

11 NCAC 04 .0115 is readopted with changes as published in NCR 35:14 1558 as follows:

11 NCAC 04 .0115 DIVISION PROCEDURES

(a) [Complaint Handling Procedure.] Complaints arising from insurance products, companies, insurance agents, adjusters, brokers, producers, and motor vehicle damage appraisers regulated under Chapter 58 will be processed in the following manner:

(1) [Analyst] The analyst will request an explanation from company, [agent or adjuster.] agent, appraiser, or adjuster.

(2) If [he] the analyst finds that the issue [complaint] has been [improperly handled.] handled in a manner that does not comply with statute, rule or policy contract, then the analyst [he] will recommend require that [proper] corrective action be taken; to resolve the complaint:

(3) If the issue is not resolved, the [deputy commissioner] Deputy Commissioner may arrange a conference with the company representatives to resolve the problem.

(b) [Hearings.] If a conference does not resolve a disputed issue, the [deputy commissioner] Deputy Commissioner may recommend to the [commissioner] [Commissioner] that [appropriate] legal action as outlined in Chapter 58 be taken to [insure] ensure compliance with the [statutes, rules and regulations] statutes and rules, administered by the [department] Department. [Such legal action may include the convening of a public hearing to review, in light of the conduct which occasioned the complaint, the necessity of entering an order against the party complained of.] Alternatively, this Division may refer issues to other Divisions for further investigation and regulatory action.

(c) [Complaints Represented by Counsel.] The Division will not investigate a complaint [which] that is also the subject matter of a pending lawsuit filed by an attorney representing the complainant. If a lawsuit has not been filed but the complainant has retained an attorney, as indicted on the complaint form or other correspondence submitted relating to the complaint, the Division will investigate the complaint [according to its normal procedures] provided it has first obtained the attorney's written [consent.] consent solicited through the complainant.

History Note: Authority G.S. 58-2-40; 58-2-50; 58-2-155; 58-2-185; 58-2-190; 58-2-195; 58-2-200; 58-3-100; 58-33-45; 58-65-1; 58-65-40; 58-67-20; 58-67-150;
Eff. December 15, 1979;
Amended Eff. April 1, 1989. Amended Eff. April 1, 1989.
Readopted Eff. October 1, 2021.

11 NCAC 04 .0120 is proposed for readoption as follows:

11 NCAC 04 .0120 POLICY OR SERVICE FEES

An insurer agent, broker, or limited representative who deals directly with an applicant and who intends to charge a policy or service fee in accordance with G.S. 58-33-85(b) shall not do so unless he or she complies with the following:

- (1) A sign that informs the applicant that shall be displayed and visible using large and bolded print so as to be seen and read by the public from any part of the office lobby in large bold print that informs the applicant that a policy or service fee of [amount] will be charged, shall be displayed in a prominent place so as to be seen and read from any part of the office lobby. charged.
- (2) The applicant's written consent shall be in writing is obtained on a separate form each time a policy or service fee is charged. The form form, created by the insurer, agent, broker or limited representative, shall be entitled, "Policy or Service Fee Consent" and shall include the date and amount of each fee charged.
- (3) A dated receipt for the payment of a policy or service fee shall be issued either separately from the policy premium receipt or stated separately on the receipt issued for the policy premium.

History Note: Authority G.S. 58-2-40; 58-2-195; 58-33-85(b);
 Eff. February 1, 1993;
 Amended Eff. February 1, 1996. February 1, 1996.
Readopted Eff. October 1, 2021.

11 NCAC 04 .0314 is readopted as published in NCR 35:14 1558 as follows:

11 NCAC 04 .0314 PREMIUM NOTICES: PAYMENTS AND REFUNDS

The Commissioner shall consider an unfair trade practice the failure by an insurer to adhere to any of the following procedures concerning premium notices, payments and refunds on life, accident, health, or disability policies pursuant to 58-63-15: ~~when such failure is so frequent as to indicate a general business practice;~~

- (1) Premium Notices. Any insurer ~~that~~ ~~which~~ makes a practice of sending premium notices shall maintain records ~~sufficient~~ to show that it mailed or otherwise delivered ~~the~~ ~~such~~ notice to an individual insured or policy owner.
- (2) Timely Remittance. Insurance companies shall use date of mailing, rather than date of receipt, to determine whether the insured has made timely remittance of premium, provided the premium payment is received within seven days after either the termination date of the policy or the last day of its grace period, whichever is later.
- (3) Right to Return Policy. When ~~such~~ ~~this~~ right is given by contract or statute, no insurer shall abridge or frustrate the right of the insured to return a policy within ~~10~~ ~~ten~~ days after he ~~or she~~ receives it for a full refund of premiums paid. Evidence of such delivery shall be signed statements from the policyowner of the date of delivery, copies of signed certified mail receipt, certification of mailing, or firm mailing book entry.
- (4) Unearned Premium Refund. When ~~such~~ ~~this~~ right is given by contract or statute, no insurer shall abridge or frustrate the right of the insured to receive a refund of unearned premium.
- (5) Unearned Premium on Health Policies. When an insured covered by an accident, health or disability policy dies during the term of the policy, his ~~or her~~ insurer shall refund the unearned premium.
- (6) Commingling. No licensed person may commingle premiums, insurance deposits or other such funds. ~~Such~~ ~~These~~ funds are ~~considered to have been~~ received in a fiduciary capacity on behalf of policyowner and must be immediately forwarded to the proper insurers or be deposited into an authorized account ~~that~~ ~~which~~ is separate and distinct from the person's operating ~~and/or~~ ~~or~~ personal accounts. The account shall be used to receive and disburse premiums paid for insurers, return premiums to policyowner, ~~pay~~ bank charges for the ~~account~~ ~~account~~, and transfer of earned commissions or fees.

History Note: Authority G.S. 58-2-40; 58-2-195; 58-51-10; 58-51-15; 58-63-65; 58-65-40; 58-67-50; 58-67-65; 58-67-150; 58-63-40.
Eff. December 15, 1979;
Amended Eff. ~~April 1, 1989.~~ April 1, 1989.
Readopted Eff. December 1, 2021.

11 NCAC 04 .0315 is readopted with changes as published in NCR 35:14 1558 as follows:

11 NCAC 04 .0315 ISSUANCE OF CONTRACTS

The Commissioner shall consider an unfair trade practice the failure by an insurer to adhere to any of the following procedures with respect to the issuance of life, accident, health, or disability policies pursuant to 58-63-15: [when such failure is so frequent as to indicate a general business practice:]

- (1) Policies to Cover Newborn Infants. No health application or requirements of insurability shall be used to circumvent the requirements of North Carolina General Statute 58-51-30.
- (2) Rating of Guaranteed Issue Coverages. There shall be no rating of policies where guaranteed issue at a specified rate is [represented:] to the public. When only guaranteed issue is presented for sale, [When only guaranteed issue is represented,] the insurer shall disclose in writing to any applicant subjected to individual rating because the applicant did not qualify for guaranteed issue, the fact that his or her rate deviates from the specified rate [standard rates] for the guaranteed issue [such] coverage. This Item [Section] shall not apply to individual policies issued to employees under a contract between their employer and his or her insurer.
- (3) Replacement of Existing Coverage. With respect to individual accident, health and disability coverages, when an insurer's agent, by misrepresenting the new policy as a supplement or addition to the existing policy, induces an insured to [assent] consent to the replacement of his or her existing policy with a new policy policy, new waiting periods shall be decreased by the amount of time coverage was afforded under the existing policy.
- (4) Continuous Coverage Under Credit Life, Accident and Health Policies. In a series of credit life or credit accident and health insurance transactions where the insured, the lender, and the insurer are the same and there is no [appreciable] lapse in coverage between transactions, the waiting periods of the insurance agreements shall run from the date of the first insurance contract, at least to the extent of the amount and term of the indebtedness outstanding at the time of renewal or refinancing.

History Note: Authority G.S. 58-2-40; 58-3-125; 58-3-150; 58-33-75; 58-51-30; 58-63-40; 58-65-40; 58-67-50; 58-67-65; 58-67-150;

Eff. December 15, 1979;

Amended Eff. April 8, 2002; April 1, 1989; December 15, 1979, December 15, 1979, April 1, 1989;

Readopted Eff. December 1, 2021.

1 11 NCAC 04 .0316 is readopted with changes as published in NCR 35:14 1558 as follows:

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3 **11 NCAC 04 .0316 CONTESTABILITY CLAUSE AND RESCISSION**

4 If an insurer does not [promptly] attempt to rescind an accident, health health, or disability policy upon becoming aware that
5 the insured's application contained false statements, the insurer may not subsequently use such false statements as a basis for
6 attempted rescission or alteration of the policy. The Commissioner shall consider failure to adhere to this principle an unfair
7 trade practice pursuant to N.C. Gen. Stat. 58-63-15. [when such failure is so frequent as to indicate a general business
8 practice.]

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10 *History Note:* Authority G.S. 58-2-40; 58-63-40; 58-65-1; 58-63-15; 58-65-40;
11 Eff. December 15, 1979; December 15, 1979;
12 Readopted Eff. October 1, 2021.
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11 NCAC 04 .0317 is readopted **with changes** as published in NCR 35:14 1558 as follows:

11 NCAC 04 .0317 SEX DISCRIMINATION: LIFE: ACCIDENT AND HEALTH INSURANCE

(a) Prohibited Practices. The Commissioner shall consider unfair discrimination the denial of life, accident, health or disability insurance on the basis of the insured's or prospective insured's sex or marital status. The amount of benefits payable on any term, condition or type of coverage shall not be restricted, modified, excluded or reduced on the basis of the sex or marital status of the insured or prospective insured. All underwriting criteria shall be applied in all instances of similar circumstances without regard to the sex or marital status of the insured or prospective insured, except to the extent that the amount of the benefits, terms, conditions or type of coverage vary as a result of the application of rate or premium differentials not prohibited under this Chapter, such as differentials for life insurance or annuities derived from sex-based life expectancy tables. Nothing in this **[Section]** **[paragraph]** shall prohibit an insurer from taking marital status into account for the purpose of determining persons eligible for dependent benefits. Examples of the practices prohibited by this Section **[include,**
but are not limited to:] **[include:]**

- (1) denying coverage to females **[gainfully]** employed at home, employed part-time or employed by relatives when coverage is offered to males similarly employed;
- (2) denying policy riders to females when the riders are available to males;
- (3) denying maternity coverage to unmarried females covered under a policy or contract if maternity coverage is available to married females covered under **[such a]** **[that]** policy or contract;
- (4) denying, under group contracts, dependent coverage to husbands of female employees, when dependent coverage is available to wives of male employees;
- (5) denying disability income contracts to employed women when coverage is offered to men similarly employed;
- (6) treating complications of pregnancy differently from any other illness or sickness under the contract;
- (7) restricting, reducing, modifying, or excluding benefits payable for disorders of the genital organs of only one sex;
- (8) offering lower maximum monthly benefits to women than to men who are in the same classification under a disability income contract;
- (9) offering more restrictive benefit periods and more restrictive definitions of disability to women than to men in the same classifications under a disability income contract;
- (10) establishing different conditions by sex under which the policyholder may exercise benefit options contained in the contract; **and**
- (11) limiting the amount of coverage an insured or prospective insured may purchase based upon the insured's or prospective insured's marital status unless such limitation is for the purpose of defining persons eligible for dependent benefits.

(b) Applicability and Scope. This Rule shall apply to all contracts delivered or issued for delivery in this **[state]** **State** by an insurer on or after the effective date of this Rule and to all existing group contracts which are amended or renewed on or after the effective date of this Rule.

