

February 4, 1965

SUBJECT: INSURANCE

WITHDRAWN

Circular Letter 4 (1965)

TO INSURERS LICENSED TO WRITE LIFE OR ACCIDENT AND HEALTH INSURANCE IN NEW YORK STATE

Transmitted herewith are revised pages 18, and 25 through 29 which are to be substituted for pages bearing such numbers previously transmitted by Circular Letter 1 (1965), dated January 25, 1965, together with revised index pages.

In response to the request of a number of companies for additional time within which to complete pending applications for insurance, the effective date of the above Insurance Department standards as referred to in the first paragraph of the above-mentioned letter has been extended to March 27, 1965.

However, in accordance with advice to you in my letter of August 7, 1964, in the interim, such pending applications must meet the new standards with respect to "permissible cases" which the various bureaus of the department concerned will observe, unless special circumstances dictate the contrary.

Very truly yours,

(Signed) HENRY ROOT STERN, JR.

Superintendent of Insurance

Encs.

1. Reference to Rates in Letter of Transmittal of Forms	9
a. Forms Submitted for Filing or Approval on a General Basis	9
b. Forms for Use on a One-Case Basis	10
(1) Rates for the first year business	10
(2) Additions to or changes in existing contracts	11
2. Independent Rate Submissions	11
a. Initial Submissions for New or Additional Types of Coverages	11
(1) Contents of covering letter	11
(2) Rates	12

b. Revisions of and Additions to Previously Filed Rates	13
(1) Contents of covering letter	13
(2) Rates	13
III. GROUP LIFE AND GROUP ACCIDENT AND HEALTH COMMISSIONS, COMPENSATION AND OTHER FEES OR ALLOWANCES	13
A. Contents of Covering Letter	14
B. Commissions, Compensation and Other Fees or Allowances	14
IV. D.B.L. FORMS	14
V. WHOLESALE LIFE INSURANCE *	16
A. Employer-Employee Wholesale	16
1. Permissible Cases	16
a. Employees of an employer	16
b. Participation requirements	16
2. Policy Provisions	17
3. Notice of Conversion	18
4. Premiums	18
B. Association Wholesale	18
1. Permissible Cases	18
a. Class or classes of persons to be insured	18
b. Participation requirements	19
c. Notice of sponsorship	19
2. Policy Provisions	19
3. Notice of Conversion	20
4. Premiums	21
C. General	21
VI. FRANCHISE ACCIDENT AND HEALTH INSURANCE **	23
A. Employer-Employee Franchise	23
1 Permissible Cases	23
a. Employees of an employer	23
b Participation requirements	24
2. Policy Provisions	24
3. Premiums	25
4. Notice of Conversion	25
B Association Franchise	25
1. Permissible Cases	25

a The class or classes of persons to be insured	26
b Participation requirements	26
2 Policy Provisions	28
3. Premiums	28
4 Notice of Conversion	28
C General	29
VII. SUPERSEDEAS PROVISION	30

APPENDIX A: ILLUSTRATIVE OUTLINE

A. General Items

B. Specific Types of Coverage

* Effective March 27, 1965. Existing wholesale cases may continue in force, whether or not they meet the new standards for "permissible cases", and approved wholesale policy forms may be continued for persons presently insured. Priorly approved wholesale insurance policies may be used for new entrants under such cases, provided the insurer files for approval, not later than March 27, 1965, a revision of such forms to include therein at least the policy provisions set forth in V.A.2. or V.B.2., whichever is appropriate. Upon approval, such revised policy forms must be used for all new entrants under such cases.

** Effective March 27, 1965 Existing franchise cases may continue in force, whether or not they meet the new standards for "permissible cases", and approved franchise policy forms may be continued for persons presently insured. Priorly approved franchise insurance policies may be used for new entrants under such cases, provided the insurer files for approval, not later than March 27, 1965, a revision of such forms to include therein at least the policy provisions set forth in VI A 2. or VI.B.2., whichever is appropriate. Upon approval, such revised policy form must be used for all new entrants under such cases

B. D.B.L. forms must have the letters D.B.L. as a part of the form number.

V. WHOLESALE LIFE INSURANCE *

* Effective January 27, 1965. For existing cases, see note in index.

The expression "wholesale life insurance" as used herein shall mean that form of Term life insurance, distributed on a mass merchandising basis and administered by group methods, provided, with or without evidence of insurability, by (1) individual policies which are made available to persons under a plan sponsored by: (a) an employer, or (b) an

association consisting of persons having the same or similar occupation or profession, or (c) a union, or (d) two or more employers under common control, or (e) an association of civil service employees, or (2) individual policies which are made available to individuals supplying or delivering materials to a central point of collection; and under which the insured's right to renew his policy, with or without other permissible renewal conditions, may be contingent upon the continuing of such employment, membership, or supplier participation. Premium collection by payroll deduction shall not, in and of itself, cause a policy to be classified as wholesale life insurance. A plan may be administered by an agent or a trustee.

