

## LIFE AND HEALTH INSURANCE POLICY LANGUAGE SIMPLIFICATION MODEL ACT

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### Section 1. Title

This Act may be cited as the Life and Health Insurance Policy Language Simplification Act.

**Drafting Note:** The term “health” insurance where used in the Act should be changed to the proper statutory term in each state, e.g., “disability” or “accident and health.”

### Section 2. Purpose

The purpose of the Act is to establish minimum standards for language used in policies, contracts and certificates of life insurance, health insurance, credit life insurance and credit health insurance delivered or issued for delivery in this state to facilitate ease of reading by insureds.

This Act is not intended to increase the risk assumed by insurance companies or other entities subject to this Act or to supersede their obligation to comply with the substance of other insurance legislation applicable to life, health, credit life or credit health insurance policies. This Act is not intended to impeded flexibility and innovation in the development of policy forms or content or to lead to the standardization of policy forms or content.

**Drafting Note:** In establishing minimum standards, it is recognized that certain terminology used in policies is difficult or impossible to restate in simplified language. This is because there are no suitable alternatives to necessary medical terminology, other insurance words of art, and statutory or regulatory language requirements. It is not the intention of this Act to preclude the use of such terminology or to penalize insurance companies for its continued use.

The purpose of this Act is to improve policy language in order to facilitate the insured’s understanding of the coverages provided. The purpose is similar to that of the outline of coverage requirements found in Section 5 of the NAIC Model Individual Accident and Sickness Insurance Minimum Standards Act and in similar acts adopted in some jurisdictions. Consequently, any state adopting this Act may desire to review the continued necessity of other requirements such as the Outline of Coverage.

### Section 3. Definitions

As used in this Act:

- A. “Policy” or “policy form” means any policy, contract, plan or agreement of life or health insurance, including credit life insurance and credit health insurance, delivered or issued for delivery in this state by any company subject to this Act; any certificate, contract or policy issued by a fraternal benefit society; and any certificate issued pursuant to a group insurance policy delivered or issued for delivery in this state.
- B. “Company” or “insurer” means any life or health insurance company, fraternal benefit society, nonprofit health service corporation, nonprofit hospital service corporation, nonprofit medical service corporation, prepaid health plan, dental care plan, vision care plan, pharmaceutical plan, health maintenance organization, and all similar type organizations.

**Drafting Note:** This Act is intended to apply to the certificates, policies or contracts of fraternal benefit societies, nonprofit health, hospital and medical service corporations, prepaid health plans, dental care plans, vision care plans, pharmaceutical plans, health maintenance organizations, and all similar type organizations. In order to include such organizations, each state should properly identify them in accordance with that state’s statutory terminology or by specific statutory citation.

Depending upon state law, insurance department jurisdiction, and other factors, separate legislation may be required. In any event, the proposed legislation should provide that the particular terminology used by these plans and organizations (e.g. contracts, certificates, subscribers, member) may be substituted for, or added to, the corresponding terms used in this Act.

- C. “Commissioner” means the Insurance Commissioner of this state.

**Drafting Note:** Where the word “commissioner” appears in this Act, the appropriate designation for the chief insurance supervisory official of the state should be substituted.

#### **Section 4. Applicability**

- A. This Act shall apply to all policies delivered or issued for delivery in this state by any company on or after the date the forms must be approved under this Act, but nothing in this Act shall apply to:
- (1) Any policy which is a security subject to federal jurisdiction;
  - (2) Any group policy covering a group of 1,000 or more lives at date of issue, other than a group credit life insurance policy or a group credit health insurance policy; however, this shall not exempt any certificate issued pursuant to a group policy delivered or issued for delivery in this state;
  - (3) Any group annuity contract which serves as a funding vehicle for pension, profit sharing or deferred compensation plans;
  - (4) Any form used in connection with, as a conversion from, as an addition to, or in exchange pursuant to a contractual provision for, a policy delivered or issued for delivery on a form approved or permitted to be issued prior to the dates such forms must be approved under this Act;
  - (5) The renewal of a policy delivered or issued for delivery prior to the dates the forms must be approved under this Act.

**Drafting Note:** This Act is intended to apply to annuities except those annuities exempted by Section 4A(3). In those states where annuities are not included in the term “insurance,” appropriate language should be added to include those contracts within the scope of the Act.

The words “approved or permitted to be issued” as used in this Act to describe policy forms are intended to include all policy forms whether they are affirmatively approved, deemed approved, or merely permitted to be issued after having been on file for a prescribed period of time.

- B. No other statute of this state setting language simplification standards shall apply to any policy forms.
- C. Any non-English language policy delivered or issued for delivery in this state shall be deemed to be in compliance with Section 5A(1) of this Act if the insurer certifies that the policy is translated from an English language policy which does comply with Section 5A(1) of this Act. [Optional provision for use in those states where non-English policies may be permitted or required.]

