:4-6.6 Premium reserves—general requirements
- 11:4-6.7 Premium reserves—minimum standards for unearned premium reserves
- 11:4-6.8 Premium reserves—premium reserve methods
- 11:4-6.9 Contract reserves—general requirements
- 11:4-6.10 Contract reserves—minimum standards for contract reserves
- 11:4-6.11 Contract reserves—alternative valuation methods and assumptions generally
- 11:4-6.12 Tests for adequacy and reasonableness of contract reserves
- 11:4-6.13 Reinsurance
- 11:4-6.14 Specific standards for morbidity for valuation of specified individual contract health insurance benefits
- 11:4-6.15 Specific standards for morbidity for valuation of specified group contract health insurance benefits
- 11:4-6.16 Specific standards for interest
- 11:4-6.17 Specific standards for mortality
- 11:4-6.18 Reserves for waiver of premium

SUBCHAPTER 7. PROCEDURE FOR THE REGULATION OF CONSENT TO HIGHER RATE FILINGS

- 11:4-7.1 Filing requirements
- 11:4-7.2 Premium charges
- 11:4-7.3 Approval of applications

SUBCHAPTER 8. CHARITABLE ANNUITIES

- 11:4-8.1 Purpose
- 11:4-8.2 Forms of agreement
- 11:4-8.3 Annuity rates
- 11:4-8.4 Surplus and reserves
- 11:4-8.5 Compliance with investment requirements
- 11:4-8.6 Annual report
- 11:4-8.7 Special permit
- 11:4-8.8 Separability of provisions
- 11:4-8.9 Penalties

SUBCHAPTER 9. PERSONAL LINES INSURANCE: PROSPECTIVE LOSS COSTS FILING PROCEDURES

- 11:4-9.1 Purpose and scope
- 11:4-9.2 Definitions
- 11:4-9.3 Prospective loss cost filing requirements for rating organizations
- 11:4-9.4 Prospective loss costs filing requirements for insurers
- 11:4-9.5 Penalties

APPENDIX A

APPENDIX B

SUBCHAPTER 10. (RESERVED)

SUBCHAPTER 11. LIFE INSURANCE SOLICITATION

- 11:4-11.1 Purpose
- 11:4-11.2 Scope
- 11:4-11.3 Definitions
- 11:4-11.4 Disclosure requirements
- 11:4-11.5 General provisions
- 11:4-11.6 Failure to comply
- 11:4-11.7 Effective date
- 11:4-11.8 (Reserved)

APPENDIX. LIFE INSURANCE BUYER'S GUIDE

SUBCHAPTER 12. STUDENT LIFE INSURANCE

- 11:4-12.1 Student life insurance solicitation

SUBCHAPTER 13. GROUP STUDENT HEALTH INSURANCE

- 11:4-13.1 Scope
- 11:4-13.2 Definitions
- 11:4-13.3 Prohibited provisions

SUBCHAPTER 14. HOME HEALTH CARE INSURANCE COVERAGE

- 11:4-14.1 Scope
- 11:4-14.2 Definitions
- 11:4-14.3 Home health care benefits required
- 11:4-14.4 Exclusions
- 11:4-14.5 Effective date

SUBCHAPTER 15. ALCOHOLISM BENEFITS

- 11:4-15.1 Scope
- 11:4-15.2 Benefits
- 11:4-15.3 Exclusions

SUBCHAPTER 16. MINIMUM STANDARDS FOR INDIVIDUAL HEALTH INSURANCE

- 11:4-16.1 Purpose
- 11:4-16.2 Applicability and scope
- 11:4-16.3 Effective date
- 11:4-16.4 Policy definitions
- 11:4-16.5 Prohibited policy provisions
- 11:4-16.6 Minimum standards for benefits
- 11:4-16.7 Application forms
- 11:4-16.8 Required disclosure provisions
- 11:4-16.9 Forms submission requirements
- 11:4-16.10 Separability
- 11:4-16.11 Penalties

APPENDIX A

SUBCHAPTER 17. HEALTH INSURANCE SOLICITATION

- 11:4-17.1 Purpose
- 11:4-17.2 Applicability and scope
- 11:4-17.3 Definitions
- 11:4-17.4 Unfair and deceptive acts
- 11:4-17.5 Replacement
- 11:4-17.6 Complaint record to be maintained
- 11:4-17.7 Penalties
- 11:4-17.8 Separability
- 11:4-17.9 Effective date

SUBCHAPTER 18. INDIVIDUAL HEALTH INSURANCE RATE FILINGS

- 11:4-18.1 Purpose
- 11:4-18.2 Applicability and scope
- 11:4-18.3 Definitions
- 11:4-18.4 Rate submission requirements
- 11:4-18.5 Loss ratio standards
- 11:4-18.6 Annual review of calendar year experience data on filed individual health insurance policy forms
- 11:4-18.7 Rate manual
- 11:4-18.8 Separability
- 11:4-18.9 Penalties
- 11:4-18.10 Compliance

SUBCHAPTER 19. OPTIONAL COVERAGE FOR PREGNANCY AND CHILDBIRTH BENEFITS

- 11:4-19.1 Purpose

- 11:4-19.2 Scope
- 11:4-19.3 Second surgical opinions
- 11:4-19.4 Maternity benefits option

SUBCHAPTER 20. BLINDNESS; PARTIAL BLINDNESS OR OTHER PHYSICAL OR MENTAL IMPAIRMENT; UNFAIR DISCRIMINATION

- 11:4-20.1 Purpose
- 11:4-20.2 Unfair discriminatory acts or practices

SUBCHAPTER 21. LIMITED DEATH BENEFITS FORMS

- 11:4-21.1 Purpose; scope
- 11:4-21.2 Definitions
- 11:4-21.3 General requirements
- 11:4-21.4 Severability

SUBCHAPTER 22. INDIVIDUAL LIFE INSURANCE: USE OF GENDER BLENDED MORTALITY TABLES

- 11:4-22.1 Purpose
- 11:4-22.2 Definitions
- 11:4-22.3 Construction of gender blended tables for use in the determination of minimum nonforfeiture benefits and minimum reserves
- 11:4-22.4 Construction of Gender Blended Smoker and Nonsmoker Mortality Tables for use in the determination of minimum nonforfeiture benefits and minimum reserves
- 11:4-22.5 Use of gender blended mortality tables in the non-Norris market
- 11:4-22.6 Effect on previously filed forms
- 11:4-22.7 Unfair discrimination
- 11:4-22.8 Separability

APPENDIX A. MORTALITY TABLES

APPENDIX B. 1980 CSO-SA SMOKER TABLES

SUBCHAPTER 23. MINIMUM STANDARDS FOR MEDICARE SUPPLEMENT COVERAGE

- 11:4-23.1 Purpose
- 11:4-23.2 Applicability and scope
- 11:4-23.3 Definitions
- 11:4-23.4 Policy definitions and terms
- 11:4-23.5 Policy provisions
- 11:4-23.6 General minimum benefit standards
- 11:4-23.7 Minimum benefits for policies and certificates delivered or issued for delivery prior to January 4, 1993
- 11:4-23.8 Minimum benefit standards for policies and certificates delivered or issued for delivery on or after January 4, 1993
- 11:4-23.9 Open enrollment
- 11:4-23.10 Standards for claims payment
- 11:4-23.11 Loss ratio standards, annual filing of premium rates and refund or credit calculation
- 11:4-23.12 Guaranteed issue for eligible persons
- 11:4-23.13 Filing requirements for policies, certificates and premium rates
- 11:4-23.14 Compensation arrangements
- 11:4-23.15 Required disclosure provisions
- 11:4-23.16 Requirements for application forms and replacement coverage
- 11:4-23.17 Filing requirements for advertising
- 11:4-23.18 Standards for marketing
- 11:4-23.19 Appropriateness of recommended purchase and excessive coverage
- 11:4-23.20 Reporting of multiple policies
- 11:4-23.21 Addresses for submission for filing
- 11:4-23.22 Penalties
- 11:4-23.23 Severability