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2 *History Note:* *Authority G.S. 58-2-40; 58-3-120; 58-63-1; 58-63-65;*3 *Eff. December 15, 1979; December 15, 1979;*4 *Readopted Eff. December 1, 2021.*

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11 NCAC 04 .0318 is readopted **with changes** as published in NCR 35:14 1558 as follows:

11 NCAC 04 .0318 LIFE INSURANCE SALES: FINANCING FIRST YEAR PREMIUM

~~(a) [Subject to the exception set forth in Subsection (16) of this Rule, the]~~ **The** Commissioner shall consider an unfair trade practice the failure by an insurance company to adhere to the following procedures concerning the sale of life insurance contracts for which the first year's premium or any portion thereof is financed through a device suggested by the insurer or its agent with the insurance policy itself being assigned as security:

- (1) Minimum Down-Payment Required. A minimum down-payment of twenty five dollars (\$25.00) in cash or by valid and currently collectible check of the applicant is required for ~~the~~ **such** insurance. Under no circumstances ~~[will]~~ **shall** a company or an agent directly or indirectly either furnish this down-payment or waive this requirement.
- (2) Financing Device to be Explained in Policy Application. The furnishing of a promissory note in connection with financing part of the first year's premium must be explained in the policy application. ~~[Such]~~ **The** explanation must be clear and complete and ~~[must]~~ **shall** specify the principal sum of the note or notes, the interest payable, the due date, the amount payable on that due date, the interest rate and the annual percentage rate.
- (3) Execution of Promissory Note. All blank spaces in a promissory note form or an assignment of an insurance policy form subsequently executed by the insured must be filled in by the handwriting of the insured except blank spaces relating to the policy number to be issued, and the signatures of witnesses and co-makers. No agent or anyone acting under his **or her** direction or control other than the insured shall write in such spaces.
- (4) Promissory Note May be Sold Only With Recourse. If a promissory note is taken to finance part of the first year's ~~[premium said]~~ **premium, the** note may be sold or otherwise transferred by the payee with recourse only, and this fact must appear in bold print on the face of the note.
- (5) Note to be Retained Until Policy Acceptance is Executed. Any promissory note given by the applicant in connection with an application for a policy shall not be sold or otherwise transferred by the agent or company, nor any commissions on the sale paid to the agent until 15 days after a properly executed policy acceptance form has been received in the home office of the insurance company issuing the policy.
- (6) Copy of Note to be Furnished Applicant. A copy of the note executed by the applicant must be attached to the policy when delivered.
- (7) Policy Acceptance to be Executed on Delivery of the Policy; Contract Rescission. Upon delivery of the policy, a policy acceptance form must be executed ~~[which]~~ **that** recites the following:
 - (a) The policy has been issued as represented;
 - (b) The applicant acknowledges and understands the provisions and obligations of the debt he has incurred in connection with applying for the policy and the terms are set forth in the record;
 - (c) The applicant understands that he **or she** may cancel the policy and his **or her** promissory note and his **or her** down-payment will be returned ~~[to him]~~ if he **or she** refuses to accept delivery of the

policy and sign the acceptance form, and the applicant understands that ~~if~~ at any time within 10 days after the execution of the policy acceptance form he ~~or she~~ shall be allowed to rescind the agreement, and the promissory note, together with the total amount of his ~~or her~~ down-payment, shall be returned to ~~him;~~ **the applicant:**

- (d) The applicant further understands that the rescission or rejection must be communicated to the company by mail and return of the policy within the 10 day period; and
- (e) The applicant acknowledges that the obligations of the debt cannot be altered by a cancellation of the policy at his ~~or her~~ request unless properly cancelled within 10 days, in writing, mailed to the company at the address specified. The policy acceptance form shall contain a number designation corresponding to the policy issued and shall not be made available to the agent until the application is received in the home office. The provisions of ~~Subsections~~ **Sub-items** (7)(c) and (d) of this ~~Rule~~ **Item** shall be printed in bold type upon the face of the policy.

- (8) Insured to be Notified of Assignment. The insurer, the note purchaser, assignee or company shall notify the note maker (insured) and all co-makers regarding the purchase, transfer or assignment of the note, after such transfer, inviting any questions relative to the note or the policy ~~that~~ **which** is used as collateral security for the note.
- (9) Requests for Cancellation to be Handled Promptly. The company and its agents shall give prompt and complete cooperation to the insured and the Department ~~of Insurance~~ when requests to cancel the policy and premium financing arrangements are received.
- (10) Special Rule in Event Applicant is Under Eighteen Years of Age. If the applicant is a minor and executes a promissory note for the payment of part or all of the first year's premium, ~~such~~ **the** note must be witnessed by at least one of the applicant's parents or ~~his~~ guardian.
- (11) Disclosure of Extended Obligations. The agent shall clearly disclose to the insured that the cancellation of the note may reduce the cash surrender value of the policy in direct proportion to the amount of the promissory note. The agent shall not use terms such as "bonus payment", "free insurance", or any other term ~~that~~ **which** induces the applicant to believe that the promissory note will be paid by monies other than his ~~or her~~ policy cash values. Terms leading the applicant to believe that he is receiving free insurance by deferring the premium payment for the first year shall not be employed.
- (12) Cash Values. Cash values shown at the presentation shall be based on the policy offered. The cash values shown at the time of presentation shall be a specimen of the policy being offered and not for a larger policy.
- (13) Cancellation of Existing Insurance. The disturbing of any permanent insurance, including the partial or total replacement of any provisions of an existing policy for the purpose of placing additional insurance, or "twisting" as defined in G.S. 58-3-115, will be cause for investigation and review by the Department of Insurance.

(14) Licensed Agents. Only licensed agents are eligible to sell life insurance. No person other than a licensed agent shall participate in or receive commission or any other valuable consideration in connection with the solicitation, negotiation, procurement, or making of life insurance contracts in this [state.] State.

(15) Agent Identification. An agent or field representative who is licensed by this [state] State as a life insurance agent shall not represent, refer to, or hold himself or herself out to the public under any special title that [which] would obscure the fact that he is a licensed agent of the company. Identification as an agent or representative of a special division may be permitted providing such a division actually exists and the agency relationship is disclosed.

(b) [(16)] [Scope of Regulation.] This [Regulation] rule shall not apply to life insurance policies financed in conformity with G.S. 58, Article 35.

History Note: Authority G.S. 58-2-40; 58-3-115; 58-63-40;

Eff. December 15, 1979

Amended Eff. April 8, 2002. April 8, 2002.

Readopted Eff. December 1, 2021.

11 NCAC 04 .0319 is readopted with changes as published in NCR 35:14 1558 as follows:

11 NCAC 04 .0319 CLAIMS PRACTICES: LIFE: ACCIDENT AND HEALTH INSURANCE

The Commissioner shall consider as prima facie violative of G.S. 58-63-15(11) the failure by an insurer to adhere to the following procedures concerning settlement of life, accident, health and disability claims when such failure is so frequent as to indicate a general business practice: claims:

- (1) Examining Physician's Opinion. When the patient's health is in question, an insurer shall give greater weight to the opinion of a physician who has examined the patient than to the opinion of a physician who has not examined the patient and whose opinion is based solely on a review of the examining physician's notes or reports. As used in this [Section,] Item, "examination of the patient" shall include the interpretation by a specialist of the results of diagnostic tests performed on the patient by others.
- (2) Settlement Offers. Initial offers of settlement or compromise made by an insurer or its representative shall remain open for a period of time of not less than 30 calendar days.
- (3) Multiple Health Impairments. When an insured is confined to the hospital with multiple health impairments some of which are [may be] excluded from coverage, the insurer or its representative shall make pro rata payments where treatment for excluded conditions can be separated.
- (4) Assignment of Benefits. If an accident, health health, or disability contract does not prohibit assignment of benefits and [a proper] an [assignment (including) assignment, including] notice to the insurer prior to the payment of the [claim] claim, is made, the insurer shall honor the assignment even though it may have erroneously paid the insured. Submission of a completed claims form [G33H and its successor(s)] indicating that an assignment is on file shall be treated as though it were submission of the actual assignment.
- (5) Claim Status Reports. Health insurance claims subject to 58-3-225 shall be processed in accordance with the provisions of [the] that statute. Otherwise, if benefits claimed under an accident, health, or disability contract have not been paid within 45 days after receipt of the initial claim by the insurer, the insurer shall at that time mail a claim status report to the insured.

History Note: Authority G.S. 58-2-40; 58-3-225; 58-63-15; 58-63-65; 58-65-1; 58-65-40; 58-65-125; 58-67-65; 58-67-150;

Eff. December 15, 1979;

Amended Eff. July 1, 2012; April 8, 2002; April 1, 1989;

Readopted Eff. December 1, 2021.

11 NCAC 04 .0415 is readopted as published in NCR 35:14 1558 as follows:

11 NCAC 04 .0415 SAFE DRIVER INCENTIVE PLAN

The following are Department of Insurance ~~rules~~ provisions regarding the Safe Driver Incentive Plan ("SDIP"):

- (1) License revocation for refusal to submit to chemical tests shall not be considered conviction of a moving traffic violation.
- (2) A conviction for driving the wrong way on a one-way street is not a conviction for driving on the wrong side of the road.
- (3) The revocation or suspension of a driver's license solely because of the accumulation of motor vehicle points shall not be considered a conviction.
- (4) When new operators are added to an automobile policy, their SDIP points may be added to the policy at the same time coverage is extended to them.
- (5) SDIP points for an operator whose license has been suspended or revoked may be added only at the date the operator again becomes eligible for ~~[license with the following exception:]~~ license. However, SDIP points may be charged at the inception date of the current policy if the operator has previously been convicted of a moving traffic violation while his or her license was suspended or revoked or if there is reliable evidence that the operator ~~[does, in fact,]~~ does operate a motor vehicle.
- (6) If an operator dies or permanently leaves an insured's household during the policy period, the operator's ~~[his]~~ SDIP points shall be removed at the time of his or her death or departure.

History Note: Authority G.S. 58-2-40; 58-36-65; 58-36-75;

Eff. December 15, 1979;

~~Amended Eff. February 1, 1993. February 1, 1993.~~

Readopted Eff. December 1, 2021.

1 11 NCAC 04 .0427 is readopted with changes as published in NCR 35:14 1558 as follows:

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3 **11 NCAC 04 .0427 DISCLOSURE REQUIREMENTS**

4 Every insurer that writes motor vehicle insurance in this ~~[state]~~ State and that intends to require or specify the use of
5 after market parts must disclose to its policyholders in writing, either in the policy or on a sticker attached thereto,
6 the following information in all capital letters and font size no smaller ~~[print]~~ than ~~[ten point]~~ ten-point: [type:]

7
8 IN THE REPAIR OF YOUR COVERED AUTO UNDER THE PHYSICAL DAMAGE
9 COVERAGE PROVISIONS OF THIS POLICY, WE MAY REQUIRE OR SPECIFY THE
10 USE OF AUTOMOBILE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER.
11 THESE PARTS ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS OF FIT,
12 QUALITY, PERFORMANCE AND WARRANTY TO THE ORIGINAL MANUFACTURER
13 PARTS THEY REPLACE.

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15 All after market parts installed on a motor vehicle shall be identified on the estimate and invoice for such repair.

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17 *History Note: Authority G.S. 58-2-40;*
18 *Eff. April 1, 1989;*
19 *Amended Eff. ~~March 1, 2004.~~ March 1, 2004.*
20 *Readopted Eff. December 1, 2021.*
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11 NCAC 04 .0429 is proposed for readoption as follows:

11 NCAC 04 .0429 COMMINGLING

The accounting records maintained by agents, brokers, and limited representatives shall be separate and apart from any other business records and demonstrate at all times that collected funds due to insurers and return premiums due to policyholders are available at all times.

History Note: Authority G.S. 58-2-40; 58-2-195;

Eff. February 1, 1993;

Amended Eff. ~~February 1, 1996. February 1, 1996;~~

Readopted Eff. December 1, 2021.

11 NCAC 04 .0432 is readopted with changes as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0432 REFUND OF EXCESS PREMIUM ON SCHEDULED ITEMS

If an insured has any scheduled item listed for additional insurance covered by a homeowner's or personal inland marine insurance policy, and that item is replaced for less than the scheduled amount of coverage, the insurer shall refund the insured the difference in premium charged between the scheduled amount of coverage and the actual amount of the loss paid by the insurer, if the refund per policy term is greater than five dollars (\$5.00). Any refund shall be computed from the date of issuance of the policy or five years, whichever is less.

History Note: Authority G.S. 58-2-40; [58-43-10;] 58-63-65;

Eff. April 1, 1995;

Amended Eff. July 1, 2012; July 1, 2012;

Readopted Eff. December 1, 2021.

11 NCAC 04 .0433 is readopted as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0433 REFUND OF AUTO INSURANCE PREMIUM ON NEW BUSINESS

If an insured asks an insurer to cancel a newly issued motor vehicle insurance policy on or before the premium billing due date, the unearned premium refund made by the insurer shall be made on a pro rata rather than a short rate basis, and the refund shall be based on the premium initially quoted by the insurer if both of the following conditions are met:

- (1) The insured provided the insurer with accurate and complete rating information.
- (2) The insurer subsequently calculated the premium to be greater than the premium initially quoted.

History Note: Authority G.S. 58-2-40; 58-36-85; 58-63-65;

~~Eff. April 1, 1995.~~ April 1, 1995;

Readopted Eff. December 1, 2021.

11 NCAC 04 .0501 is readopted ~~with changes~~ as published in NCR 35:14 1559 as follows:

CHAPTER 4 - CONSUMER SERVICES DIVISION

SECTION .0500 - LIFE INSURANCE ILLUSTRATIONS

11 NCAC 04 .0501 SCOPE AND DEFINITIONS

(a) These Rules apply to all policies sold on and after the effective dates of these Rules and to all certificates issued under those policies.

(b) As used in this Section, the following terms have the following meanings:

- (1) "Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.
- (2) "Basic illustration" means a ledger or proposal used in the sale of a policy that shows both guaranteed and non-guaranteed elements.
- (3) "Contract premium" means the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.
- (4) "Currently payable scale" means a scale of non-guaranteed elements in effect for a policy as of the preparation date of the illustration or declared to become effective within the next 95 days.
- (5) "Disciplined current scale" means a scale of non-guaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is ~~reasonably~~ based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer.
- (6) "Guaranteed elements" means the premiums, benefits, values, credits, or charges under a policy that are guaranteed and determined at issue.
- (7) "Illustrated scale" means a scale of non-guaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:
 - (A) The disciplined current scale; or
 - (B) The currently payable scale.
- (8) "Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy over a period of years and that is either a basic illustration, in-force illustration, or a supplemental illustration.
- (9) "In force illustration" means an illustration furnished at any time after the policy that it depicts has been in force for one year or more.
- (10) "Illustration actuary" means an actuary meeting the requirements of 11 NCAC 4 .0509 who certifies to illustrations based on the standard of practice promulgated by the Actuarial Standards Board.
- (11) "Lapse-supported illustration" means an illustration of a policy failing the test of self-supporting as defined in this ~~Section,~~ Subparagraph (b) (16) of this Rule, under a modified persistency rate assumption using

1 persistency rates underlying the disciplined current scale for the first five years and 100 percent policy
2 persistency thereafter.