No wholesale life insurance policy shall be approved for delivery or for issuance for delivery in this State unless it conforms to the requirements listed below.

A. Employer-Employee Wholesale

1. PERMISSIBLE CASES

Whether contributory or non-contributory and whether payroll deductions are or are not used, the following eligibility criteria shall be applicable at the effective date of the case. The insurer may require evidence of insurability:

a. Employees of an employer. The class or classes of persons to be insured shall consist of:

- (1) Not less than two nor more than twenty-five employees of an employer except that in contributory cases 75% of the number of employees may not exceed twenty-five. The term "employees" may include (a) directors and officers, if the employer is a corporation, (b) an individual proprietor or partners, if the employer is an individual proprietor or a partnership, and (c) retired employees.
- (2) Two or more employees serving or employed in a governmental corporation, unit, department or agency, including elected or appointed officials.
- (3) Two or more employees of a "non-profit" college, university or other institution engaged primarily in education or research.

b. Participation Requirements. All of the employees or all of any class or classes thereof determined by conditions pertaining to employment or such conditions, together with age or family status or both, except (a) those as to whom the evidence of insurability submitted is not satisfactory to the insurer, (b) that under a contributory plan, such insurance may be provided if not less than seventy-five per cent of all eligible employees or not less than seventy-five per cent of all eligible employees in any class or classes are insured, and (c) with respect to the class of persons insured under A.1.a.(2) whereby the employee pays all of the premium, such insurance may be provided if not less than (i) five hundred employees, or (ii) thirty per cent of the first five hundred eligible employees plus ten per cent of all eligible employees in excess of five hundred, whichever is the lesser, participate unless the insurer individually underwrites all applicants on the basis of either medical examination or a questionnaire concerning the applicant's present health and medical history.

2. POLICY PROVISIONS

a. The right to terminate or non-renew is limited to the following reasons:

- (1) Non-payment of premium.

- (2) The insured has attained the age limit prescribed in the policy.
- (3) The employee's employment in the eligible classes terminates.
- (4) The insurer terminates or non-renews the insurance on all employees of the employer after sixty days written notice.
- (5) If the plan is terminated by the employer, and the insurer terminates or non-renews all policies issued to all insured employees of the employer.
- (6) If contributions are required of insureds at a rate greater than that agreed to by the insurer, and the insurer terminates or non-renews all policies issued to all insured employees of the employer.
- (7) Participation falls below any percentage or minimum number required by the policy or twenty-five lives, whichever is the lesser, and the insurer terminates or non-renews all policies issued to all insured employees of the same class or classes.
- (8) Any other termination or non-renewal condition priorly approved by the Superintendent, provided that an appropriate approved conversion clause is offered. This reason is set forth herein only for the purpose of allowing an approved condition to be specifically set forth in the policy at issue and is not intended for inclusion in the policy as a general termination or non-renewal provision.

b. A policy which contains a termination or non-renewal provision pursuant to either (2) or (3) of A.2.a. shall also provide in such event for conversion to a life insurance policy substantially in accordance with the requirements of Section 161, subsection 1, paragraph (e). Upon the death of the insured during the thirty-one day period within which the conversion privilege may be exercised and before any such converted policy has become effective, the amount of insurance for which such insured was entitled to make application shall be payable as a death benefit by the insurer.

c. A policy which contains a termination or non-renewal provision-pursuant to one or more of (4), (5), (6) or (7) of A.2.a. shall also provide in such event for conversion to a life insurance policy substantially in accordance with the requirements of Section 161, subsection 1, paragraph (f).

d. If the wholesale life insurance policy provides for decreasing amounts of insurance or increasing premiums, it shall set forth the amounts thereof for each attained age or age grouping, as the case may be. Premiums for ages under age 40 may be the same for all ages or may be computed by quinquennial or decennial ages, and premiums for ages 40 and above may be computed by not more than quinquennial ages.

3. NOTICE OF CONVERSION

Whenever a conversion privilege is available, the insured individual shall be given written notice of the right to convert not more than fifteen days after termination of insurance. If such notice is given more than fifteen days but less than ninety days after termination of insurance, the time allowed for the exercise of the privilege of conversion shall be extended for fifteen days after the giving of such notice. If such notice he not given within ninety days after the termination of insurance, the time allowed for the exercise of such conversion privilege shall expire at the end of such ninety days. Written notice given to the insured individual by the employer or written notice mailed either by such employer or the insurer, to

the insured individual at his last known address shall be deemed full compliance with the above.

4. PREMIUMS

a. Rates at least equal to those contained in Regulation 32 shall be deemed a priori, to be self-supporting for the class or classes of persons insured under A.1.a.

b. The premium shall be paid by the employer or jointly by the employer and employees, except that with respect to a plan covering the class of persons insured under A.1.a(2), the premiums may be paid solely by the employees.

