

1200 Life Insurance and Annuities

**1211 Wellness Plan Regulation Guidelines for Corporate Life Insurance [Formerly
Regulation 64]**

1.0 Authority

This Regulation is adopted in accordance with 18 **Del.C.** §314, 18 **Del.C.** §2704, and 18 **Del.C.** §2708, and promulgated in accordance with 29 **Del.C.** Ch. 101.

2.0 Purpose

The purpose of this Regulation is to establish the Wellness Plan standards required by 18 **Del.C.** §§2704 and 2708 and to insure to the extent possible that the proceeds and benefits issued under corporate life insurance be applied for the benefit of plan participants.

3.0 Applicability

This Regulation shall apply in circumstances involving the delivery or issuance for delivery in this State of corporate owned life insurance policies pursuant to 18 **Del.C.** §2708(4) issued without the consent of the insured, and insuring the lives of those individuals who participate, or are eligible to participate, in a welfare plan established and maintained for the benefit of employees pursuant to the Federal Employee Retirement Income Security Act of 1984 ("ERISA").

4.0 Corporate Owned Life Insurance

4.1 In the case of an insurance policy issued to a corporation insuring the life of any active employee or retiree of such corporation who is a participant, or is eligible to participate in a welfare plan, the policy may be issued, without the consent of the insured, only if:

4.1.1 The corporation offers to its employees and retirees eligible to participate, a wellness plan which provides discounts on health care benefits, either in the form of a reduction in premiums assessed against each participant or an enhancement of the benefits available to each participant; and

4.1.2 The corporation provides the following statement to the carrier: "At the time coverage is issued, the total amount of insurance coverage issued to date to the corporation or trust under the authority of 18 **Del.C.**, §2704(c)(3) shall not exceed the cost of employee and/or retiree benefits already incurred in connection with such welfare benefit plan since the earliest date coverage on any employee or retiree was issued under this subsection, plus the projected future cost of such benefits as established as of the close of the employer's last fiscal year, plus the projected cost of the coverage issued to the employer or trust under the authority of 18 **Del.C.** §2704(c)(3)."

The insurer may rely upon information concerning the plan provided by a corporation purchasing such a policy in determining that a wellness plan satisfies the criteria of this section and is established and operating for the benefit of employees pursuant to ERISA. The plan shall be submitted to the Commissioner within 30 days of issuance of the policy, and if the Commissioner has not disapproved the plan within 60 days, the plan shall be deemed approved.

For purposes of applying this section, the retiree upon whom a life or health insurance contract has been or is to be made or effectuated shall be deemed to have consented thereto where:

4.1.2.1 The insurer issuing coverage pursuant to 18 **Del.C.** §2708(4) gives to the retiree, at his or her last known address as contained in the records of the employer, written notice which describes the retiree's rights under this section in substantially the form annexed to this regulation as Form I or as may otherwise be approved by the Commissioner; and

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4.1.2.2 Within 30 days of the date of the written notice, the insured does not receive written notice from the retiree that he or she rejects such coverage. If timely written notice of rejection is received by the insurer before such insurance has become effectuated, coverage shall not be issued. If timely written notice is received by the insurer after such insurance has been effectuated, coverage shall be terminated and the insurer shall pay the proceeds which are payable as a result of the termination of coverage to the employer or trust, in accordance with the terms and conditions of such coverage. Unless the retiree complies with the requirements of this section, neither the retiree nor his or her successor in interest may contest the validity of the coverage.

5.0 Minimum Standards for Wellness Plans

5.1 No person, partnership, corporation or other entity shall be eligible to purchase corporate owned life insurance without the consent of the active employee or retiree unless the person, partnership, corporation or other entity provides a wellness program for their active employees and retirees. The following types of behavior modification plans to encourage healthy lifestyle behavior are described as an example only and not to limit the types of plans which will be approved as wellness plans by the Insurance Commissioner:

- 5.1.1 Economic incentives for nonsmokers and the availability of programs to discourage tobacco use;
 - 5.1.2 Exercise programs;
 - 5.1.3 Drug and alcohol abuse programs;
 - 5.1.4 Blood pressure maintenance incentives and programs;
 - 5.1.5 Weight control maintenance incentives and programs;
 - 5.1.6 Seat belt usage incentive;
 - 5.1.7 Benefits for periodic preventive screening examination as appropriate to an employee's or insured's age, sex, and health condition; and
 - 5.1.8 Adult immunizations based on public health criteria.
- Each wellness plan to be qualified must contain the incentives contained in sections 5.1.1, 5.1.4, 5.1.5, 5.1.7, and 5.1.8

6.0 Severability

If any provision of this Regulation should be held invalid, the remainder of the Regulation shall not be affected thereby.

7.0 Effective Date

This Regulation shall become effective 30 days after the Commissioner's signature.

Regulation No. 64 was signed by the Insurance Commissioner on September 19, 1990.

FORM I

Dear [Retiree]:

[Name of corporation] has established and maintains a welfare benefit plan pursuant to the Federal Employee Retirement Income Security Act of 1984 ("ERISA"), in which you participate or are eligible to participate. In order to assist [name of corporation] to recover the cost of the welfare benefit plan, [name of corporation] may, under Delaware law, purchase corporate owned life insurance policies on the lives of its employees or retirees.

This notice is given for the purpose of informing you that [name of corporation] has purchased or intends to purchase corporate life insurance policies on the lives of its retirees, including yours, from [name of insurer], in the amount of [\$ _____], the benefits of which are payable to [name of corporation] as beneficiary under and owner of such insurance policies.

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You have the right to decline to be insured. To exercise that right you must send [name of insurer] a signed written notice, which includes your address and date of birth, stating that you decline to be insured. To be effective the notice must be received by [name of insurer] at the following address: [address] within 30 days of the date specified below.

If you elect not to reject the insurance coverage described above, neither you nor your successors in interest may contest the validity of the coverage.

Date: _____

Very truly yours,
[name of insurer]