3 (12) "Non-guaranteed elements" means the premiums, benefits, values, credits, or charges under a policy that
4 are not guaranteed or not determined at issue.

5 (13) "Policy" means a group or individual life insurance policy or certificate. "Policy" does not include:

6 (A) A variable life insurance policy or certificate.

7 (B) An annuity contract.

8 (C) A credit life insurance policy or certificate.

9 (D) A life insurance policy with no illustrated death benefit on any individual exceeding ten thousand
10 dollars (\$10,000).

11 (14) "Policy owner" means the owner named in a policy or the certificate holder in the case of a group policy.

12 (15) "Premium outlay" means the amount of premium assumed to be paid by the policy owner or other
13 premium payer out-of-pocket.

14 (16) "Self-supporting illustration" means an illustration of a policy for which it can be demonstrated that, when
15 using experience assumptions underlying the disciplined current scale, for all illustrated points in time on
16 or after the fifteenth policy anniversary or the twentieth policy anniversary for second-or-later-to-die
17 policies (or upon policy expiration if sooner), the accumulated value of all policy cash flows equals or
18 exceeds the total policy owner value available. For this purpose, policy owner value will include cash
19 surrender values and any other illustrated benefit amounts available at the policy owner's election.

20 (17) "Supplemental illustration" means an illustration furnished in addition to a basic illustration that meets the
21 applicable requirements of this Section, and that may be presented in a format differing from the basic
22 illustration, but may only depict a scale of non-guaranteed elements that is permitted in a basic illustration.

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24 *History Note:* Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

25 ~~Eff. January 1, 1997. January 1, 1997.~~

26 Readopted Eff. December 1, 2021.

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11 NCAC 04 .0502 is readopted with changes as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0502 ASSUMED EXPENSES AND CURRENT SCALE

(a) As used in this Rule, "minimum assumed expenses" means the minimum expenses used in the calculation of the disciplined current scale for a policy. An insurer may choose to designate each year the method of determining assumed

expenses for all policies from the following:

- (1) Fully allocated expenses.
- (2) Marginal expense.
- (3) A table of fully allocated expenses developed by the Actuarial Standards Board and approved by the National Association of Insurance Commissioners.

Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.

(b) Further guidance in determining the disciplined current scale as contained in standards established by the Actuarial Standards Board may be relied upon if the standards:

- (1) Are consistent with all provisions of this Section.
- (2) Limit a disciplined current scale to reflect only actions that have been taken on events that have already occurred.
- (3) Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date.
- (4) As used in this Rule, "minimum assumed expenses" means the minimum expenses used in the calculation of the disciplined current scale for a policy. Do not permit assumed expenses to be less than minimum assumed expenses.

History Note: Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;
Eff. January 1, 1997. January 1, 1997.
Readopted Eff. December 1, 2021.

11 NCAC 04 .0503 is readopted with changes as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0503 ILLUSTRATED POLICIES

(a) Each insurer marketing policies regulated by this ~~[to which this]~~ Section [applies] shall notify the Commissioner whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on the effective date of this Section, the insurer shall identify in writing those policy forms and whether or not an illustration will be used with them. For policy forms filed after the effective date of this Section, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the Commissioner.

(b) If the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration before the first policy anniversary for any policy form using that policy is prohibited.

(c) If a policy form is identified by an insurer as one to be marketed with an illustration, the insurer shall prepare and deliver a basic illustration in accordance with this Section, except that a basic illustration need not be provided to individual members of a single employer group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to those individuals. The illustration furnished to an applicant for a group policy issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

(d) As used in this Paragraph, "non-term group life" means a group policy or individual policies of traditional permanent or universal life insurance issued to members of a single employer group where:

- (1) Every plan of coverage was selected by the employer.
- (2) The premium is paid by the employer or through payroll deduction.
- (3) Group underwriting or simplified underwriting is used.

Potential enrollees for policies and certificates of non-term group life subject to this Section shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage. This quotation shall not be considered an illustration for purposes of this Section, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the policy or certificate to enrollees for non-term group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any non-term group life enrollee who requests it.

History Note: Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

~~Eff. January 1, 1997. January 1, 1997.~~

Readopted Eff. December 1, 2021.

11 NCAC 04 .0504 is readopted with changes as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0504 GENERAL RULES

(a) As used in this Rule, "generic name" means a short title descriptive of the policy being illustrated, such as "whole life", "term life", or "flexible premium adjustable life." An illustration used in the sale of a policy shall satisfy the applicable requirements of this Section, be clearly labeled "life insurance illustration" and contain the following basic information:

- (1) Name of insurer, insurer:
- (2) Name and business address of producer or insurer's authorized representative, if any, any:
- (3) Name, age and sex of proposed insured, except where a composite illustration is permitted under this Section, Section:
- (4) Underwriting or rating classification upon which the illustration is based, based:
- (5) Generic name of the policy, the company product name, if different, and policy form number, number:
- (6) Initial death benefit, benefit, and
- (7) Dividend option election or application of non-guaranteed elements, if applicable.

(b) When using an illustration in the sale of a policy, an insurer or its agents or other authorized representatives shall not:

- (1) Represent the policy as anything other than a life insurance policy;
- (2) Use or describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead, misleading:
- (3) State or imply that the payment or amount of non-guaranteed elements is guaranteed;
- (4) Use an illustration that does not comply with the requirements of this Section;
- (5) Use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;
- (6) Provide an applicant with an incomplete illustration;
- (7) Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;
- (8) Use the term "vanish" or "vanishing premium", or a similar term that implies the policy becomes paid up, to describe a plan for using non-guaranteed elements to pay a portion of future premiums;
- (9) Except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or
- (10) Use an illustration that is not "self-supporting."

(c) If an interest rate used to determine the illustrated non-guaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

History Note: Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

Eff. January 1, 1997. January 1, 1997.

Readopted Eff. December 1, 2021.

11 NCAC 04 .0505 is readopted as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0505 STANDARDS FOR BASIC ILLUSTRATIONS

(a) Format. A basic illustration shall conform with the following requirements:

- (1) The illustration shall be labeled with the date on which it was prepared.
- (2) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration (e.g., the fourth page of a seven-page illustration shall be labeled "page 4 of 7 pages").
- (3) The assumed dates of payment receipt and benefit pay-out within a policy year shall be clearly identified.
- (4) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.
- (5) The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.
- (6) Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.
- (7) If the illustration shows any non-guaranteed elements, they shall not be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled non-guaranteed.
- (8) The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements (e.g., "see page one for guaranteed elements").
- (9) The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender.
- (10) The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as applicable.
- (11) Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.
- (12) Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:
 - (A) The benefits and values are not guaranteed;
 - (B) The assumptions on which they are based are subject to change by the insurer; and
 - (C) Actual results may be more or less favorable.
- (13) If the illustration shows that the premium payer may have the option to allow policy charges to be paid using non-guaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the

contract premium. If a contract premium is due, the premium outlay shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

- (14) If the applicant plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the effect on future policy benefits and values.

(b) Narrative Summary. A basic illustration shall include the following:

- (1) A brief description of the policy being illustrated, including a statement that it is a life insurance policy.
- (2) A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the policy, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code.
- (3) A brief description of any policy features, riders or options, guaranteed or non-guaranteed, shown in the basic illustration and the effect they may have on the benefits and values of the policy.
- (4) Identification and a brief definition of column headings and key terms used in the illustration.
- (5) A statement containing the following: This illustration assumes that the currently illustrated non-guaranteed elements will continue unchanged for all years shown. This is not likely to occur. Actual results may be more or less favorable than those shown.

(c) Numeric Summary.

- (1) Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. This summary shall be shown for at least policy years 5, 10 and 20 and at age 70, if applicable, on the three bases shown below. For multiple life policies the summary shall show policy years 5, 10, 20 and 30. The columns of the numeric summary shall be as follows:
 - (A) Policy guarantees;
 - (B) Insurer's illustrated scale; and
 - (C) Insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:
 - (i) Dividends at 50 percent of the dividends contained in the illustrated scale used;
 - (ii) Non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and
 - (iii) All non-guaranteed charges, including but not limited to, term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.
- (2) In addition, if coverage would cease before policy maturity or age 100, the year ~~in~~ which ~~when~~ coverage ceases shall be identified for each of the three bases.

(d) Statements. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this Section.

(1) A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."

(2) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

(e) Tabular Detail.

(1) A basic illustration shall include the following for at least each policy year from one to 10 and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration, and except for term insurance beyond the 20th year, for any year in which the premium outlay and contract premium, if applicable is to change:

(A) The premium outlay and mode the applicant plans to pay and the contract premium, as applicable;

(B) The corresponding guaranteed death benefit, as provided in the policy; and

(C) The corresponding guaranteed value available upon surrender, as provided in the policy.

(2) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

(3) Non-guaranteed elements may be shown if described in the policy. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

History Note: Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

Eff. January 1, 1997. January 1, 1997.

Readopted Eff. December 1, 2021.

1 11 NCAC 04 .0506 is readopted with changes as published in NCR 35:14 1559 as follows:

2
3 **11 NCAC 04 .0506 STANDARDS FOR SUPPLEMENTAL ILLUSTRATIONS**

4 (a) A supplemental illustration may be provided as long as:

- 5 (1) It is appended to, accompanied by or preceded by a basic illustration that complies with Rule 11 NCAC 04
6 .0505 of this Section;
- 7 (2) The non-guaranteed elements shown are not more favorable to the policy owner than the corresponding
8 elements based on the scale used in the basic illustration;
- 9 (3) It contains the same statement required of a basic illustration that non-guaranteed elements are not
10 guaranteed; and
- 11 (4) For a policy that has a contract premium, the contract premium underlying the supplemental illustration is
12 equal to the contract premium shown in the basic illustration. For policies that do not require a contract
13 premium, the premium outlay underlying the supplemental illustration shall be equal to the premium
14 outlay shown in the illustration.

15 (b) The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements.

16
17 *History Note:* Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

18 ~~Eff. January 1, 1997. January 1, 1997.~~

19 Readopted Eff. December 1, 2021.

20

1 11 NCAC 04 .0507 is readopted as published in NCR 35:14 1559 as follows:

2
3 **11 NCAC 04 .0507 DELIVERY OF ILLUSTRATION AND RECORD RETENTION**

4 (a) If a basic illustration is used by an insurance agent or other authorized representative of the insurer in the sale of a policy
5 and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this ~~[Section,]~~ **Rule**, shall be
6 submitted **by an insurance agent or other authorized representative** to the insurer **and the applicant** at the time of policy
7 application. ~~[A copy also shall be provided to the applicant.]~~

8 (b) If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent
9 with the policy. The revised illustration shall conform to the requirements of this ~~[Section,]~~ **Rule**, shall be labeled "Revised
10 Illustration" and shall be signed and dated by the applicant or policy owner and ~~[producer]~~ **insurance agent** or other
11 authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer
12 and the policy owner.

13 (c) If no illustration is used by an insurance agent or other authorized representative in the sale of a policy or if the policy is
14 applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by
15 the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was
16 provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be
17 provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy
18 application.

19 (d) If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no
20 later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

21 (e) If the basic illustration or revised illustration is sent to the applicant or policy owner by mail directly from the insurer, it
22 shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the
23 illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation under this ~~[subsection]~~
24 **paragraph** shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric
25 summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a
26 self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

27 (f) A copy of the basic illustration and a revised basic illustration, if any, signed ~~[as applicable,]~~ **if required by Rule**, along
28 with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be
29 retained by the insurer until three years after the policy is no longer in force. A copy need not be retained if no policy is
30 issued.

31
32 *History Note:* Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

33 ~~Eff. January 1, 1997. January 1, 1997.~~

34 **Readopted Eff. December 1, 2021.**

35

11 NCAC 04 .0508 is readopted **with changes** as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0508 ANNUAL REPORTS AND NOTICES TO POLICY OWNERS

(a) In the case of a policy designated as one for which an illustration will be issued, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain the information specified in this Rule.

(b) For universal life policies, the report shall include the following:

- (1) The beginning and end date of the current report period;
- (2) The policy value at the end of the previous report period and at the end of the current report period;
- (3) The total amounts that have been credited or debited to the policy value during the current period, identifying each by type (e.g., interest, mortality, expense and riders);
- (4) The current death benefit at the end of the current report period on each life covered by the policy;
- (5) The net cash surrender value of the policy as of the end of the current report period;
- (6) The amount of outstanding loans, if any, as of the end of the current report period; and
- (7) Either:

(A) For fixed premium policies: If, assuming guaranteed interest, **mortality and mortality**, expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or

(B) For flexible premium policies: If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

(c) For all other policies, where applicable, the report shall contain:

- (1) Current death benefit;
- (2) Annual contract premium;
- (3) Current cash surrender value;
- (4) Current dividend;
- (5) Application of current dividend; and
- (6) Amount of outstanding loan.