APPENDIX TO SUBCHAPTERS 16 AND 23

EXHIBITS A AND B (RESERVED)

- EXHIBIT C
- EXHIBIT D
- EXHIBIT E
- EXHIBIT F
- EXHIBIT G
- EXHIBIT H

SUBCHAPTER 23A. MEDICARE SUPPLEMENT—UNDER 50 COVERAGE

- 11:4-23A.1 Purpose and scope
- 11:4-23A.2 Definitions
- 11:4-23A.3 Creation of Medicare Supplement—Under 50 Coverage Plan
- 11:4-23A.4 Governing Board
- 11:4-23A.5 Plan of operation
- 11:4-23A.6 Open enrollment
- 11:4-23A.7 Rates
- 11:4-23A.8 Reports
- 11:4-23A.9 Equitable sharing of losses and audit
- 11:4-23A.10 Assessments
- 11:4-23A.11 Appeal to the Commissioner
- 11:4-23A.12 Assessment relief requests

SUBCHAPTER 23B. MEDICARE SUPPLEMENT—AGE 50 THROUGH 64 COVERAGE

- 11:4-23B.1 Purpose and scope
- 11:4-23B.2 Definitions
- 11:4-23B.3 Open enrollment
- 11:4-23B.4 Rates

SUBCHAPTER 24. SMOKER AND NONSMOKER MORTALITY TABLES

- 11:4-24.1 Purpose
- 11:4-24.2 Definitions
- 11:4-24.3 Smoker and nonsmoker mortality tables
- 11:4-24.4 Juvenile insureds
- 11:4-24.5 Separability

SUBCHAPTER 25. FUNERAL INSURANCE POLICIES

- 11:4-25.1 Purpose; scope
- 11:4-25.2 Definitions
- 11:4-25.3 Forms submission requirements
- 11:4-25.4 Disclosure requirements
- 11:4-25.5 Loss ratio standard
- 11:4-25.6 Severability
- 11:4-25.7 Penalties

SUBCHAPTER 26. ANNUITY MORTALITY TABLES

- 11:4-26.1 Purpose
- 11:4-26.2 Definitions
- 11:4-26.3 Individual annuity or pure endowment contracts
- 11:4-26.4 Group annuity or pure endowment contracts
- 11:4-26.5 Application of the 1994 GAR Table
- 11:4-26.6 Separability

SUBCHAPTER 27. (RESERVED)

SUBCHAPTER 28. GROUP COORDINATION OF BENEFITS

- 11:4-28.1 Purpose and scope
- 11:4-28.2 Definitions
- 11:4-28.3 Coordination permissive
- 11:4-28.4 Model COB contract provision
- 11:4-28.5 Prohibited coordination; benefit design
- 11:4-28.6 Rules for coordination of benefits
- 11:4-28.7 Procedure to be followed by other than primary plans to calculate benefits
- 11:4-28.8 Notice to covered persons

- 11:4-28.9 Excess and other nonconforming provisions
- 11:4-28.10 Substitute terminology in contracts
- 11:4-28.11 Compliance
- 11:4-28.12 Severability

APPENDIX A. MODEL COB PROVISIONS**SUBCHAPTER 29. HOMEOWNERS COMPARISON SURVEY**

- 11:4-29.1 Purpose and scope
- 11:4-29.2 Definitions
- 11:4-29.3 Coverage option survey requirements

APPENDIX A**APPENDIX B****APPENDIX C****SUBCHAPTER 30. ACCELERATED DEATH BENEFITS**

- 11:4-30.1 Purpose
- 11:4-30.2 Application and scope
- 11:4-30.3 Definitions
- 11:4-30.4 Permitted forms of accelerated death benefit provisions
- 11:4-30.5 Partial surrender
- 11:4-30.6 Lien
- 11:4-30.7 Payment options
- 11:4-30.8 Terms of accelerated death benefit contract provisions
- 11:4-30.9 Exercise of the option to accelerate the payment of death benefits
- 11:4-30.10 Form submission requirements
- 11:4-30.11 Illustrations
- 11:4-30.12 Discrimination
- 11:4-30.13 Severability
- 11:4-30.14 (Reserved)

SUBCHAPTER 31. TERM LIFE INSURANCE COMPARISON SURVEY

- 11:4-31.1 Purpose and scope
- 11:4-31.2 Definitions
- 11:4-31.3 Coverage option survey
- 11:4-31.4 Survey forms

APPENDIX A**APPENDIX B****APPENDIX C****SUBCHAPTER 32. VALUATION OF LIFE INSURANCE POLICIES**

- 11:4-32.1 Purpose and scope
- 11:4-32.2 Definitions
- 11:4-32.3 General calculation requirements for basic reserves and premium deficiency reserves
- 11:4-32.4 Calculation of minimum valuation standard for policies with guaranteed non-level gross premiums or guaranteed non-level benefits (other than universal life policies)
- 11:4-32.5 Calculation of minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policyowner to keep a policy in force over a secondary guarantee period
- 11:4-32.6 Operative date

APPENDIX. SELECT MORTALITY FACTORS**SUBCHAPTER 33. EXCESS INTEREST RESERVE ADJUSTMENT**

- 11:4-33.1 Purpose
- 11:4-33.2 Applicability and scope
- 11:4-33.3 Requirements
- 11:4-33.4 Separability

SUBCHAPTER 34. LONG-TERM CARE INSURANCE

- 11:4-34.1 Purpose
- 11:4-34.2 Applicability and scope
- 11:4-34.3 Definitions
- 11:4-34.4 Filing requirement
- 11:4-34.5 Policy definitions
- 11:4-34.6 Policy practices, provisions and prohibitions
- 11:4-34.7 Continuation or conversion of group coverage
- 11:4-34.8 Required disclosure provisions
- 11:4-34.9 Requirements for replacement
- 11:4-34.10 Discretionary powers of the Commissioner
- 11:4-34.11 Outline of coverage
- 11:4-34.12 Severability
- 11:4-34.13 Actuarial requirements for rate submissions
- 11:4-34.14 Loss ratio standards for individual long-term care insurance
- 11:4-34.15 Spousal discount