#### **Section 5. Minimum Policy Language Simplification Standards**

- A. In addition to any other requirements of law, no policy forms, except as stated in Section 4, shall be delivered or issued for delivery in this state on or after the dates such forms must be approved under this Act, unless:
- (1) The text achieves a minimum score of 40 on the Flesch reading ease test or an equivalent score on any other comparable test as provided in Subsection C of this section;
  - (2) It is printed, except for specification pages, schedules and tables, in not less than ten point type, one point leaded;

**Drafting Note:** This paragraph is not intended to include minor instructions concerning the preparation of an application within the type size requirement (e.g., “last name,” “RFD or Box Number”).

- (3) The style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text of the policy or to any endorsements or riders; and
  - (4) It contains a table of contents or an index of the principal sections of the policy, if the policy has more than 3,000 words printed on three (3) or fewer pages of text, or if the policy has more than three (3) pages regardless of the number of words.
- B. For the purposes of this section, a Flesch reading ease test score shall be measured by the following method:
- (1) For policy forms containing 10,000 words or less of text, the entire form shall be analyzed. For policy forms containing more than 10,000 words, the readability of two 200 word samples per page may be analyzed instead of the entire form. The samples shall be separated by at least 20 printed lines.
  - (2) The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015.
  - (3) The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6.
  - (4) The sum of the figures computed under (2) and (3) subtracted from 206.835 equals the Flesch reading ease score for the policy form.
  - (5) For purposes of Section 5B(2), (3), and (4), the following procedures shall be used:
    - (a) A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word;
    - (b) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and
    - (c) A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.
  - (6) The term “text” as used in this section shall include all printed matter except the following:
    - (a) The name and address of the insurer; the name, number or title of the policy; the table of contents or index; captions and subcaptions; specification pages, schedules or tables; and
    - (b) Any policy language which is drafted to conform to the requirements of any federal law, regulation or agency interpretation; any policy language required by any collectively bargained agreement; any medical terminology; any words which are defined in the policy; and any policy language required by law or regulation; provided, however, the insurer identifies the language or terminology excepted by this paragraph and certifies, in writing, that the language or terminology is entitled to be excepted by this paragraph.
- C. Any other reading test may be approved by the commissioner for use as an alternative to the Flesch reading ease test if it is comparable in result to the Flesch reading ease test.

**Drafting Note:** A state adopting this Act may desire to review the necessity of including the Individual Accident and Sickness Uniform Policy Provision Law within the requirements of this Act until the NAIC has adopted a simplified uniform version of the UPPL.

**Drafting Note:** While the Flesch “reading ease” test (Rudolph Flesch, the *Art of Readable Writing* 1949, as revised 1974) is the basic test set forth in this Act, it is recognized that other tests are also in wide use and should be permitted to be used under this Act. Subsection C is intended to permit the use by insurers of other tests approved by the commissioner for use as an alternative to the Flesch test, but is not intended to permit the adoption by the commissioner of another test to the exclusion of the Flesch test or as an addition thereto.

- D. Filings subject to this section shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score on the test used or stating that the score is lower than the minimum required but should be approved in accordance with Section 7 of this Act. To confirm the accuracy of any certification, the commissioner may require the submission of further information to verify the certification in question.
- E. At the option of the insurer, riders, endorsements, applications and other forms made a part of the policy may be scored as separate forms or as part of the policy with which they may be used.

## **Section 6. Construction**

Nothing in this Act shall be construed to negate any law of this state permitting the issuance of any policy form after it has been on file for the time period specified.

**Drafting Note:** This provision is to be used only in those states having a provision in their statutes authorizing the use of policy forms which have been on file for a prescribed period.

## **Section 7. Powers of the Commissioner**

The commissioner may authorize a lower score than the Flesch reading ease score required in Section 5A(1) whenever, in his sole discretion, he finds that a lower score:

- A. Will provide a more accurate reflection of the readability of a policy form;
- B. Is warranted by the nature of a particular policy form or type or class of policy forms; or
- C. Is caused by certain policy language which is drafted to conform to the requirements of any state law, regulation or agency interpretation.

## **Section 8. Approval of Forms**

A policy form meeting the requirements of Section 5A shall be approved notwithstanding the provisions of any other laws which specify the content of policies, if the policy form provides the policyholders and claimants protection not less favorable than they would be entitled to under such laws.

## **Section 9. Effective Dates**

- A. Except as provided in Section 4, this Act applies to all policy forms filed on or after [insert date 2 years after passage of Act]. No policy form shall be delivered or issued for delivery in this state on or after [insert date 5 years after passage of Act] unless approved by the commissioner or permitted to be issued under this Act. A policy form that has been approved or permitted to be issued prior to [insert date 5 years after passage of Act] and which meets the standards set by this Act need not be refiled for approval, but may continue to be lawfully delivered or issued for delivery in this state upon the filing with the commissioner of a list of forms identified by form number and accompanied by a certificate as to each form in the manner provided in Section 5D.
- B. The commissioner may, in his sole discretion, extend the dates in Subsection A.

**Drafting Note:** The time periods proposed are thought to accommodate most situations and are recommended for inclusion in the bill. Other effective dates may be inserted based upon the ability of the insurance department to process the work load and the ability of the industry to totally redraft its policy portfolio.

*Chronological Summary of Actions (all references are to the Proceedings of the NAIC).*

*1978 Proc. II 31, 34, 295, 298-302 (adopted).*