(d) Insurers writing policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.

(e) If the annual report does not include an in force illustration, it shall contain the following notice in boldface print with a capitalized heading "IMPORTANT POLICY OWNER NOTICE: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration of your policy. You may annually request, without charge, such an illustration by calling [insurer's phone number], writing to [insurer's name] at [insurer's address] or contacting your agent. If you do not receive an illustration of your policy within 30 days from your request, you should contact your

1 ~~state~~ **State** insurance department." The insurer may vary the sequential order of the methods for obtaining an in force
2 illustration.

3 (f) Upon the request of the policy owner, the insurer shall furnish an in force illustration of current and future benefits and
4 values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of [**11 NCAC 4**
5 **.0504(a),** **11 NCAC 04 .0504(a)**, .0504(b), .0505(a), and .0505(e). No signature or other acknowledgment of receipt of this
6 illustration shall be required.

7 (g) If an adverse change in any non-guaranteed element that could affect the policy has been made by the insurer since the
8 last annual report, the annual report shall contain a [**brief**] notice of that fact and a description of the [**change, which**] **change**.
9 **The** notice and description shall be printed in boldface print in a type at least two points larger than the report.

10
11 *History Note:* Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

12 **Eff. January 1, 1997. January 1, 1997.**

13 **Readopted Eff. December 1, 2021.**

14

11 NCAC 04 .0509 is readopted **with changes** as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0509 ANNUAL CERTIFICATIONS

(a) The board of directors of each insurer shall appoint one or more illustration actuaries.

(b) The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the Actuarial Standard of Practice for Compliance with the NAIC Model Regulation on Life Insurance Illustrations promulgated by the Actuarial Standards Board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this Section.

(c) The illustration actuary shall:

- (1) Be a member in good standing of the American Academy of Actuaries;
- (2) Be **familiar with** **knowledgeable of** the standard of practice regarding life insurance policy illustrations;
- (3) Not have been found by the Commissioner, following appropriate notice and opportunity for hearing to have:
 - (A) Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as an illustration actuary;
 - (B) Been found guilty of fraudulent or dishonest practices;
 - (C) Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or
 - (D) Resigned or been removed as an illustration actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;
- (4) **[Not fail to notify]** **Notify** the Commissioner of any action taken by an insurance regulator of another state **with laws** similar to that under Subparagraph (c)(3) of this Rule;
- (5) Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in force policies, this shall be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in force policies are not consistent with the nonguaranteed elements actually being paid, charged, or credited to the same or similar form, this shall be disclosed in the annual certification; and
- (6) Disclose in the annual certification which of the following methods are used to allocate overhead expenses for all illustrations:
 - (A) Fully allocated expenses;
 - (B) Marginal expenses; or
 - (C) A table of fully allocated expenses developed by the Actuarial Standards Board and approved by the National Association of Insurance Commissioners.

(d) The illustration actuary shall file a certification with the board and with the Commissioner:

(1) Annually for all policies for which illustrations are used; and

(2) Before a new policy is illustrated.

~~[(f)]~~ At the time an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the ~~[Commissioner promptly.]~~ Commissioner.

(e) If an illustration actuary is unable to certify the scale for any policy illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the Commissioner ~~[promptly]~~ of his or her inability to certify.

(f) ~~[A responsible]~~ An officer of the insurer, other than the illustration actuary, shall certify annually that the illustration formats meet the requirements of this ~~[Section]~~ Rule and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary and that the company has provided its agents with information about the expense allocation used by the company in its illustrations and disclosed as required in Subparagraph ~~[11 NCAC 4 .0509(c)(6).]~~ 11 NCAC 4 .0509(c)(6) of this Rule.

(g) The annual certifications shall be provided to the Commissioner each year by a date determined by the insurer.

(h) ~~[(h)]~~ At the time an insurer changes the illustration actuary responsible for all or a portion of the company's policies, the insurer shall notify the Commissioner of that fact ~~[promptly]~~ and disclose the reason for the change.

History Note: Authority G.S. 58-2-40; 58-2-171; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

~~Eff. January 1, 1997. January 1, 1997.~~

Readopted Eff. December 1, 2021.



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

September 16, 2021

Loretta Peace-Bunch
Department of Insurance
Sent via email only to: loretta.peace-bunch@ncdoi.gov

Re: Objection to Rule 11 NCAC 04 .0416
Extension of the Period of Review for Rules 11 NCAC 04 .0115, .0117, .0118, .0119, .0120, .0123, .0124, .0312, .0313, .0314, .0315, .0316, .0317, .0318, .0319, .0320, .0415, .0420, .0422, .0423, .0426, .0427, .0429, .0431, .0432, .0433, .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, and .0509.

Dear Ms. Peace-Bunch:

At its meeting this morning, the Rules Review Commission objected to Rule 11 NCAC 04 .0416 for lack of statutory authority. Specifically, the Commission found that the agency failed to cite to any existing law as underlying authority for the Rule. Please respond to this objection in accordance with the provisions of G.S. 150B-21.12.

In addition, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address the requested technical changes and submit the rewritten rules at a later meeting. Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amanda J. Reeder
Commission Counsel

cc: John Hoomani, Department of Insurance

Donald R. van der Vaart, Director
Chief Administrative Law Judge

Fred G. Morrison, Jr.
Senior Administrative Law Judge

Linda T. Worth
Deputy Director

An Equal Employment Opportunity Employer

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**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

September 16, 2021

Loretta Peace-Bunch
Department of Insurance
Sent via email only to: loretta.peace-bunch@ncdoi.gov

Re: Objection to Rule 11 NCAC 04 .0416
Extension of the Period of Review for Rules 11 NCAC 04 .0115, .0117, .0118, .0119, .0120, .0123, .0124, .0312, .0313, .0314, .0315, .0316, .0317, .0318, .0319, .0320, .0415, .0420, .0422, .0423, .0426, .0427, .0429, .0431, .0432, .0433, .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, and .0509.

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If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amanda J. Reeder
Commission Counsel

cc: John Hoomani, Department of Insurance

Donald R. van der Vaart, Director
Chief Administrative Law Judge

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Senior Administrative Law Judge

Linda T. Worth
Deputy Director

An Equal Employment Opportunity Employer

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0115

DEADLINE FOR RECEIPT: Friday, September 10, 2021

NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

What type of complaints are being addressed by this Rule? Given the citation in the History Note, it appears to address all citizen complaints and complaints initiated by the Commissioner in Articles 1-64 of the Chapter, as well as Health Maintenance Organizations in Chapter 67.

Further, do you not wish to capitalize the terms "Deputy Commissioner" and "Commissioner" within the Rule?

In (a), line 4, please delete the introductory clause "Complaint Handling Procedure." Please do the same for (b), line 10, and (c), line 14.

Consider using articles in (a)(1) through (3), such as "The analyst will request an explanation..."

In (a)(1), line 5, insert a comma after "agent"

In (a)(2), line 6, what "complaint" are you talking about here? Is the intent that the company, agent, or adjuster first address the complaint and then it goes to the Division?

Also on line 6, state "he or she" both places.

Also on line 6, define "improperly" and "proper action"

In (a)(3), line 8, do you mean "may" instead of "shall"? If not, then under what circumstances will the deputy commissioner not arrange a conference when the issue is not resolved? And if the conference is not arranged, what happens next?

In (b), line 10, do you mean "shall" instead of "may"? If not, then guidance needs to be provided within the Rule as to when there will not be follow up by the commissioner after the conference does not resolve the issue.

On line 11, define "appropriate" legal action.

On line 11, while I appreciate the pun, replace "insure" with "ensure"

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

On line 11, “regulations” refers to federal regulations, as State rules are called only rules. Did you intend to refer to “regulations” here?

If so, then please insert a comma after “rules” on line 11.

On lines 12-13, what does this mean? What is a “public hearing”? What is “in light of the conduct which occasioned the complaint”? What is the “necessity of entering an order”? What order? And how does the “department” differ from the “Division”?

In (c), line 14, replace “which” with “that”

So that I’m clear – if there is already a lawsuit against an insurer, the Division will not investigate the complaint? If so, I think that your language can be simplified to state that.

On lines 15-16, how will the Division know if the individual has retained counsel?

On line 16, define “normal procedures” If you mean the procedure set forth in Paragraph (a), state that.

On line 17, how will this consent be solicited?

In the History Note, G.S. 58-33-45 was repealed in 2002. Strike it.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

1 **11 NCAC 04 .0115** is readopted as published in NCR 35:14 1558 as follows:

2
3 **11 NCAC 04 .0115 DIVISION PROCEDURES**

4 (a) Complaint Handling Procedure. Complaints will be processed in the following manner:

- 5 (1) Analyst will request explanation from company, agent or adjuster;
6 (2) If he finds that the complaint has been improperly handled, then he will recommend that proper action be
7 taken;
8 (3) If the issue is not resolved, the deputy commissioner may arrange a conference with company
9 representatives to resolve the problem.

10 (b) Hearings. If a conference does not resolve a disputed issue, the deputy commissioner may recommend to the
11 commissioner that appropriate legal action be taken to insure compliance with the statutes, rules and regulations administered
12 by the department. Such legal action may include the convening of a public hearing to review, in light of the conduct which
13 occasioned the complaint, the necessity of entering an order against the party complained of.

14 (c) Complaints Represented by Counsel. The Division will not investigate a complaint which is also the subject matter of a
15 pending lawsuit filed by an attorney representing the complainant. If a lawsuit has not been filed but the complainant has
16 retained an attorney, the Division will investigate the complaint according to its normal procedures provided it has first
17 obtained the attorney's consent.

18
19 *History Note:* *Authority G.S. 58-2-40; 58-2-50; 58-2-155; 58-2-185; 58-2-190; 58-2-195; 58-2-200; 58-3-100; 58-33-45;*
20 *58-65-1; 58-65-40; 58-67-20; 58-67-150;*
21 *Eff. December 15, 1979;*
22 ~~*Amended Eff. April 1, 1989.*~~ *Amended Eff. April 1, 1989.*
23 *Readopted Eff. October 1, 2021.*
24
25

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0120

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Introductory Statement on line 1, please insert the publication information.

On line 4, G.S. 58-33-85 applies to "insurers" as well as agents, brokers, or limited representatives. Shouldn't they be named in this Rule, as well?

On line 4, what do you mean by "directly"?

On line 5, state "he or she"

In (1), line 6, define "large" print. I take it "bold" means it will be bolded (so that it's darkened and enlarged)?

On line 7, do you need "prominent place"? Wouldn't "displayed so as to be seen and read..." suffice? And do you mean seen and read by the public?

In (2), line 9, why not state "The applicant's written consent shall be obtained..."

On line 10, who will create this form? And other than the date and amount of the fee, is anything else required?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

1 **11 NCAC 04 .0120** is proposed for readoption as follows:

2
3 **11 NCAC 04 .0120 POLICY OR SERVICE FEES**

4 An agent, broker, or limited representative who deals directly with an applicant and who intends to charge a policy or
5 service fee in accordance with G.S. 58-33-85(b) shall not do so unless he complies with the following:

- 6 (1) A sign that informs the applicant in large bold print that a policy or service fee of [amount] will be
7 charged, shall be displayed in a prominent place so as to be seen and read from any part of the office
8 lobby.
- 9 (2) The applicant's consent in writing is obtained on a separate form each time a policy or service fee is
10 charged. The form shall be entitled, "Policy or Service Fee Consent" and shall include the date and
11 amount of each fee charged.
- 12 (3) A dated receipt for the payment of a policy or service fee shall be issued either separately from the
13 policy premium receipt or stated separately on the receipt issued for the policy premium.

14
15 *History Note:* Authority G.S. 58-2-40; 58-2-195; 58-33-85(b);
16 Eff. February 1, 1993;
17 Amended Eff. ~~February 1, 1996.~~ February 1, 1996;
18 Readopted Eff. October 1, 2021.
19

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0314

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 5, insert a comma after "payments"

On line 5, replace "such" with "the"

On line 6, how is "so frequent as to indicate a general business practice" determined?

In (1), line 7, replace "which" with "that"

On line 8, what is "sufficient"? Do you even need this, or could you state, "maintain records to show that it..."?

On line 8, I recommend replacing "such" with "the"

In (3), lines 14 and 16, please replace "such" with "this"

On line 15, replace "ten" with "10" (See Rule 26 NCAC 02C .0108(9)(b))

Also on line 15, state "he or she"

On line 17, what is "firm" here? The insurance firm?

In (4), line 18, please replace "such" with "this"

In (5), line 20, insert a comma after "health"

On line 21, state "his or her"

In (6), line 22, insert a comma after "deposits"

Also on line 22, what are "other such funds" here?

On line 23, replace "Such" with "These"

On line 23, considered by whom? The Department?

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

On line 24, define “immediately” and “proper”

On line 24, replace “which” with “that”

On line 25, what is “separate and distinct”? Does your regulated public know?