SUBCHAPTER 35. VIATICAL SETTLEMENTS

- 11:4-35.1 Purpose and scope
- 11:4-35.2 Definitions
- 11:4-35.3 General licensing requirements
- 11:4-35.4 Viatical settlement provider's license application
- 11:4-35.5 Viatical settlement broker's or representative's license application
- 11:4-35.6 License renewals
- 11:4-35.7 Denial of license
- 11:4-35.8 Appointment requirements for viatical settlement representatives
- 11:4-35.9 Approval of contracts and disclosure statements; right of rescission
- 11:4-35.10 Standards for evaluation of reasonable viatical settlement proceeds
- 11:4-35.11 Reporting requirement
- 11:4-35.12 Payment of the proceeds
- 11:4-35.13 Viatical settlement provider/broker/representative conduct
- 11:4-35.14 Viatical settlement provisions
- 11:4-35.15 Advertising standards
- 11:4-35.16 Disclosure
- 11:4-35.17 Prohibited practices
- 11:4-35.18 Imposition of administrative penalties/suspension/ revocation of license

APPENDIX**SUBCHAPTER 36. (RESERVED)****SUBCHAPTER 37. SELECTIVE CONTRACTING ARRANGEMENTS OF INSURERS**

- 11:4-37.1 Purpose and scope
- 11:4-37.2 Definitions
- 11:4-37.3 Standards for selective contracting arrangements
- 11:4-37.4 Selective contracting arrangement approval and amendment procedures
- 11:4-37.5 Confidentiality
- 11:4-37.6 Denial, suspension and revocation
- 11:4-37.7 Monitoring; auditing
- 11:4-37.8 Filing and review fees
- 11:4-37.9 Penalties

SUBCHAPTERS 38 THROUGH 39. (RESERVED)**SUBCHAPTER 40. LIFE/HEALTH/ANNUITY FORMS**

- 11:4-40.1 Purpose and scope
- 11:4-40.2 Definitions
- 11:4-40.3 Life/health/annuity form approval standards
- 11:4-40.4 General requirements
- 11:4-40.5 Life/health/annuity form approval procedures
- 11:4-40.6 Individual life and annuities variable form approval procedures
- 11:4-40.7 Valuation and non-forfeiture interest rates form approval procedures
- 11:4-40.8 Certificate of assumption form approval procedures

- 11:4-40.9 File and use eligibility
- 11:4-40.10 File and use procedures
- 11:4-40.11 Service fees

APPENDIX

SUBCHAPTER 41. STANDARDS FOR INDIVIDUAL LIFE INSURANCE POLICY FORMS

- 11:4-41.1 Purpose and scope
- 11:4-41.2 Definitions
- 11:4-41.3 General standards
- 11:4-41.4 Exclusions and prohibitions
- 11:4-41.5 Prohibition of bail-out features
- 11:4-41.6 Indexed benefits
- 11:4-41.7 Standards for pre-existing conditions exclusions
- 11:4-41.8 Standards for field issue contracts
- 11:4-41.9 Standards for other insured coverage
- 11:4-41.10 Standards for survivorship forms
- 11:4-41.11 Standards for re-entry or requalification features
- 11:4-41.12 Standards for custom design products
- 11:4-41.13 Effect on previously filed forms
- 11:4-41.14 Standards for smoker/nonsmoker and/or tobacco/nontobacco reclassification
- 11:4-41.15 through 11:4-41.16 (Reserved)

SUBCHAPTER 42. GROUP LIFE, GROUP HEALTH AND BLANKET INSURANCE: GENERAL STANDARDS FOR CONTRACT PROVISIONS

- 11:4-42.1 Purpose and scope
- 11:4-42.2 Definitions
- 11:4-42.3 Applicability of other standards
- 11:4-42.4 General standards
- 11:4-42.5 Prohibited provisions
- 11:4-42.6 Provisions for aggregate limits
- 11:4-42.7 Provisions for offsets in group policies and certificates providing disability income insurance
- 11:4-42.8 Provisions setting forth pre-authorization requirements
- 11:4-42.9 Provisions for pre-existing condition exclusions and limitations
- 11:4-42.10 Prohibition on subrogation/third party liability provisions
- 11:4-42.11 Provisions concerning exclusions and limitations for the use of alcohol and drugs or relating to illegal occupations
- 11:4-42.12 Provisions for payment of benefits payable for automobile related injuries
- 11:4-42.13 Conversion of group life insurance coverage to an individual life insurance policy

APPENDIX. BENEFITS PAYABLE FOR AUTOMOBILE RELATED INJURIES

SUBCHAPTER 43. INDIVIDUAL ANNUITY CONTRACT FORM STANDARDS

- 11:4-43.1 Purpose and scope
- 11:4-43.2 Definitions
- 11:4-43.3 General requirements and prohibitions
- 11:4-43.4 Individual immediate annuities
- 11:4-43.5 Individual deferred annuities
- 11:4-43.6 Waiver of surrender charges
- 11:4-43.7 Surrender charges for individual deferred annuities

SUBCHAPTER 44. STANDARDS FOR CONTRACTS ON A VARIABLE BASIS

- 11:4-44.1 Purpose and scope
- 11:4-44.2 Definitions
- 11:4-44.3 Standards for variable contracts
- 11:4-44.4 Prohibited provisions
- 11:4-44.5 Standards for individual market value adjusted annuities

SUBCHAPTER 45. PERIODIC REPORTS

- 11:4-45.1 Purpose and scope

- 11:4-45.2 Definitions
- 11:4-45.3 General requirements
- 11:4-45.4 Flexible factor forms; reporting requirements
- 11:4-45.5 Individual variable annuity forms; reporting requirements
- 11:4-45.6 Variable life insurance; periodic report requirements
- 11:4-45.7 Illustrated forms
- 11:4-45.8 Penalties

SUBCHAPTER 46. SYNTHETIC GUARANTEED INVESTMENT CONTRACT FORMS

- 11:4-46.1 Purpose and Scope
- 11:4-46.2 Definitions
- 11:4-46.3 Form submission requirements
- 11:4-46.4 Plan of operation requirements
- 11:4-46.5 Contract requirements
- 11:4-46.6 General requirements
- 11:4-46.7 Reserves
- 11:4-46.8 Severability

SUBCHAPTER 47. ACTUARIAL REQUIREMENTS FOR FLEXIBLE-FACTOR POLICY FORMS

- 11:4-47.1 Purpose and Scope
- 11:4-47.2 Definitions
- 11:4-47.3 General requirements
- 11:4-47.4 Pricing assumptions—actuarial certification
- 11:4-47.5 Nonforfeiture benefits—actuarial memorandum
- 11:4-47.6 Recordkeeping
- 11:4-47.7 Penalties

APPENDIX. DETECTION AND AVOIDANCE OF DISCONTINUITIES IN LIFE INSURANCE POLICIES

SUBCHAPTER 48. UNFAIR DISCRIMINATION

- 11:4-48.1 Purpose and scope
- 11:4-48.2 Definitions
- 11:4-48.3 General requirements
- 11:4-48.4 Persistency bonus
- 11:4-48.5 Conversion credits
- 11:4-48.6 Non-smoker only coverage
- 11:4-48.7 Policy benefits determined by ownership
- 11:4-48.8 Forgiveness of surrender charge
- 11:4-48.9 Discounts and reductions in premium in individual health insurance
- 11:4-48.10 (Reserved)

SUBCHAPTER 49. MANDATED DIABETES BENEFITS

- 11:4-49.1 Purpose and scope
- 11:4-49.2 Definitions
- 11:4-49.3 Benefits
- 11:4-49.4 Payment of benefits under multiple coverage plans