On line 25, replace “and/or” with “or” (assuming you mean operating accounts or personal accounts or both).

On line 26, I think you are missing a verb before “bank charges” Should it read “pay bank charges”?

On line 27, insert a comma after “account”

In the History Note, why are you citing to G.S. 58-65-40?

And why aren’t you citing to G.S. 58-63-40? Is it not applicable here?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

11 NCAC 04 .0314 is readopted as published in NCR 35:14 1558 as follows:

11 NCAC 04 .0314 PREMIUM NOTICES: PAYMENTS AND REFUNDS

The Commissioner shall consider an unfair trade practice the failure by an insurer to adhere to any of the following procedures concerning premium notices, payments and refunds on life, accident, health, or disability policies when such failure is so frequent as to indicate a general business practice:

- (1) Premium Notices. Any insurer which makes a practice of sending premium notices shall maintain records sufficient to show that it mailed or otherwise delivered such notice to an individual insured or policy owner.
- (2) Timely Remittance. Insurance companies shall use date of mailing, rather than date of receipt, to determine whether the insured has made timely remittance of premium, provided the premium payment is received within seven days after either the termination date of the policy or the last day of its grace period, whichever is later.
- (3) Right to Return Policy. When such right is given by contract or statute, no insurer shall abridge or frustrate the right of the insured to return a policy within ten days after he receives it for a full refund of premiums paid. Evidence of such delivery shall be signed statements from the policyowner of the date of delivery, copies of signed certified mail receipt, certification of mailing, or firm mailing book entry.
- (4) Unearned Premium Refund. When such right is given by contract or statute, no insurer shall abridge or frustrate the right of the insured to receive a refund of unearned premium.
- (5) Unearned Premium on Health Policies. When an insured covered by an accident, health or disability policy dies during the term of the policy, his insurer shall refund the unearned premium.
- (6) Commingling. No licensed person may commingle premiums, insurance deposits or other such funds. Such funds are considered to have been received in a fiduciary capacity on behalf of policyowner and must be immediately forwarded to the proper insurers or be deposited into an authorized account which is separate and distinct from the person's operating and/or personal accounts. The account shall be used to receive and disburse premiums paid for insurers, return premiums to policyowner, bank charges for the account and transfer of earned commissions or fees.

History Note: Authority G.S. 58-2-40; 58-2-195; 58-51-10; 58-51-15; 58-63-65; 58-65-40; 58-67-50; 58-67-65; 58-67-150;

Eff. December 15, 1979;

Amended Eff. ~~April 1, 1989.~~ April 1, 1989;

Readopted Eff. October 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0315

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 5, replace "such" with "the"

On lines 5 and 6, how is "so frequent as to indicate a general business practice" determined?

In (2), lines 9 and 10, what is "guaranteed issue" and "specified rate"? I am guessing your regulated public knows, but I do not and wanted to inquire.

And what is "represented" in this context?

On lines 11 and 13, state "his or her"

Also on line 11, I take it "standard rates" is known to your regulated public?

On line 12, please replace "such" with "the"

On line 12, I believe you mean "Item" rather than "Section"

In (3), line 14, insert a comma after "health"

On line 16, do you mean "consent" rather than "assent"?

On line 16, state "his or her"

Also on line 16, insert a comma after "policy" and before "new"

In (4), line 18, insert a comma after "Accident"

On line 20, define "appreciable"

In the History Note, line 24, G.S. 58-3-125 was repealed in 1999. Please strike it.

Also in the History Note, why are you citing to G.S. 58-65-40?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

11 NCAC 04 .0315 is readopted as published in NCR 35:14 1558 as follows:

11 NCAC 04 .0315 ISSUANCE OF CONTRACTS

The Commissioner shall consider an unfair trade practice the failure by an insurer to adhere to any of the following procedures with respect to the issuance of life, accident, health, or disability policies when such failure is so frequent as to indicate a general business practice:

- (1) Policies to Cover Newborn Infants. No health application or requirements of insurability shall be used to circumvent the requirements of North Carolina General Statute 58-51-30.
- (2) Rating of Guaranteed Issue Coverages. There shall be no rating of policies where guaranteed issue at a specified rate is represented. When only guaranteed issue is represented, the insurer shall disclose in writing to any applicant subjected to individual rating the fact that his rate deviates from the standard rates for such coverage. This Section shall not apply to individual policies issued to employees under a contract between their employer and his insurer.
- (3) Replacement of Existing Coverage. With respect to individual accident, health and disability coverages, when an insurer's agent, by misrepresenting the new policy as a supplement or addition to the existing policy, induces an insured to assent to the replacement of his existing policy with a new policy new waiting periods shall be decreased by the amount of time coverage was afforded under the existing policy.
- (4) Continuous Coverage Under Credit Life, Accident and Health Policies. In a series of credit life or credit accident and health insurance transactions where the insured, the lender, and the insurer are the same and there is no appreciable lapse in coverage between transactions, the waiting periods of the insurance agreements shall run from the date of the first insurance contract, at least to the extent of the amount and term of the indebtedness outstanding at the time of renewal or refinancing.

History Note: Authority G.S. 58-2-40; 58-3-125; 58-3-150; 58-33-75; 58-51-30; 58-63-40; 58-65-40; 58-67-50; 58-67-65; 58-67-150;
 Eff. December 15, 1979;
 Amended Eff. April 8, 2002; ~~April 1, 1989; December 15, 1979; December 15, 1979, April 1, 1989;~~
Readopted Eff. October 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0316

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Again, the name of the Rule is not within the purview of the RRC, so I am only asking – why is there a reference to a “Contestability Clause” in the name, when the text speaks to rescission only?

On line 4, define “promptly”

On line 4, insert a comma after “health”

On line 5, replace “such” with “those”

On line 7, how is “so frequent as to indicate a general business practice” determined?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 3, 2021

1 11 NCAC 04 .0316 is readopted as published in NCR 35:14 1558 as follows:

2
3 11 NCAC 04 .0316 **CONTESTABILITY CLAUSE AND RESCISSION**

4 If an insurer does not promptly attempt to rescind an accident, health or disability policy upon becoming aware that the
5 insured's application contained false statements, the insurer may not subsequently use such false statements as a basis for
6 attempted rescission or alteration of the policy. The Commissioner shall consider failure to adhere to this principle an unfair
7 trade practice when such failure is so frequent as to indicate a general business practice.

8
9 *History Note:* *Authority G.S. 58-2-40; 58-63-40; 58-65-1; 58-65-40;*

10 *Eff. ~~December 15, 1979; December 15, 1979;~~*

11 *Readopted Eff. October 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0317

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please insert page numbers at the bottom of each page (see Rule 26 NCAC 02C .0108(1)(f))

In (a), line 6, insert a comma after "condition" and after "excluded"

On line 9, insert a comma after "conditions"

On lines 11 and 12, I don't think you mean "Section" but rather "Rule" or "Paragraph"

On lines 12-13, please delete "include, but are not limited to:" and just state "include:"

In (a)(1), line 14, what is "gainfully" employed?

On line 14, insert a comma after "part-time"

In (a)(3), line 18, please replace "such a" with "that"

In (a)(9), line 28, what are "more restrictive" benefit periods and definitions of disability here?

In (a)(10), line 31, please insert an "and" or "or" at the end of the line.

In (a)(11), line 33, insert a comma after "status"

Do you need (b) anymore? This Rule has been in effect for over 40 years. Are there contracts that exist that would not be governed by this?

If you need to retain it, capitalize "State" on line 35, assuming you mean NC.

In the History Note, why are you citing to G.S. 58-63-1?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 3, 2021

11 NCAC 04 .0317 is readopted as published in NCR 35:14 1558 as follows:

11 NCAC 04 .0317 SEX DISCRIMINATION: LIFE: ACCIDENT AND HEALTH INSURANCE

(a) Prohibited Practices. The Commissioner shall consider unfair discrimination the denial of life, accident, health or disability insurance on the basis of the insured's or prospective insured's sex or marital status. The amount of benefits payable on any term, condition or type of coverage shall not be restricted, modified, excluded or reduced on the basis of the sex or marital status of the insured or prospective insured. All underwriting criteria shall be applied in all instances of similar circumstances without regard to the sex or marital status of the insured or prospective insured, except to the extent that the amount of the benefits, terms, conditions or type of coverage vary as a result of the application of rate or premium differentials not prohibited under this Chapter, such as differentials for life insurance or annuities derived from sex-based life expectancy tables. Nothing in this Section shall prohibit an insurer from taking marital status into account for the purpose of determining persons eligible for dependent benefits. Examples of the practices prohibited by this Section include, but are not limited to:

- (1) denying coverage to females gainfully employed at home, employed part-time or employed by relatives when coverage is offered to males similarly employed;
- (2) denying policy riders to females when the riders are available to males;
- (3) denying maternity coverage to unmarried females covered under a policy or contract if maternity coverage is available to married females covered under such a policy or contract;
- (4) denying, under group contracts, dependent coverage to husbands of female employees, when dependent coverage is available to wives of male employees;
- (5) denying disability income contracts to employed women when coverage is offered to men similarly employed;
- (6) treating complications of pregnancy differently from any other illness or sickness under the contract;
- (7) restricting, reducing, modifying, or excluding benefits payable for disorders of the genital organs of only one sex;
- (8) offering lower maximum monthly benefits to women than to men who are in the same classification under a disability income contract;
- (9) offering more restrictive benefit periods and more restrictive definitions of disability to women than to men in the same classifications under a disability income contract;
- (10) establishing different conditions by sex under which the policyholder may exercise benefit options contained in the contract;
- (11) limiting the amount of coverage an insured or prospective insured may purchase based upon the insured's or prospective insured's marital status unless such limitation is for the purpose of defining persons eligible for dependent benefits.

(b) Applicability and Scope. This Rule shall apply to all contracts delivered or issued for delivery in this state by an insurer on or after the effective date of this Rule and to all existing group contracts which are amended or renewed on or after the effective date of this Rule.

1

2 *History Note:* *Authority G.S. 58-2-40; 58-3-120; 58-63-1; 58-63-65;*3 *Eff. December 15, 1979; December 15, 1979;*4 *Readopted Eff. October 1, 2021.*

5

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0318

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please insert page numbers at the bottom of each page (see Rule 26 NCAC 02C .0108(1)(f))

On line 4, delete "Subject to the exception set forth in Subsection (16) of this Rule," Make this Paragraph (a). Then make Sub-Item (16) into Paragraph (b).

In (1), line 9, what is "valid and collectible" And it can only be check, not cash or credit?

On line 9, replace "such" with "the"

On line 10, replace "will" with "shall"

On lines 10-11, why do you have "or waive this requirement"? Isn't this addressed by the language on line 5, which says that failure to adhere to the requirements of the Rule is an unfair trade practice?

In (2), line 14, define "clear and complete"

Also on line 14, replace "must" with "shall"

On line 15, please insert a comma after "rate"

In (3), line 20, and elsewhere the term is used, what are "co-makers"? I assume your regulated public knows, but I don't and wanted to ask.

On line 20 and elsewhere you use this (and there are several places within this Rule), state "his or her" or just state "the applicant's"

In (4), line 23, insert a comma after "premium" and replace "said" after it with "the"

On line 23, what does "with recourse only" mean?

In (5), line 27, define "properly" executed. Do you even need that adjective, given the language on line 29?

In (7), line 32, replace "which" with "that"

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

In (7)(b), line 34, and multiple other places the term is used in the Rule, say “he or she” or “the applicant” or “the agent” (whichever is applicable in context).

In (7)(c), line 37, and anywhere else the term is used, replace “him” with “him or her”

In (7)(c), Page 2, line 1, I think you should delete “if”

In (7)(e), line 7, define “properly”

On lines 10 and 11, state “The provisions of Sub-Items (c) and (d) of this Item shall...”

In (8), line 12, insert a comma after “assignee”

On line 13, what is a “note-maker (insured)”? What does this mean?

On line 13, insert a comma after “transfer”

On line 14, you say “such transfer” but isn’t this referring to a transfer, assignment or purchase? Should this be “transaction”?

On line 14, replace “which” with “that”

In (9), lines 16 and 17, define “Promptly” and “prompt and complete”

On line 17, you have been referring to “the Department” in other rules. Why are you saying, “Department of Insurance” here?

In (10), line 20, replace “such” with “the”

In (11), line 22, define “clearly”

On line 24, please put commas inside the quotation marks for “payment” and “insurance”

On line 25, replace “which” to “that”

In (12), line 29, what is a “specimen” here?

In (13), lines 33-34, I do not think the language, “will be cause for investigation and review by the Department of Insurance” is needed in light of the language on Page 1, lines 4-7. Won’t violating any of the Items be cause for investigation and review?

In (14), line 36, should this state, “... participate in”?

On line 37, capitalize “State” if you mean NC. Please note the same change for Item (15), Page 3, line 1.

On line 2, state “himself or herself”

On line 2, replace “which” with “that”

On lines 4-5, what is a “special division”?

On line 4, do you mean “shall”? If not, then please state within the Rule guidance on when this will not be allowed when the division exists.

Also on line 4, insert a comma after “permitted”

In (16), again, make this Paragraph (b). Delete the first “Regulation.” Then change the second one to “Rule” since in NC, we have rules, and the federal government has regulations.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

1 **11 NCAC 04 .0318** is readopted as published in NCR 35:14 1558 as follows:

2
3 **11 NCAC 04 .0318 LIFE INSURANCE SALES: FINANCING FIRST YEAR PREMIUM**

4 Subject to the exception set forth in Subsection (16) of this Rule, the Commissioner shall consider an unfair trade practice the
5 failure by an insurance company to adhere to the following procedures concerning the sale of life insurance contracts for
6 which the first year's premium or any portion thereof is financed through a device suggested by the insurer or its agent with
7 the insurance policy itself being assigned as security:

- 8 (1) Minimum Down-Payment Required. A minimum down-payment of twenty five dollars (\$25.00) in cash or
9 by valid and currently collectible check of the applicant is required for such insurance. Under no
10 circumstances will a company or an agent directly or indirectly either furnish this down-payment or waive
11 this requirement.
- 12 (2) Financing Device to be Explained in Policy Application. The furnishing of a promissory note in
13 connection with financing part of the first year's premium must be explained in the policy application.
14 Such explanation must be clear and complete and must specify the principal sum of the note or notes, the
15 interest payable, the due date, the amount payable on that due date, the interest rate and the annual
16 percentage rate.
- 17 (3) Execution of Promissory Note. All blank spaces in a promissory note form or an assignment of an
18 insurance policy form subsequently executed by the insured must be filled in by the handwriting of the
19 insured except blank spaces relating to the policy number to be issued, and the signatures of witnesses and
20 co-makers. No agent or anyone acting under his direction or control other than the insured shall write in
21 such spaces.
- 22 (4) Promissory Note May be Sold Only With Recourse. If a promissory note is taken to finance part of the
23 first year's premium said note may be sold or otherwise transferred by the payee with recourse only, and
24 this fact must appear in bold print on the face of the note.
- 25 (5) Note to be Retained Until Policy Acceptance is Executed. Any promissory note given by the applicant in
26 connection with an application for a policy shall not be sold or otherwise transferred by the agent or
27 company, nor any commissions on the sale paid to the agent until 15 days after a properly executed policy
28 acceptance form has been received in the home office of the insurance company issuing the policy.
- 29 (6) Copy of Note to be Furnished Applicant. A copy of the note executed by the applicant must be attached to
30 the policy when delivered.
- 31 (7) Policy Acceptance to be Executed on Delivery of the Policy; Contract Rescission. Upon delivery of the
32 policy, a policy acceptance form must be executed which recites the following:
 - 33 (a) The policy has been issued as represented;
 - 34 (b) The applicant acknowledges and understands the provisions and obligations of the debt he has
35 incurred in connection with applying for the policy and the terms are set forth in the record;
 - 36 (c) The applicant understands that he may cancel the policy and his promissory note and his
37 down-payment will be returned to him if he refuses to accept delivery of the policy and sign the

- 1 acceptance form, and the applicant understands that if at any time within 10 days after the
 2 execution of the policy acceptance form he shall be allowed to rescind the agreement, and the
 3 promissory note, together with the total amount of his down-payment, shall be returned to him;
- 4 (d) The applicant further understands that the rescission or rejection must be communicated to the
 5 company by mail and return of the policy within the 10 day period; and
- 6 (e) The applicant acknowledges that the obligations of the debt cannot be altered by a cancellation of
 7 the policy at his request unless properly cancelled within 10 days, in writing, mailed to the
 8 company at the address specified. The policy acceptance form shall contain a number
 9 designation corresponding to the policy issued and shall not be made available to the agent until
 10 the application is received in the home office. The provisions of Subsections (7)(c) and (d) of this
 11 Rule shall be printed in bold type upon the face of the policy.
- 12 (8) Insured to be Notified of Assignment. The insurer, the note purchaser, assignee or company shall notify
 13 the note maker (insured) and all co-makers regarding the purchase, transfer or assignment of the note, after
 14 such transfer, inviting any questions relative to the note or the policy which is used as collateral security
 15 for the note.
- 16 (9) Requests for Cancellation to be Handled Promptly. The company and its agents shall give prompt and
 17 complete cooperation to the insured and the Department of Insurance when requests to cancel the policy
 18 and premium financing arrangements are received.
- 19 (10) Special Rule in Event Applicant is Under Eighteen Years of Age. If the applicant is a minor and executes
 20 a promissory note for the payment of part or all of the first year's premium, such note must be witnessed by
 21 at least one of the applicant's parents or his guardian.
- 22 (11) Disclosure of Extended Obligations. The agent shall clearly disclose to the insured that the cancellation of
 23 the note may reduce the cash surrender value of the policy in direct proportion to the amount of the
 24 promissory note. The agent shall not use terms such as "bonus payment", "free insurance", or any other
 25 term which induces the applicant to believe that the promissory note will be paid by monies other than his
 26 policy cash values. Terms leading the applicant to believe that he is receiving free insurance by deferring
 27 the premium payment for the first year shall not be employed.
- 28 (12) Cash Values. Cash values shown at the presentation shall be based on the policy offered. The cash values
 29 shown at the time of presentation shall be a specimen of the policy being offered and not for a larger
 30 policy.
- 31 (13) Cancellation of Existing Insurance. The disturbing of any permanent insurance, including the partial or
 32 total replacement of any provisions of an existing policy for the purpose of placing additional insurance, or
 33 "twisting" as defined in G.S. 58-3-115, will be cause for investigation and review by the Department of
 34 Insurance.
- 35 (14) Licensed Agents. Only licensed agents are eligible to sell life insurance. No person other than a licensed
 36 agent shall participate or receive commission or any other valuable consideration in connection with the
 37 solicitation, negotiation, procurement, or making of life insurance contracts in this state.

1 (15) Agent Identification. An agent or field representative who is licensed by this state as a life insurance agent
2 shall not represent, refer to, or hold himself out to the public under any special title which would obscure
3 the fact that he is a licensed agent of the company. Identification as an agent or representative of a special
4 division may be permitted providing such a division actually exists and the agency relationship is
5 disclosed.

6 (16) Scope of Regulation. This Regulation shall not apply to life insurance policies financed in conformity with
7 G.S. 58, Article 35.

8
9 *History Note:* *Authority G.S. 58-2-40; 58-3-115; 58-63-40;*

10 *Eff. December 15, 1979*

11 *Amended Eff. ~~April 8, 2002.~~ April 8, 2002;*

12 *Readopted Eff. October 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0319

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

The name of the Rule is not within RRC purview, so I am just asking – should “Disability” be part of the name, as it is addressed within the Rule text?

On line 5, insert a comma after “health”

On lines 5-6, how is “so frequent as to indicate a general business practice” determined?

In (1), line 10, I believe you mean “Item” and not all of Section .0300.

In (3), line 15, insert a comm after “impairments”

On line 15, what do you mean by “may” Should this say, “some of which are”?

In (4), line 17, insert a comma after “health”

On line 18, define “proper”

On line 18, do not use parenthesis here. Instead, separate out this information using commas.

On line 20, what is this form? Who creates it? How is it found? What are the contents?

In (5), line 23, replace “the” before “statute” with “that”

In the History Note, why are you citing to G.S. 58-65-1?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

11 NCAC 04 .0319 is readopted as published in NCR 35:14 1558 as follows:

11 NCAC 04 .0319 CLAIMS PRACTICES: LIFE: ACCIDENT AND HEALTH INSURANCE

The Commissioner shall consider as prima facie violative of G.S. 58-63-15(11) the failure by an insurer to adhere to the following procedures concerning settlement of life, accident, health and disability claims when such failure is so frequent as to indicate a general business practice:

- (1) Examining Physician's Opinion. When the patient's health is in question, an insurer shall give greater weight to the opinion of a physician who has examined the patient than to the opinion of a physician who has not examined the patient and whose opinion is based solely on a review of the examining physician's notes or reports. As used in this Section, "examination of the patient" shall include the interpretation by a specialist of the results of diagnostic tests performed on the patient by others.
- (2) Settlement Offers. Initial offers of settlement or compromise made by an insurer or its representative shall remain open for a period of time of not less than 30 calendar days.
- (3) Multiple Health Impairments. When an insured is confined to the hospital with multiple health impairments some of which may be excluded from coverage, the insurer or its representative shall make pro rata payments where treatment for excluded conditions can be separated.
- (4) Assignment of Benefits. If an accident, health or disability contract does not prohibit assignment of benefits and a proper assignment (including notice to the insurer prior to the payment of the claim) is made, the insurer shall honor the assignment even though it may have erroneously paid the insured. Submission of a completed claims form G33H and its successor(s) indicating that an assignment is on file shall be treated as though it were submission of the actual assignment.
- (5) Claim Status Reports. Health insurance claims subject to 58-3-225 shall be processed in accordance with the provisions of the statute. Otherwise, if benefits claimed under an accident, health, or disability contract have not been paid within 45 days after receipt of the initial claim by the insurer, the insurer shall at that time mail a claim status report to the insured.

History Note: Authority G.S. 58-2-40; 58-3-225; 58-63-15; 58-63-65; 58-65-1; 58-65-40; 58-65-125; 58-67-65; 58-67-150;
 Eff. December 15, 1979;
 Amended Eff. July 1, 2012; April 8, 2002; April 1, 1989.
Readopted Eff. October 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0415

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Given the language in G.S. 58-36-65, was the Bureau involved in this readoption?

On line 4, why are you spelling out "Department of Insurance"?

Also on line 4, given that "rules" are a term of art here, why not state "provisions" or "determinations"?

In (5), line 14, end the sentence after "license." Then state, "However, SDIP points..."

On lines 16 and in (6), lines 18 and 19, state "his or her"

On line 16, define "reliable evidence"

On line 17, what do you mean by "in fact" Are you saying that the operator operated a motor vehicle while his or her license was revoked or suspended?

In (6), line 18, how is "permanently" decided? If the insured says it's permanent, then that establishes it?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

1 **11 NCAC 04 .0415** is readopted as published in NCR 35:14 1558 as follows:

3 **11 NCAC 04 .0415 SAFE DRIVER INCENTIVE PLAN**

4 The following are Department of Insurance rules regarding the Safe Driver Incentive Plan ("SDIP"):

- 5 (1) License revocation for refusal to submit to chemical tests shall not be considered conviction of a
6 moving traffic violation.
- 7 (2) A conviction for driving the wrong way on a one-way street is not a conviction for driving on the
8 wrong side of the road.
- 9 (3) The revocation or suspension of a driver's license solely because of the accumulation of motor vehicle
10 points shall not be considered a conviction.
- 11 (4) When new operators are added to an automobile policy, their SDIP points may be added to the policy
12 at the same time coverage is extended to them.
- 13 (5) SDIP points for an operator whose license has been suspended or revoked may be added only at the
14 date the operator again becomes eligible for license with the following exception: SDIP points may
15 be charged at the inception date of the current policy if the operator has previously been convicted of
16 a moving traffic violation while his license was suspended or revoked or if there is reliable evidence
17 that the operator does, in fact, operate a motor vehicle.
- 18 (6) If an operator dies or permanently leaves an insured's household during the policy period, his SDIP
19 points shall be removed at the time of his death or departure.

21 *History Note: Authority G.S. 58-2-40; 58-36-65; 58-36-75;*

22 *Eff. December 15, 1979;*

23 ~~*Amended Eff. February 1, 1993. February 1, 1993.*~~

24 ~~*Readopted Eff. October 1, 2021.*~~

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0427

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 4, capitalize "State" assuming you mean NC.

On line 4, delete "and" and just state, "... in this State that intends..."

On line 4-5 and 15, I believe "aftermarket" is one word.

On line 6, what do you mean by "ten point type"? And should the term "ten-point" be hyphenated?

And is the disclosure required to be in all caps?

On line 11, please note the question for Rule .0426 about how this equality is determined.

On line 12, please insert a comma after "performance"

On line 15, isn't the requirement regarding the estimate already in Rule .0426?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

1 11 NCAC 04 .0427 is readopted as published in NCR 35:14 1558 as follows:

2
3 11 NCAC 04 .0427 DISCLOSURE REQUIREMENTS

4 Every insurer that writes motor vehicle insurance in this state and that intends to require or specify the use of after
5 market parts must disclose to its policyholders in writing, either in the policy or on a sticker attached thereto, the
6 following information in no smaller print than ten point type:

7
8 IN THE REPAIR OF YOUR COVERED AUTO UNDER THE PHYSICAL DAMAGE
9 COVERAGE PROVISIONS OF THIS POLICY, WE MAY REQUIRE OR SPECIFY THE
10 USE OF AUTOMOBILE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER.
11 THESE PARTS ARE REQUIRED TO BE AT LEAST EQUAL IN TERMS OF FIT,
12 QUALITY, PERFORMANCE AND WARRANTY TO THE ORIGINAL MANUFACTURER
13 PARTS THEY REPLACE.

14
15 All after market parts installed on a motor vehicle shall be identified on the estimate and invoice for such repair.

16
17 *History Note:* Authority G.S. 58-2-40;
18 Eff. April 1, 1989;
19 Amended Eff. March 1, 2004. March 1, 2004.
20 Readopted Eff. October 1, 2021.
21
22

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0429

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Introductory Statement on line 1, please insert the publication information.