SUBCHAPTER 50. REIMBURSEMENT OF INMATE HEALTH CARE COSTS

- 11:4-50.1 Purpose and scope
- 11:4-50.2 Definitions
- 11:4-50.3 Liability for medical care
- 11:4-50.4 Amount of inmate liability
- 11:4-50.5 Health coverage plans
- 11:4-50.6 Filing of claims for reimbursement
- 11:4-50.7 Coordination of benefits
- 11:4-50.8 Policy forms

SUBCHAPTER 51. (RESERVED)

SUBCHAPTER 52. LIFE INSURANCE ILLUSTRATIONS

- 11:4-52.1 Purpose and scope
- 11:4-52.2 Definitions
- 11:4-52.3 Policies to be illustrated
- 11:4-52.4 General rules and prohibitions
- 11:4-52.5 Standards for basic illustrations

- 11:4-52.6 Standards for supplemental illustrations
- 11:4-52.7 Delivery of illustration and record retention
- 11:4-52.8 Annual report; notice to policy owners
- 11:4-52.9 Annual certifications
- 11:4-52.10 Penalties
- 11:4-52.11 Transition

**SUBCHAPTER 53. MINIMUM STANDARDS FOR
SPECIFIED DISEASE AND CRITICAL ILLNESS
COVERAGES**

- 11:4-53.1 Purpose and scope
- 11:4-53.2 Definitions
- 11:4-53.3 General standards
- 11:4-53.4 Standards for specified disease coverage
- 11:4-53.5 Standards for critical illness coverage
- 11:4-53.6 Loss ratio standards
- 11:4-53.7 Advertising

APPENDIX

**SUBCHAPTER 1. NEW JERSEY INSOLVENT
HEALTH MAINTENANCE ORGANIZATION
ASSISTANCE ASSOCIATION**

Authority

N.J.S.A. 17:1-8.1; 17:1-15e; and 17B:32B-1 et seq.

Source and Effective Date

R.2001 d.122, effective April 2, 2001.
See: 32 N.J.R. 3907(a), 33 N.J.R. 1109(a).

(d) An annuity form shall not permit a single premium annuity to be paid in installments.

(e) Insurers shall provide written notice to all prospective purchasers of individual flexible premium annuities at or before application. The notification form shall be submitted to the Department upon filing any individual flexible premium annuity form. The written notice shall include the following:

1. A statement that cash values under a flexible premium annuity where only one premium is paid can be lower than those under a single premium annuity, and that purchase of a flexible premium annuity may be inappropriate in such a case; and
2. A signature by the purchaser.

(f) The requirements at (e) above shall be waived if the insurer includes in its submission a separate actuarial memorandum which demonstrates that the values provided under the form on the guaranteed basis equal or exceed minimum values as described at N.J.S.A. 17B:25-20g for both a single premium or flexible premium contract.

(g) An individual deferred annuity form which describes credited interest in terms of a published index shall state how interest shall be credited upon the discontinuance of the index, and that any substitute index is subject to Department approval.

Amended by R.2001 d.410, effective November 5, 2001.
See: 33 N.J.R. 2265(a), 33 N.J.R. 3748(a).

Rewrote (a); added new (b) and recodified former (b) through (f) as (c) through (g); in (f), substituted "(e)" for "(d)" following "requirements at".

11:4-43.6 Waiver of surrender charges

(a) An individual annuity form which includes a waiver of surrender charges upon confinement to a nursing home or similar institution shall comply with the following requirements:

1. The benefit shall be limited to the confinement of the owner or annuitant. Confinement of any other family member who is not an owner or annuitant identified in the contract shall not qualify for the benefit.

(b) An individual annuity form which provides a waiver of surrender charges for an occurrence of terminal illness shall comply with the following requirements:

1. The form shall not require that the cause of the terminal condition first manifest itself or be diagnosed after issuance of the policy or rider in order to provide entitlement to the benefit;
2. The form shall not limit the benefit to specified diseases;

3. The form shall state that any requirements for a second or third medical opinion to confirm the terminal illness shall be at the insurer's expense; and

4. The form shall limit the benefit to the terminal illness of the owner or annuitant. Terminal illness of any other family member not an owner or annuitant identified in the contract shall not qualify for the benefit.

(c) Any individual annuity form which permits penalty-free partial withdrawals or surrenders shall clearly describe the amount available for such penalty-free withdrawal or surrender. The form shall specifically state when the contract value used in the calculation of the penalty free amount is determined.

(d) The individual annuity form shall not provide for retroactive assessment of a surrender charge to recover any prior surrender charge which was waived by the insurer as a result of confinement or terminal illness or a penalty-free withdrawal or surrender.

Amended by R.2000 d.130, effective March 20, 2000.
See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).

In (a), deleted former 1 and 2 and recodified former 3 as 1; and in (b), deleted former 1 and 2 and recodified former 3 through 6 as 1 through 4.

11:4-43.7 Surrender charges for individual deferred annuities

Submissions of all individual deferred annuity contracts having a separate surrender charge associated with each premium payment shall include an actuarial certification that surrender charges in later years comply with N.J.S.A. 17B:25-20.

Amended by R.2000 d.130, effective March 20, 2000.
See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).

Rewrote the section.

SUBCHAPTER 44. STANDARDS FOR CONTRACTS ON A VARIABLE BASIS

11:4-44.1 Purpose and scope

(a) The purpose of this subchapter is to implement the Life and Health Insurance and Health Maintenance Organization Form Approval Reform Act, P.L. 1995, c.73, by setting forth the Department's standards for approval of life insurance and annuity contracts issued on a variable basis.

(b) This subchapter shall apply to all life insurance and annuities contracts on a variable basis and any certificate evidencing variable benefits pursuant to such contracts, which are issued pursuant to N.J.S.A. 17B:28-1 et seq. and delivered or issued for delivery in this State.

11:4-44.2 Definitions

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

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

“Contract on a variable basis” or “variable contract” means any separate account contract providing for the dollar amount of life insurance or annuity benefits or other contractual payments or values thereunder to vary so as to reflect investment results of one or more separate accounts in which amounts with respect to any such contracts have been placed. Market value adjusted annuities are included within this definition, and are not fixed annuities.

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

“Market value adjusted annuity” means a deferred annuity containing a long-term substantial interest rate guarantee which provides for adjustment of the cash value prior to the maturity of the guarantee to reflect the market value of the guarantee. The market value of the guarantee is generally the present value of the guaranteed rate using the current interest rate being credited on similar contracts with similar maturities.

“Separate account” means any segregated portfolio of investments or designated account of an insurer established pursuant to N.J.S.A. 17B:28-1 et seq.

Amended by R.2000 d.130, effective March 20, 2000.
See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).

11:4-44.3 Standards for variable contracts

(a) All individual life insurance and annuities contracts on a variable basis shall include the following:

1. A provision describing the periodic reports;
2. A provision specifying any rights for deferral. Any deferral of a minimum guaranteed death benefit for an individual variable life insurance contract shall comply with N.J.S.A. 17B:25-11; and
3. A provision describing any conditions for partial withdrawals, partial surrenders, loans, transfers and new deposits. Any required minimum amount for a partial withdrawal, partial surrender, loan or transfer shall not exceed \$1,000.