On line 4, what do you mean by "separate and apart"?

On lines 5 and 6, what do you mean by "at all times"? Is this to mirror language in G.S. 58-2-195?

In the History Note, line 10, do not strike the date of amendment.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

1 11 NCAC 04 .0429 is proposed for readoption as follows:

2
3 11 NCAC 04 .0429 COMMINGLING

4 The accounting records maintained by agents, brokers, and limited representatives shall be separate and apart from any
5 other business records and demonstrate at all times that collected funds due to insurers and return premiums due to
6 policyholders are available at all times.

7
8 *History Note: Authority G.S. 58-2-40; 58-2-195;*

9 *Eff. February 1, 1993;*

10 *Amended Eff. ~~February 1, 1996. February 1, 1996;~~*

11 *Readopted Eff. October 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0432

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 4, what is a "scheduled item"?

On line 4, what is an "inland marine insurance policy"?

And so that I'm clear – will the refund be per item?

In the History Note, I do not understand the citation to G.S. 58-43-10. That only applies to buildings destroyed by fire. This Rule applies to items covered by inland marine insurance policies as well as homes.

§ 58-43-10. Limit of liability on total loss

Subject to the provisions of [G.S. 58-43-5](#), when buildings insured against loss by fire and situated within the State are totally destroyed by fire, the company is not liable beyond the actual cash value of the insured property at the time of the loss or damage; and if it appears that the insured has paid a premium on a sum in excess of the actual value, he shall be reimbursed the proportionate excess of premium paid on the difference between the amount named in the policy and the ascertained values, with interest at six per centum (6%) per annum from the date of issue.

Credits

Amended by Laws 1949, c. 295, § 2.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 3, 2021

1 11 NCAC 04 .0432 is readopted as published in NCR 35:14 1559 as follows:

2
3 11 NCAC 04 .0432 **REFUND OF EXCESS PREMIUM ON SCHEDULED ITEMS**

4 If an insured has any scheduled item covered by a homeowner's or personal inland marine insurance policy, and that item
5 is replaced for less than the scheduled amount of coverage, the insurer shall refund the insured the difference in premium
6 charged between the scheduled amount of coverage and the actual amount of the loss paid by the insurer, if the refund
7 per policy term is greater than five dollars (\$5.00). Any refund shall be computed from the date of issuance of the policy
8 or five years, whichever is less.

9
10 *History Note:* *Authority G.S. 58-2-40; 58-43-10; 58-63-65;*

11 *Eff. April 1, 1995;*

12 *Amended Eff. July 1, 2012. July 1, 2012.*

13 *Readopted Eff. October 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0433

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 4, what is "newly issued"?

On line 5, what is a "short rate"?

In (1), line 7, what is "accurate and complete rating information"?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 3, 2021

1 **11 NCAC 04 .0433** is readopted as published in NCR 35:14 1559 as follows:

2
3 **11 NCAC 04 .0433 REFUND OF AUTO INSURANCE PREMIUM ON NEW BUSINESS**

4 If an insured asks an insurer to cancel a newly issued motor vehicle insurance policy on or before the premium billing
5 due date, the unearned premium refund made by the insurer shall be made on a pro rata rather than a short rate basis,
6 and the refund shall be based on the premium initially quoted by the insurer if both of the following conditions are met:

- 7 (1) The insured provided the insurer with accurate and complete rating information.
8 (2) The insurer subsequently calculated the premium to be greater than the premium initially quoted.

9
10 *History Note:* *Authority G.S. 58-2-40; 58-36-85; 58-63-65;*

11 *Eff. ~~April 1, 1995.~~ April 1, 1995.*

12 *Readopted Eff. October 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0501

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please insert page numbers at the bottom of each page (see Rule 26 NCAC 02C .0108(1)(f))

Do you still need (a), given that this Rule became effective over 24 years ago? If you don't need it, I suggest you change the name of the Rule to remove "Scope" and that will require submission of a new form, as well.

In (b)(5), line 21, what is "reasonably based"?

In (b)(8), line 30, "in-force illustration" is hyphenated, but it is not in (b)(9), line 31. Please be consistent.

In (b)(10), line 33, please replace "11 NCAC 4 .0509" with either "11 NCAC 04 .0509" or "Rule .0509 of this Section"

In (b)(11), line 36, replace "this Section" with "Subparagraph (b)(16) of this Rule"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 **11 NCAC 04 .0501** is readopted as published in NCR 35:14 1559 as follows:

2
3 **CHAPTER 4 - CONSUMER SERVICES DIVISION**

4
5 **SECTION .0500 - LIFE INSURANCE ILLUSTRATIONS**

6
7
8 **11 NCAC 04 .0501 SCOPE AND DEFINITIONS**

9 (a) These Rules apply to all policies sold on and after the effective dates of these Rules and to all certificates issued under
10 those policies.

11 (b) As used in this Section, the following terms have the following meanings:

- 12 (1) "Actuarial Standards Board" means the board established by the American Academy of Actuaries to
13 develop and promulgate standards of actuarial practice.
- 14 (2) "Basic illustration" means a ledger or proposal used in the sale of a policy that shows both guaranteed and
15 non-guaranteed elements.
- 16 (3) "Contract premium" means the gross premium that is required to be paid under a fixed premium policy,
17 including the premium for a rider for which benefits are shown in the illustration.
- 18 (4) "Currently payable scale" means a scale of non-guaranteed elements in effect for a policy as of the
19 preparation date of the illustration or declared to become effective within the next 95 days.
- 20 (5) "Disciplined current scale" means a scale of non-guaranteed elements constituting a limit on illustrations
21 currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as
22 certified annually by an illustration actuary designated by the insurer.
- 23 (6) "Guaranteed elements" means the premiums, benefits, values, credits, or charges under a policy that are
24 guaranteed and determined at issue.
- 25 (7) "Illustrated scale" means a scale of non-guaranteed elements currently being illustrated that is not more
26 favorable to the policy owner than the lesser of:
- 27 (A) The disciplined current scale; or
- 28 (B) The currently payable scale.
- 29 (8) "Illustration" means a presentation or depiction that includes non-guaranteed elements of a policy over a
30 period of years and that is either a basic illustration, in-force illustration, or a supplemental illustration.
- 31 (9) "In force illustration" means an illustration furnished at any time after the policy that it depicts has been in
32 force for one year or more.
- 33 (10) "Illustration actuary" means an actuary meeting the requirements of 11 NCAC 4 .0509 who certifies to
34 illustrations based on the standard of practice promulgated by the Actuarial Standards Board.
- 35 (11) "Lapse-supported illustration" means an illustration of a policy failing the test of self-supporting as defined
36 in this Section, under a modified persistency rate assumption using persistency rates underlying the
37 disciplined current scale for the first five years and 100 percent policy persistency thereafter.

- (12) "Non-guaranteed elements" means the premiums, benefits, values, credits, or charges under a policy that are not guaranteed or not determined at issue.
- (13) "Policy" means a group or individual life insurance policy or certificate. "Policy" does not include:
- (A) A variable life insurance policy or certificate.
 - (B) An annuity contract.
 - (C) A credit life insurance policy or certificate.
 - (D) A life insurance policy with no illustrated death benefit on any individual exceeding ten thousand dollars (\$10,000).
- (14) "Policy owner" means the owner named in a policy or the certificate holder in the case of a group policy.
- (15) "Premium outlay" means the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.
- (16) "Self-supporting illustration" means an illustration of a policy for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the fifteenth policy anniversary or the twentieth policy anniversary for second-or-later-to-die policies (or upon policy expiration if sooner), the accumulated value of all policy cash flows equals or exceeds the total policy owner value available. For this purpose, policy owner value will include cash surrender values and any other illustrated benefit amounts available at the policy owner's election.
- (17) "Supplemental illustration" means an illustration furnished in addition to a basic illustration that meets the applicable requirements of this Section, and that may be presented in a format differing from the basic illustration, but may only depict a scale of non-guaranteed elements that is permitted in a basic illustration.

History Note: Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

~~Eff. January 1, 1997. January 1, 1997.~~

Readopted Eff. October 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0502

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a), lines 4-5, please move the sentence "As used in this Rule, ... policy." to (b)(4), line 20.

In (a)(3), how is this approved? Who is this National Association? Where is the table found?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

11 NCAC 04 .0502 is readopted as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0502 ASSUMED EXPENSES AND CURRENT SCALE

(a) As used in this Rule, "minimum assumed expenses" means the minimum expenses used in the calculation of the disciplined current scale for a policy. An insurer may choose to designate each year the method of determining assumed expenses for all policies from the following:

- (1) Fully allocated expenses.
- (2) Marginal expense.
- (3) A table of fully allocated expenses developed by the Actuarial Standards Board and approved by the National Association of Insurance Commissioners.

Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.

(b) Further guidance in determining the disciplined current scale as contained in standards established by the Actuarial Standards Board may be relied upon if the standards:

- (1) Are consistent with all provisions of this Section.
- (2) Limit a disciplined current scale to reflect only actions that have been taken on events that have already occurred.
- (3) Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date.
- (4) Do not permit assumed expenses to be less than minimum assumed expenses.

History Note: Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

Eff. January 1, 1997. January 1, 1997.

Readopted Eff. October 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0503

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a), line 4, replace "to which this Section applies" with "regulated by this Section"

On lines 5-7, do you need this language relating to the effective date of the Rule, as that was nearly 25 years ago?

On line 5, what is "actively"?

On line 8, the change can be made following notice only? There is no approval process?

In (c), line 13, and elsewhere the term is used, what is "multiple lives coverage"? I take it your regulated public knows?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

11 NCAC 04 .0503 is readopted as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0503 ILLUSTRATED POLICIES

(a) Each insurer marketing policies to which this Section applies shall notify the Commissioner whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on the effective date of this Section, the insurer shall identify in writing those policy forms and whether or not an illustration will be used with them. For policy forms filed after the effective date of this Section, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the Commissioner.

(b) If the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration before the first policy anniversary for any policy form using that policy is prohibited.

(c) If a policy form is identified by an insurer as one to be marketed with an illustration, the insurer shall prepare and deliver a basic illustration in accordance with this Section, except that a basic illustration need not be provided to individual members of a single employer group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to those individuals. The illustration furnished to an applicant for a group policy issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

(d) As used in this Paragraph, "non-term group life" means a group policy or individual policies of traditional permanent or universal life insurance issued to members of a single employer group where:

- (1) Every plan of coverage was selected by the employer.
- (2) The premium is paid by the employer or through payroll deduction.
- (3) Group underwriting or simplified underwriting is used.

Potential enrollees for policies and certificates of non-term group life subject to this Section shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage. This quotation shall not be considered an illustration for purposes of this Section, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the policy or certificate to enrollees for non-term group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any non-term group life enrollee who requests it.

History Note: Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

Eff. January 1, 1997. January 1, 1997.

Readopted Eff. October 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0504

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a), line 4, define "short"

On lines 4, 5, and 6, as well as (b)(8), line 26, please put the comma within the quotation marks.

On line 5, will your regulated public know what is "applicable"?

On line 6, what is "clearly"?

Also on line 6, what is "basic"?

Please end (a)(1) through (6) with semicolons and end (a)(6) with an "and" as this is a list and it will mirror the language in (b).

In (b)(2), line 17, what is "the capacity or tendency"? Who will determine this?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

11 NCAC 04 .0504 is readopted as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0504 GENERAL RULES

(a) As used in this Rule, "generic name" means a short title descriptive of the policy being illustrated, such as "whole life", "term life", or "flexible premium adjustable life." An illustration used in the sale of a policy shall satisfy the applicable requirements of this Section, be clearly labeled "life insurance illustration" and contain the following basic information:

- (1) Name of insurer.
- (2) Name and business address of producer or insurer's authorized representative, if any.
- (3) Name, age and sex of proposed insured, except where a composite illustration is permitted under this Section.
- (4) Underwriting or rating classification upon which the illustration is based.
- (5) Generic name of the policy, the company product name, if different, and policy form number.
- (6) Initial death benefit.
- (7) Dividend option election or application of non-guaranteed elements, if applicable.

(b) When using an illustration in the sale of a policy, an insurer or its agents or other authorized representatives shall not:

- (1) Represent the policy as anything other than a life insurance policy;
- (2) Use or describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
- (3) State or imply that the payment or amount of non-guaranteed elements is guaranteed;
- (4) Use an illustration that does not comply with the requirements of this Section;
- (5) Use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;
- (6) Provide an applicant with an incomplete illustration;
- (7) Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;
- (8) Use the term "vanish" or "vanishing premium", or a similar term that implies the policy becomes paid up, to describe a plan for using non-guaranteed elements to pay a portion of future premiums;
- (9) Except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or
- (10) Use an illustration that is not "self-supporting."

(c) If an interest rate used to determine the illustrated non-guaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

History Note: Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

Eff. January 1, 1997. January 1, 1997.