(b) In addition to the standards set forth at (a) above, all individual life insurance and annuities contracts on a variable basis shall comply with the requirements of N.J.S.A. 17B:28-1 et seq., and with all statutes and regulations applicable to non-variable life and annuity forms which are not inconsistent with the variable nature of the form.

(c) All individual life insurance contracts on a variable basis shall include a period of free review as described at N.J.A.C. 11:4-41.3(b)1. The amount to be returned to the policyholder following cancellation of the contract pursuant to this subsection shall be no less than premiums (including fees and charges) applied to the separate account, adjusted for investment gains and losses, plus premiums (including fees and charges) applied to any general account option.

(d) Individual life insurance and annuities contracts on a variable basis may include the following:

1. The contract may permit monies to be deposited into a general account fund. Such fund shall be subject to the Department’s requirements for individual general account contracts, including, but not limited to, those set forth at N.J.A.C. 11:4-41 and 11:4-43.
2. The contract may contain variable wording, identified by the use of brackets, to describe the separate account funds and related charges. Variable wording may also be used in application forms which describe separate account funds.

Amended by R.2000 d.130, effective March 20, 2000.
See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).

In (a), deleted a former 1, recodified former 2 through 4 as 1 through 3, and substituted “\$1,000” for “\$500.00” at the end of the second sentence in the new 3.

Amended by R.2001 d.410, effective November 5, 2001.
See: 33 N.J.R. 2265(a), 33 N.J.R. 3748(a).

In (a), rewrote 2 and 3; added new (c) and recodified former (c) as (d).

11:4-44.4 Prohibited provisions

(a) The following restrictions shall apply to all individual life insurance and annuities contracts on a variable basis:

1. The insurer shall not reserve the right to unilaterally terminate or discontinue transfer privileges. Suspension of such privilege for a reasonable period is permitted if administered in a nondiscriminatory manner.
2. The insurer shall not require a signature guarantee of the owner for withdrawals, surrenders, loans or transfers.
3. The insurer shall not reserve the right to terminate the contract for suspension in premium activity or for failure to maintain minimal amounts in the separate account, unless the reduction in values in the separate account is the direct result of partial withdrawal or surrender activity. However, an insurer may automatically transfer all monies to one fund or division of the separate account if the value of the separate account falls below a stated minimum. Any conditions for the transfer shall be described in the contract form. This paragraph shall not require an insurer to continue a scheduled, required premium contract beyond any grace period or nonforfeiture benefit provided by the contract or required by law.

Amended by R.2001 d.410, effective November 5, 2001.
See: 33 N.J.R. 2265(a), 33 N.J.R. 3748(a).

In (a), deleted former 3 and recodified former 4 as 3.

11:4-44.5 Standards for individual market value adjusted annuities

(a) All individual market value adjusted annuities shall comply with the following standards:

1. The contract shall be identified and issued as a variable contract pursuant to N.J.S.A. 17B:28-1 et seq.;

2. The funds backing the contract shall be held in a separate account; and

3. The maturity value and cash value guarantees shall be obligations of the general account.

SUBCHAPTER 45. PERIODIC REPORTS

Assuming current (Note: insurers to include listing of interest, mortality and expense factors, as such factors are described in the form) continue indefinitely and a premium equal to the initial premium (or minimum premium, if applicable) is paid (insert premium mode selected by owner), this policy will provide coverage for xx years; based on guaranteed (Note: insurers to include listing of interest, mortality and expense factors, as such factors are described in the form), this policy will provide coverage for yy years. Other policy forms designed specifically to provide term insurance may offer similar benefits for such periods at a lower cost or with higher cash surrender values. You should consider whether this policy or such alternative policy is right for you.

ii. The specimen disclosure statement(s) submitted with the form shall specify or clearly reference the premiums assumed and shall specify the lengths of coverage provided based upon the current and guaranteed assumptions.

iii. Regardless of initial premium, no disclosure statement shall be required for last survivor policies with a face amount greater than or equal to \$500,000 or to variable contracts (that is, those which are issued pursuant to N.J.S.A. 17B:28-1 et seq. and delivered or issued for delivery in this State).

(d) All policy forms may incorporate surrender charges of specified amounts at specified durations, provided that the resulting cash values are at least as large as those developed under (c) above assuming a maximum initial expense allowance and no surrender charges. For purposes of this subsection, "specified" surrender charges means that the policyholder can determine at issue the exact amount of surrender charge applicable at any future time. Surrender charges provided by a table included in the policy or surrender charges as a percentage of initial premiums or death benefits shall be specified, but surrender charges as a percentage of variable future premiums, values or benefits are not specified.

1. The scale of surrender charges shall be such as to satisfy the tests regarding detection and avoidance of discontinuities in life insurance policies set forth in Exhibit 1 in the Appendix to this subchapter, incorporated herein by reference. The actuarial memorandum prepared pursuant to (a) above shall include a certification from a qualified actuary that surrender charges, if any, are in compliance with these tests for representative issue ages and premium/benefit arrangements on an "apparent plan" basis or, in the alternative, provide justification for instances where the tests may not be satisfied.

2. The insurer may satisfy the requirements set forth in (d) above by demonstrating that surrender charges are less than the unamortized unused initial first year expense allowance. The initial expense allowance shall be derived pursuant to (c) above. Further, the expense allowance

shall be amortized over the period for which coverage was purchased.

(e) In order to demonstrate compliance with the requirements set forth in (c) and (d) above, the actuarial memorandum prepared pursuant to (a) above shall contain the following:

1. A description of the calculation of the maximum initial expense allowance, including a specific reference to the guaranteed plan purchased by the initial premium;

2. A demonstration, either algebraically or by comparing the maximum initial expense allowance to the excess first year expenses for all ages and classes, that the requirements set forth in (c) are satisfied; and

3. If there are surrender charges, a comparison, either tabular or by algebraic formula, of surrender charges to unused unamortized expense allowance at all durations.

(f) In addition to surrender charges as permitted pursuant to (d) above, a policy may contain provision for surrender charges in the form of withholding portions of credited excess interest or similarly calculated percentages of accumulated amounts. This type of surrender charge shall be considered a protection against possible asset liquidation loss at time of cash value payment, and the insurer shall state in the actuarial memorandum prepared pursuant to (a) above the circumstances under which such a surrender charge would be imposed. If the charge is to be imposed unconditionally, the minimum value test required pursuant to (d) above shall include the unspecified surrender charge in all calculations, and the insurer, in policy summaries and sales illustrations, may not display any accumulation amounts greater than the cash values assuming imposition of all surrender charges.

(g) Each form submitted for filing, which the insurer asserts is exempt from providing guaranteed nonforfeiture benefits as described in N.J.S.A. 17B:25-19, shall be accompanied by a certification from a qualified actuary:

1. Stating that an actuarial memorandum has been prepared and signed by a qualified actuary which demonstrates that the form is exempt from providing guaranteed nonforfeiture benefits as described in N.J.S.A. 17B:25-19, which actuarial memorandum shall be available for review by the Department upon request; and

2. Stating the specific exemption from providing guaranteed nonforfeiture benefits as described in N.J.S.A. 17B:25-19 claimed by the insurer.

Amended by R.1997 d.444, effective October 20, 1997.
See: 29 N.J.R. 3409(a), 29 N.J.R. 4459(c).

Rewrote (c) as (c) and (c)1; recodified (c)1 through (c)3 as (c)1i through (c)1iii; inserted new (c)2; in (g), substituted "certification" for "memorandum", and deleted "company officer or" preceding "qualified actuary"; and added (g)1 and (g)2.

Amended by R.2001 d.411, effective November 5, 2001.
See: 33 N.J.R. 2268(a), 33 N.J.R. 3749(a).

Rewrote section.

11:4-47.6 Recordkeeping

Any actuarial memorandum prepared as required by this subchapter shall be retained by the insurer, and submitted to the Department upon request, until such time as the policy form is no longer being issued or delivered to persons residing in this State.

11:4-47.7 Penalties

Failure to comply with this subchapter shall result in the disapproval of any flexible-factor form for delivery in this State, as well as imposition of any other penalties as may be authorized by law.

3. For the time being, we recommend a set of limits be used to separate whole life policies that are to be subjected to regulatory consideration which produces a manageable volume of identified policies. The upper limits of the test measure we recommend for acceptable policies are:

Issue Age	Test Limit
25 and under	300
35	500
45 and over	600

(Limits for other ages to be obtained by interpolation.) These limits apply to all policy sizes tested and isolated five percent of all of the policies in our test sample.

Example 1

The first example is a participating whole life policy issued to a male aged 35. The calculation is made on a per \$1,000 basis:

APPENDIX

EXHIBIT 1

DETECTION AND AVOIDANCE OF DISCONTINUITIES IN LIFE INSURANCE POLICIES

Detecting Possible Manipulation: The Mechanical Approach

Manipulation is manifested in irregularities in the otherwise smooth progression of the net result of offsetting the dividends and the changes each year in cash values against the annual premiums, i.e., irregularities in the annual policy cost from the policyowner's viewpoint. We have examined several ways of testing for such irregularities and of arriving at limits beyond which they may be cause for inquiry by the regulators.

The method that we regard as most likely to work satisfactorily is described technically as follows:

1. The test measures irregularities in policy values which are identified by the yearly prices of protection. Yearly prices are based on premiums, illustrated dividends, cash surrender values, death benefits, and an imputed interest rate of five percent.

2. The test is applied to the sum of the squares of the second backward differences in yearly prices. This measure is obtained as follows: First, the differences between successive changes in yearly prices are calculated. These "second differences" are then squared to avoid the offsetting effect of positive and negative values. Finally, the squared second differences are added for policy years 8-23. Because the test omits from the calculation yearly prices prior to year 6, it will not detect irregularities in yearly prices during the first five policy years. The use of the mechanical approach in early policy years is burdened by variations in expense amortization and in early year cash surrender values. It was the judgment of the committee that incorporation of yearly prices beyond policy year 23 is currently unnecessary.

Policy Year	Guaranteed Cash Value	Illustrated		Premium
		Annual Dividend	Terminal Dividend	
1	0.0	0.0	0.00	21.40
2	8.77	2.40	0.00	21.40
3	31.27	2.65	0.00	21.40
4	54.28	2.90	0.00	21.40
5	77.82	3.16	0.00	21.40
6	94.24	3.16	0.00	21.40
7	110.93	3.16	0.00	21.40
8	127.88	3.41	0.00	21.40
9	145.09	3.41	0.00	21.40
10	162.54	3.66	8.00	21.40
11	180.22	4.16	8.00	21.40
12	198.11	4.67	8.00	21.40
13	216.20	5.17	8.00	21.40
14	234.46	5.68	8.00	21.40
15	252.88	6.18	8.00	21.40
16	271.43	6.69	8.00	21.40
17	290.10	7.19	8.00	21.40
18	308.87	7.95	8.00	21.40
19	327.73	8.46	8.00	21.40
20	346.65	9.47	25.00	21.40
21	365.62	10.48	25.00	21.40
22	384.60	11.49	25.00	21.40
23	403.57	12.50	25.00	21.40
24	422.50	13.51	25.00	21.40
25	441.37	14.52	25.00	21.40
26	460.14	15.53	25.00	21.40
27	478.78	16.54	25.00	21.40
28	497.28	17.55	25.00	21.40
29	515.60	18.56	25.00	21.40
30	533.70	19.57	25.00	21.40

The yearly prices, (backward) second differences in yearly prices, and their squares for this policy are:

Policy Year	(1)	(2)	(3)
	Yearly Price	Second Difference in Yearly Price	Second Difference Squared
1	21.40	—	NA
2	10.76	—	NA
3	-2.13	-2.25	NA
4	-1.79	13.23	NA

	(1)	(2)	(3)
Policy Year	Yearly Price	Second Difference in Yearly Price	Second Difference Squared
5	-1.44	.01	NA
6	6.46	7.55	NA
7	6.98	-7.38	NA
8	7.29	-.21	.0441
9	7.85	.25	.0625
10	.59	-7.82	61.1524
11	8.72	15.39	236.8521
12	8.88	-7.97	63.5209
13	9.06	.02	.0004
14	9.28	.04	.0016
15	9.52	.02	.0004
16	9.78	.02	.0004
17	10.08	.04	.0016
18	10.15	-.23	.0529
19	10.47	.25	.0625
20	-5.84	-16.63	276.5569
21	11.05	33.20	1,102.2400
22	10.98	-16.96	287.6416
23	10.93	.02	.0004
24	10.91	.03	NA
25	10.91	.02	NA
26	10.94	.03	NA
27	11.00	.03	NA
28	11.06	.00	NA

	(1)	(2)	(3)
Policy Year	Yearly Price	Second Difference in Yearly Price	Second Difference Squared
29	11.15	.03	NA
30	11.27	.03	NA

The column (1) yearly prices are the values of the Yearly Price of Death Benefits per (1000).

Column (2) is calculated by subtracting the change observed in the yearly price in year t-1 from the change observed in the yearly price in year t. For example, the second difference of -16.63 in year 20 is calculated:

$$\begin{aligned}
 & -16.63 \text{ --- } (-5.84-10.47) - (10.47-10.15) \\
 & \text{--- } -16.31-32 \\
 & \text{--- } -16.63
 \end{aligned}$$

Column (3), second difference squared, is the square of the figure in column (2). The sum of the squared second differences between years 8 and 23 is 2028. This sum exceeds by 1528 the test limit for issue age 35 of 500. A company actuary would be required to justify the abrupt discontinuities in yearly prices in policy years 10 and 20. These discontinuities are attributable to the unusual annual dividend scale and terminal dividend scale.

The second example is a guaranteed cost policy issued to a male age 25. It has a six percent policy loan rate. The calculation is made on a per \$1,000 basis.