Readopted Eff. October 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0505

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please insert page numbers at the bottom of each page (see Rule 26 NCAC 02C .0108(1)(f))

In (3), line 9, define "clearly"

In (9), line 24, what is "close proximity"

In (13), line 35, define "clearly"

In (b)(3), Page 2, line 14, insert a comma after "riders"

In (c)(1), line 24, insert a comma after "10"

On line 25, please insert a comma after "20"

In (c)(2), line 36, please replace "in which" with "when"

In (d), Page 3, line 1, what is "substantially similar"?

In (e)(1), line 15, please insert a comma after "applicable"

In (e)(3), line 23, please insert a comma after "shown"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

11 NCAC 04 .0505 is readopted as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0505 STANDARDS FOR BASIC ILLUSTRATIONS

(a) Format. A basic illustration shall conform with the following requirements:

- (1) The illustration shall be labeled with the date on which it was prepared.
- (2) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration (e.g., the fourth page of a seven-page illustration shall be labeled "page 4 of 7 pages").
- (3) The assumed dates of payment receipt and benefit pay-out within a policy year shall be clearly identified.
- (4) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.
- (5) The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.
- (6) Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.
- (7) If the illustration shows any non-guaranteed elements, they shall not be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled non-guaranteed.
- (8) The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements (e.g., "see page one for guaranteed elements").
- (9) The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender.
- (10) The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as applicable.
- (11) Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.
- (12) Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:
 - (A) The benefits and values are not guaranteed;
 - (B) The assumptions on which they are based are subject to change by the insurer; and
 - (C) Actual results may be more or less favorable.
- (13) If the illustration shows that the premium payer may have the option to allow policy charges to be paid using non-guaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the

contract premium. If a contract premium is due, the premium outlay shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

- (14) If the applicant plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the effect on future policy benefits and values.

(b) Narrative Summary. A basic illustration shall include the following:

- (1) A brief description of the policy being illustrated, including a statement that it is a life insurance policy.
- (2) A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the policy, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code.
- (3) A brief description of any policy features, riders or options, guaranteed or non-guaranteed, shown in the basic illustration and the effect they may have on the benefits and values of the policy.
- (4) Identification and a brief definition of column headings and key terms used in the illustration.
- (5) A statement containing the following: This illustration assumes that the currently illustrated non-guaranteed elements will continue unchanged for all years shown. This is not likely to occur. Actual results may be more or less favorable than those shown.

(c) Numeric Summary.

- (1) Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. This summary shall be shown for at least policy years 5, 10 and 20 and at age 70, if applicable, on the three bases shown below. For multiple life policies the summary shall show policy years 5, 10, 20 and 30. The columns of the numeric summary shall be as follows:
 - (A) Policy guarantees;
 - (B) Insurer's illustrated scale; and
 - (C) Insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:
 - (i) Dividends at 50 percent of the dividends contained in the illustrated scale used;
 - (ii) Non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and
 - (iii) All non-guaranteed charges, including but not limited to, term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.
- (2) In addition, if coverage would cease before policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three bases.

(d) Statements. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this Section.

- (1) A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."
- (2) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

(e) Tabular Detail.

- (1) A basic illustration shall include the following for at least each policy year from one to 10 and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration, and except for term insurance beyond the 20th year, for any year in which the premium outlay and contract premium, if applicable is to change:
 - (A) The premium outlay and mode the applicant plans to pay and the contract premium, as applicable;
 - (B) The corresponding guaranteed death benefit, as provided in the policy; and
 - (C) The corresponding guaranteed value available upon surrender, as provided in the policy.
- (2) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.
- (3) Non-guaranteed elements may be shown if described in the policy. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

History Note: Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

Eff. January 1, 1997. January 1, 1997.

Readopted Eff. October 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0506

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a)(1), line 5, insert a comm after "by"

On line 5, why not specifically cross-reference Rule .0505 of this Section, as that is the Rule that sets out the requirements for basic illustrations.

In (a)(3), is the statement you are referring to what is contained in Rule .0505(b)(5)?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

11 NCAC 04 .0506 is readopted as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0506 STANDARDS FOR SUPPLEMENTAL ILLUSTRATIONS

(a) A supplemental illustration may be provided as long as:

- (1) It is appended to, accompanied by or preceded by a basic illustration that complies with this Section;
- (2) The non-guaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration;
- (3) It contains the same statement required of a basic illustration that non-guaranteed elements are not guaranteed; and
- (4) For a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration. For policies that do not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the illustration.

(b) The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements.

History Note: *Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;*

Eff. January 1, 1997. January 1, 1997.

Readopted Eff. October 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0507

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (a), line 5, and (b), line 8, what do you mean by "Section"? Do you mean "Rule"?

And in (a), line 6, you refer to submission to the insurer and provided to the applicant. Who is submitting and providing this?

In (b), line 9, and elsewhere the term is used, what is a "producer"?

In (c), line 13, insert a comma after "form"

In (e), line 21, what do you mean by "subsection"? Do you mean Paragraph?

On lines 22 and 23, what is "diligent" here? Do you even need it, or could you state, "... shall be satisfied if it can demonstrate that an effort was made to secure a signed copy of the numeric summary page by showing it included in the mailing a self-addressed..."?

In (f), line 25, what is "applicable"? Will your regulated public know?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

11 NCAC 04 .0507 is readopted as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0507 DELIVERY OF ILLUSTRATION AND RECORD RETENTION

(a) If a basic illustration is used by an insurance agent or other authorized representative of the insurer in the sale of a policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this Section, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant.

(b) If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of this Section, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

(c) If no illustration is used by an insurance agent or other authorized representative in the sale of a policy or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.

(d) If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

(e) If the basic illustration or revised illustration is sent to the applicant or policy owner by mail directly from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation under this subsection shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

(f) A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three years after the policy is no longer in force. A copy need not be retained if no policy is issued.

History Note: Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

Eff. January 1, 1997. January 1, 1997.

Readopted Eff. October 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0508

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please insert page numbers at the bottom of each page (see Rule 26 NCAC 02C .0108(1)(f))

In (b)3), line 10, please insert a comma after "expense"

In (b)(7)(A), line 15, is the term "mortality and expense loads" or are there two terms, "mortality loads" and "expense loads"? If it is the latter, please insert a comma after "mortality"

In (b)(7)(B), line 19, it appears that there should be a comma after "mortality"

In (e) and elsewhere in this Rule, you use the term "in force" (not hyphenated). If you hyphenate the term in Rule .0501, please be sure to do so here, as well.

In (e), Page 2, line 2, please capitalize "State" as I believe you mean NC here.

On lines 4-5, please state "11 NCAC 04 ..."

In (g), line 8, what does "brief" mean here?

On line 8, end the sentence after "change." Then state "The notice and ..."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: September 3, 2021

11 NCAC 04 .0508 is readopted as published in NCR 35:14 1559 as follows:

11 NCAC 04 .0508 ANNUAL REPORTS AND NOTICES TO POLICY OWNERS

(a) In the case of a policy designated as one for which an illustration will be issued, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain the information specified in this Rule.

(b) For universal life policies, the report shall include the following:

- (1) The beginning and end date of the current report period;
- (2) The policy value at the end of the previous report period and at the end of the current report period;
- (3) The total amounts that have been credited or debited to the policy value during the current period, identifying each by type (e.g., interest, mortality, expense and riders);
- (4) The current death benefit at the end of the current report period on each life covered by the policy;
- (5) The net cash surrender value of the policy as of the end of the current report period;
- (6) The amount of outstanding loans, if any, as of the end of the current report period; and
- (7) Either:

(A) For fixed premium policies: If, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or

(B) For flexible premium policies: If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

(c) For all other policies, where applicable, the report shall contain:

- (1) Current death benefit;
- (2) Annual contract premium;
- (3) Current cash surrender value;
- (4) Current dividend;
- (5) Application of current dividend; and
- (6) Amount of outstanding loan.

(d) Insurers writing policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.

(e) If the annual report does not include an in force illustration, it shall contain the following notice in boldface print with a capitalized heading "IMPORTANT POLICY OWNER NOTICE: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration of your policy. You may annually request, without charge, such an illustration by calling [insurer's phone number], writing to [insurer's name] at [insurer's address] or contacting

your agent. If you do not receive an illustration of your policy within 30 days from your request, you should contact your state insurance department." The insurer may vary the sequential order of the methods for obtaining an in force illustration.

(f) Upon the request of the policy owner, the insurer shall furnish an in force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of 11 NCAC 4 .0504(a), .0504(b), .0505(a), and .0505(e). No signature or other acknowledgment of receipt of this illustration shall be required.

(g) If an adverse change in any non-guaranteed element that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a brief notice of that fact and a description of the change, which notice and description shall be printed in boldface print in a type at least two points larger than the report.

History Note: Authority G.S. 58-2-40; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

Eff. January 1, 1997. January 1, 1997.

Readopted Eff. October 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0509

DEADLINE FOR RECEIPT: Friday, September 10, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please insert page numbers at the bottom of each page (see Rule 26 NCAC 02C .0108(1)(f))

In (b), line 6, please incorporate these standards pursuant to G.S. 150B-21.6.

On line 8, I am just checking – do you mean all of Section .0500, or just this Rule?

In (c)(1), line 10, what is “good standing”?

In (c)(2), line 11, what is “familiar”?

In (c)(3), line 12, what is “appropriate”?

Also on line 12, insert a comma after “hearing”

In (c)(4), line 22, why not simply state “Notify the Commissioner...”

On line 22, what is “similar” here? Is this up to the illustration actuary to determine?

In (c)(5), and elsewhere the term is used, if you hyphenate “in force” in Rule .0501, please be sure to do so here.

In (c)(6)(C), how is this approved? And where can this be found?

In (d), Page 2, line 4, as well (e), line 6, and (h), line 13, define “promptly”

In (f), line 7, what is a “responsible officer”?

On line 8, do you mean “Section” or this Rule?

On line 10, replace “11 NCAC 4 .0509(c)(6)” with “Subparagraph (c)(6) of this Rule.”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 3, 2021

1 **11 NCAC 04 .0509** is readopted as published in NCR 35:14 1559 as follows:

2
3 **11 NCAC 04 .0509 ANNUAL CERTIFICATIONS**

4 (a) The board of directors of each insurer shall appoint one or more illustration actuaries.

5 (b) The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the
6 Actuarial Standard of Practice for Compliance with the NAIC Model Regulation on Life Insurance Illustrations promulgated
7 by the Actuarial Standards Board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements
8 of this Section.

9 (c) The illustration actuary shall:

- 10 (1) Be a member in good standing of the American Academy of Actuaries;
- 11 (2) Be familiar with the standard of practice regarding life insurance policy illustrations;
- 12 (3) Not have been found by the Commissioner, following appropriate notice and opportunity for hearing to
13 have:
 - 14 (A) Violated any provision of, or any obligation imposed by, the insurance law or other law in the
15 course of his or her dealings as an illustration actuary;
 - 16 (B) Been found guilty of fraudulent or dishonest practices;
 - 17 (C) Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an
18 illustration actuary; or
 - 19 (D) Resigned or been removed as an illustration actuary within the past five years as a result of acts or
20 omissions indicated in any adverse report on examination or as a result of a failure to adhere to
21 generally acceptable actuarial standards;
- 22 (4) Not fail to notify the Commissioner of any action taken by an insurance regulator of another state similar
23 to that under Subparagraph (c)(3) of this Rule;
- 24 (5) Disclose in the annual certification whether, since the last certification, a currently payable scale applicable
25 for business issued within the previous five years and within the scope of the certification has been reduced
26 for reasons other than changes in the experience factors underlying the disciplined current scale. If
27 nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in
28 force policies, this shall be disclosed in the annual certification. If nonguaranteed elements illustrated for
29 both new and in force policies are not consistent with the nonguaranteed elements actually being paid,
30 charged, or credited to the same or similar form, this shall be disclosed in the annual certification; and
- 31 (6) Disclose in the annual certification which of the following methods are used to allocate overhead expenses
32 for all illustrations:
 - 33 (A) Fully allocated expenses;
 - 34 (B) Marginal expenses; or
 - 35 (C) A table of fully allocated expenses developed by the Actuarial Standards Board and approved by
36 the National Association of Insurance Commissioners.

37 (d) The illustration actuary shall file a certification with the board and with the Commissioner:

(1) Annually for all policies for which illustrations are used; and

(2) Before a new policy is illustrated.

If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the Commissioner promptly.

(e) If an illustration actuary is unable to certify the scale for any policy illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the Commissioner promptly of his or her inability to certify.

(f) A responsible officer of the insurer, other than the illustration actuary, shall certify annually that the illustration formats meet the requirements of this Section and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary and that the company has provided its agents with information about the expense allocation used by the company in its illustrations and disclosed as required in 11 NCAC 4 .0509(c)(6).

(g) The annual certifications shall be provided to the Commissioner each year by a date determined by the insurer.

(h) If an insurer changes the illustration actuary responsible for all or a portion of the company's policies, the insurer shall notify the Commissioner of that fact promptly and disclose the reason for the change.

History Note: Authority G.S. 58-2-40; 58-2-171; 58-58-1; 58-58-40; 58-60-15; 58-60-20; 58-63-15; 58-63-65;

~~Eff. January 1, 1997. January 1, 1997.~~

Readopted Eff. October 1, 2021.