Example 2

Policy Year	Guaranteed Cash Value	Illustrated Annual Dividend	Terminal Dividend	Premium
1	0.0	0.0	0.0	11.34
2	0.0	0.0	0.0	11.34
3	0.02	0.0	0.0	11.34
4	9.77	0.0	0.0	11.34
5	19.84	0.0	0.0	11.34
6	30.23	0.0	0.0	11.34
7	40.95	0.0	0.0	11.34
8	52.01	0.0	0.0	11.34
9	63.41	0.0	0.0	11.34
10	75.17	0.0	0.0	11.34
11	87.27	0.0	0.0	11.34
12	99.71	0.0	0.0	11.34
13	112.48	0.0	0.0	11.34
14	125.54	0.0	0.0	11.34
15	138.90	0.0	0.0	11.34
16	152.53	0.0	0.0	11.34
17	166.43	0.0	0.0	11.34
18	180.59	0.0	0.0	11.34
19	195.03	0.0	0.0	11.34
20	224.12	0.0	0.0	11.34
21	230.80	0.0	0.0	11.34
22	253.71	0.0	0.0	11.34
23	268.85	0.0	0.0	11.34
24	284.20	0.0	0.0	11.34
25	299.73	0.0	0.0	11.34
26	315.43	0.0	0.0	11.34
27	331.29	0.0	0.0	11.34
28	347.29	0.0	0.0	11.34
29	363.43	0.0	0.0	11.34
30	379.67	0.0	0.0	11.34

Policy Year	(1) Yearly Price	(2) Second Difference in Yearly Price	(3) Second Difference Squared
22	.51	-37.87	1,434.1369
23	9.00	23.63	558.3769
24	9.52	-7.97	NA
25	10.08	.04	NA
26	10.66	.02	NA
27	11.26	.02	NA
28	11.88	.03	NA
29	12.51	.01	NA
30	13.18	.04	NA

The sum of the squared second differences between years 8 and 23 for example two is 3476. It exceeds by 3176 the test limit for issue age 25 of 300. A company actuary would be required to justify the abrupt discontinuities in yearly prices between years 20 and 23. These discontinuities are attributable to the unusual cash surrender value progression during these years.

SUBCHAPTER 48. UNFAIR DISCRIMINATION

11:4-48.1 Purpose and scope

(a) This subchapter sets forth standards and requirements that all life and health insurance policy forms and annuity contract forms are required to meet in order to comply with the prohibition against unfair discrimination as provided at N.J.S.A. 17B:30-12.

(b) These rules shall apply to all insurers delivering or issuing for delivery life insurance and health insurance policies or annuity contracts in this State.

11:4-48.2 Definitions

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

“Annuity” means a contract not coming within the definition of life insurance as set forth in N.J.S.A. 17B:17-3, or health insurance as set forth in N.J.S.A. 17B:17-4, 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.

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

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

“Health insurance” is as defined at N.J.A.C. 11:4-40.2.

Policy Year	(1) Yearly Price	(2) Second Difference in Yearly Price	(3) Second Difference Squared
1	11.34	—	NA
2	11.34	—	NA
3	11.32	-.02	NA
4	2.06	-9.24	NA
5	2.21	9.41	NA
6	2.39	.03	NA
7	2.57	.00	NA
8	2.76	.01	.0001
9	2.96	.01	.0001
10	3.16	.00	.0000
11	3.40	.04	.0016
12	3.65	.01	.0001
13	3.93	.03	.0009
14	4.26	.05	.0025
15	4.59	.00	.0000
16	4.97	.05	.0025
17	5.37	.02	.0004
18	5.78	.01	.0001
19	6.19	.00	.0000
20	-7.08	-17.68	187.1424
21	15.65	36.00	1,296.0000

“Insurer” means any person or persons, corporation, partnership, or company authorized or admitted to transact the business of life insurance, health insurance or annuities in this State pursuant to Title 17 and 17B of the New Jersey statutes.

“Life insurance” is as defined at N.J.A.C. 11:4-40.2.

“Persistency bonus” means any credit to an explicit or implicit accumulation account which varies by duration in a manner which encourages or rewards persistency, and which includes:

1. A retroactive refund of past mortality or expense charges at some duration;
2. A retroactive increase in past interest credits at some duration;
3. A percentage increase in the accumulation amount at some duration; and
4. Factor enhancement bonuses which provide for the crediting of a higher interest rate or the charging of a lower expense or mortality charge commencing at some duration.

“Tiered factors” means accumulation account factors, such as interest rates, cost of insurance or mortality charges, and expense charges, which vary by a policy amount, such as accumulation account value, cash surrender value, face value, or net amount at risk, or which differ for various components or tiers of a policy amount. Tiered factors reflect economies of scale or other economies so that credits will increase with size and charges will decrease with size. Tiered factors do not include factors which vary by policy duration.

Amended by R.2000 d.130, effective March 20, 2000.
See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).

11:4-48.3 General requirements

(a) No insurer shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged, dividends or other benefits payable thereon, or in any other of the terms and conditions for any policy of life insurance or contract of annuity.

(b) No insurer shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium policy fees, or rates charged for any policy or contract of health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such policy or contract, or in any other manner whatsoever.

11:4-48.4 Persistency bonus

(a) The Department shall approve life insurance policy forms that provide non-guaranteed bonuses which either credit a higher interest rate or charge a lower expense or mortality charge commencing at some duration if all of the following conditions are met:

1. The intention to pay bonus interest or reduce mortality or expense charges shall be stated in the contract or in an endorsement thereto which has been filed by the Department prior to use. Such contract wording or endorsement shall not constitute a guarantee of the payment of the bonus. An example of acceptable language is as follows: The company may credit interest at a rate in excess of the guaranteed rate. Additional interest at a rate of not more than may be credited to policies in force at least 10 years, as well as for policies in force more than 20 years. The additional excess interest is the result of a reduction in the interest margin for profit and expenses. The guaranteed interest rate will not be increased by the additional excess interest rate.

2. The insurer shall include in its submission to the Department an actuarial certification that the nonguaranteed bonus does not unfairly discriminate between persons who lapse or surrender their policies before the policy year of crediting the bonus and those who continue their policy in force, as prohibited by N.J.S.A. 17B:30-12(c). The submission shall include an explanation of the reason for and source of the bonus which focuses on the completion of amortization expenses and the release of interest margins. Higher investment yields on long term assets or hypothetically better mortality of persisting policyholders will not provide sufficient justification for a bonus.

3. The insurer shall notify the Department in writing at least 60 days prior to implementing any changes in bonus interest rate levels or methodology and any reduction or elimination of bonus provisions. No such changes or reductions shall be implemented without the Department's prior approval. The Department may require the elimination or reduction of the bonus as a condition of approval of some future change in interest rates.

(b) All persistency bonuses other than those described in (a) above shall be prohibited in life insurance policy forms.

Amended by R.2000 d.130, effective March 20, 2000.
See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).
Rewrote (a)2.

11:4-48.5 Conversion credits

The Department shall approve life insurance policy forms that provide conversion credits pursuant to N.J.S.A. 17B:30-14e.

Recodified from N.J.A.C. 11:4-48.6 and amended by R.2000 d.130, effective March 20, 2000.
See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).
Rewrote (a). Former N.J.A.C. 11:4-48.5, Tiered factors, repealed.

11:4-48.6 Non-smoker only coverage

The Department shall not approve life insurance policy forms intended for sale to non-smokers. Insurers may decline or not offer insurance to smokers if underwriting considerations based on mortality risk exposure would result in such smokers being ineligible. Insurers shall not decline or refuse to offer insurance to smokers if non-smokers having elevated mortality at least equal to that of smokers are accepted.

Recodified from N.J.A.C. 11:4-48.7 by R.2000 d.130, effective March 20, 2000.

See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).

Former N.J.A.C. 11:4-48.6, Conversion credits, recodified to N.J.A.C. 11:4-48.5.

11:4-48.7 Policy benefits determined by ownership

The Department shall not approve provisions in life insurance policy forms under which the level of premiums or benefits varies depending solely upon who retains the ownership rights of the policy.

Recodified from N.J.A.C. 11:4-48.8 by R.2000 d.130, effective March 20, 2000.

See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).

Former N.J.A.C. 11:4-48.7, Non-smoker only coverage, recodified to N.J.A.C. 11:4-48.6.

11:4-48.8 Forgiveness of surrender charge

A policy shall not provide credits for a surrender charge imposed under another contract for the reason that such credits unfairly discriminate among contractholders based on the source of funding.

Recodified from N.J.A.C. 11:4-48.9 by R.2000 d.130, effective March 20, 2000.

See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).

Former N.J.A.C. 11:4-48.8, Policy benefits determined by ownership, recodified to N.J.A.C. 11:4-48.7.

11:4-48.9 Discounts and reductions in premium in individual health insurance

(a) In addition to the discounts based solely on savings in expenses due to the method of premium collection as permitted by N.J.S.A. 17B:30-14d and the discounts based solely on the amount of insurance issued to a particular insured as permitted by N.J.S.A. 17B:30-14e, reductions in premiums for individual health insurance policies based on class as described below are permitted if either of the following conditions are met:

1. A reduced premium may be charged under one individual health policy form based on savings in expenses, improved morbidity or increased persistency resulting from differing marketing or underwriting methods utilized for a particular class of individuals who present the same underlying hazard. Such classes may include associations, employers and large cases. Savings in expenses may include a reduction in commissions or other compensation as applied to all policies within the particular class. Each reduction in premium shall be considered a

separate class (for example, 10 percent, 15 percent and 20 percent employer-based reductions in premium shall each be considered a separate class); or

2. The reduction in premium is based on additional requirements applied to the discounts allowed by N.J.S.A. 17B:30-14d and 17B:30-14e. For example, list bill discounts with minimum premium requirements, or list bill discounts which vary based on level of participation are considered a separate class subject to the requirements of this section. Each reduction in premium shall be considered a separate class.

(b) The submission of individual health insurance policy forms which provide reductions in premiums to members of particular classes shall include the following:

1. An actuarial memorandum which shall contain a separate section for each class for which reduced rates are available under the form. The actuarial memorandum shall include the following:

i. A complete description of the class of applicants eligible for the reduced premium;

ii. The objective basis for the premium differential which shall include the different expense, morbidity and persistency assumptions that are used to calculate the reduced premium for the class;

iii. The anticipated loss ratio for the class which shall not be less than the minimum anticipated loss ratio required by N.J.A.C. 11:4-18.5. Any variation from the anticipated loss ratio for the form for regular issues shall be based upon differences in expense and persistency assumptions, and shall be consistent with the objective basis for the differential; and

iv. A certification that the loss experience for each class for which reduced premiums are available under the policy form will be maintained separately from the other experience under the policy form for purposes of determining future rate adjustments;

2. A separate rate sheet which sets forth the following information for each class for which reduced rates are available under the form:

i. The amount of reduction in rates when issued to a member of the class as compared to the rate for regular issues;

ii. All riders currently submitted to, pending with, or approved by the Department, which will be used with the form, together with any reduction in premium for the rider when issued to a member of the class as compared to the rate for the rider when issued to an individual who is not a member of the class; and

iii. Any discounts allowed by N.J.S.A. 17B:30-14d and 17B:30-14e which will be used with the form, and the basis for the discount; and

3. Questions in the application form pertaining to membership in every class for which a reduced premium is offered. The use of different applications for different classes shall be permitted so long as all applications include questions pertaining to membership in every class for which a reduced premium is available.

(c) If an individual is placed in a class at issue which is eligible for a reduced premium not available to members of the general public, such premium classification shall not be changed after issue. The schedule page and form shall include only the premium for that class and shall not contain any reference to the premium for regular issues. The provisions of this paragraph shall not preclude the termination of any discount allowed by N.J.S.A. 17B:30-14d or 17B:30-14e when the individual no longer meets the requirements for such discount.

(d) If an individual is not placed in a class for which he or she is eligible based on the information disclosed in the application, the insurer shall refund to the individual the amount of any overpayment of premium arising from such misclassification.

(e) Insurers submitting different policy forms with essentially identical benefits but with different premiums based on membership in a class, shall be subject to the provisions of (b) through (d) above. At the time of submission, the insurer shall state whether the form submitted is a reduced premium version of another form which has been filed by, is pending with, or is expected to be submitted to the Department.

Recodified from N.J.A.C. 11:4-48.10 by R.2000 d.130, effective March 20, 2000.

See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).

Former N.J.A.C. 11:4-48.9, Forgiveness of surrender charge, recodified to N.J.A.C 11:4-48.8.

11:4-48.10 (Reserved)

Recodified to N.J.A.C. 11:4-48.9 by R.2000 d.130, effective March 20, 2000.

See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).

SUBCHAPTER 49. MANDATED DIABETES BENEFITS

11:4-49.1 Purpose and scope

(a) The purpose of this subchapter is to implement P.L. 1995, c.331 by specifically setting forth the benefits required to be provided pursuant to P.L. 1995, c.331, and by identifying the particular health insurance policy or contract responsible for payment of such benefits.

(b) This subchapter shall apply to all policies and contracts providing hospital or medical expense benefits that are delivered, issued, executed or renewed in this State as follows: all hospital service corporation contracts issued pursuant to N.J.S.A. 17:48-1 et seq.; all medical service corporation contracts issued pursuant to N.J.S.A. 17:48A-1 et seq.; all health service corporation contracts issued pursuant to N.J.S.A. 17:48E-1 et seq.; all health insurance policies issued pursuant to N.J.S.A. 17B:26-1 et seq., and 17B:27-26 et seq.; and all health maintenance organization (HMO) contracts issued pursuant to N.J.S.A. 26:2J-1 et seq.

(c) This subchapter shall not apply to any health benefits plans issued pursuant to N.J.S.A. 17B:27A-2 et seq., or 17B:27A-17 et seq., or to any dental only or vision only policy or contract.

11:4-49.2 Definitions

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

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

“Dental only policy or contract” means a policy or contract providing only benefits for dental services.

“Health benefits plan” means any hospital or medical expense insurance policy or contract; health, hospital, or medical service corporation contract; or health maintenance organization subscriber contract delivered or issued for delivery in this State by any carrier. For purposes of this subchapter, “health benefits plan” excludes the following plans, policies, or contracts: accident only, credit health, disability, long-term care, coverage for Medicare services pursuant to a contract with the United States government, Medicare supplement, dental only, vision only, insurance issued as a supplement to liability insurance, coverage arising out of a workers’ compensation or similar law, hospital confinement, automobile medical payment insurance, or personal injury protection coverage issued pursuant to P.L. 1972, c.70 (N.J.S.A. 39:6A-1 et seq.) and stop loss or excess risk insurance.

“Vision only policy or contract” means a policy or contract providing only benefits for vision services.

11:4-49.3 Benefits

(a) The diabetes benefits set forth in this subsection shall be included in all health benefits plans.

1. All equipment and supplies for the treatment of diabetes if recommended or prescribed by a physician or nurse practitioner/clinical nurse specialist as follows:

i. Blood glucose monitors and blood glucose monitors for the legally blind;