B. Association Wholesale.

1. PERMISSIBLE CASES

The following eligibility criteria shall be applicable at the effective date of the case. The insurer may require evidence of insurability:

a. The class or classes of persons to be insured shall consist of:

(1) Twenty-five or more members of an incorporated or unincorporated association having a constitution or by-laws where such association (a) was formed and is maintained in good faith for purposes other than that of obtaining insurance for its members, (b) has been in active existence for at least two years prior to the inception of the insurance of its members, and (c) consists of persons having the same or similar occupation or profession.

2. Not less than four nor more than twenty-five members of a labor union.

3. An association of civil service employees.

4. Groups of individuals, such as dairy farmers, who supply or deliver materials, e.g., milk, to a central point of collection.

b. Participation Requirements.

(1) Not less than (a) five hundred members of an association, including an association of civil service employees, or (b) thirty per cent of the first five hundred eligible members thereof plus ten per cent of all eligible members in excess of five hundred, whichever is the lesser, unless the insurer individually underwrites all applicants on the basis of either medical examination or a questionnaire concerning the applicant's present health and medical history. However, in no event shall the number of insured persons be less than twenty-five.

(2) Not less than thirty per cent of the first 500 eligible suppliers plus ten percent of the next 3,500 eligible suppliers, unless the insurer individually underwrites all applicants on the basis of either medical examination or a questionnaire concerning the applicant's present health and medical history. However, in no event shall the number of insured persons be less than twenty-five.

c. Notice of Sponsorship.

Eligible members shall be informed in writing of the sponsorship of the plan by the sponsoring organization or by its representative, agent or trustee.

2. POLICY PROVISIONS1

a. The right to terminate or non-renew is limited to the following reasons:

- (1) Non-payment of premium.
- (2) The insured has attained the age limit prescribed in the policy, which shall be not less than sixty-five nor more than seventy.
- (3) The insured retires, or ceases to be engaged in a profession or occupation with respect to which the wholesale policies were issued, or ceases to be a member of the association or union or a supplier.
- (4) The insurer terminates or non-renews the insurance on all members of the union or association or all suppliers after sixty days written notice.
- (5) If the plan is terminated by the sponsor, and the insurer terminates or non-renews all policies issued to all insured members of the association, union or all suppliers.
- (6) Participation falls below any percentage or minimum number required by the policy or fifty lives, whichever is the lesser, and the insurer terminates or non-renews all policies issued to all insured members of the association or union or all suppliers.
- (7) Any other termination or non-renewal condition priorly approved by the Superintendent, provided that an appropriate approved conversion clause is offered. This reason is set forth herein only for the purpose of allowing an approved condition to be specifically set forth in the policy at issue and is not intended for inclusion in the policy as a general termination or non-renewal provision.

b. A policy which contains a termination or non-renewal provision pursuant to either (2), (3), (4) or (6) of B.2.a. shall also provide in such event for conversion to a life insurance policy substantially in accordance with the requirements of Section 161, subsection 1, paragraph (e). Upon the death of the insured during the thirty-one day period within which the conversion privilege may be exercised and before any such converted policy has become effective, the amount of insurance for which such insured was entitled to make application shall be payable as a death benefit by the insurer.

c. A policy which contains a termination or non-renewal provision pursuant to (5) of B.2.a. shall also provide in such event for conversion to a life insurance policy substantially in accordance with the requirements of Section 161, subsection 1, paragraph (f).

d. Unless step-rate premiums are provided by the policy, the wholesale life insurance plan shall provide for decreasing amounts of insurance, and the policy shall set forth the amounts of insurance of each attained age or age grouping, as the case may be. Ages may be grouped for this purpose by quinquennial or decennial ages under age forty but not more than quinquennial ages for age 40 and beyond, or a single amount may be used for all ages under 40.

3. NOTICE OF CONVERSION

Whenever a conversion privilege is available, the insured individual shall be given written notice of the right to convert not more than fifteen days after termination of insurance. If such notice is given more than fifteen days after termination of insurance, the time allowed for the exercise of the privilege of conversion shall be extended for fifteen days after the giving of such notice. If such notice be not given, the time allowed for the exercise of such conversion privilege shall expire at the end of one year from the date of termination. Written notice given to the insured individual by the sponsor of the plan, or written notice mailed, either by such sponsor or the insurer, to the insured individual at his last known address shall be deemed full compliance with the above. If application for the conversion policy is made to the insurer more than thirty-one days after termination, the effective date of the conversion policy shall be the date the application is received by the insurer.

4. PREMIUMS

a. An insurer shall file with the Superintendent its premium rates to be charged for the first year of insurance for wholesale life insurance which may differ from the premium rates otherwise charged for individual life insurance policies on the same or comparable plan, on showing to the satisfaction of the Superintendent that such differences in premium rates result from demonstrable savings not solely in commission or service fees paid to agents, but also including savings in underwriting and issue costs, and/or administrative expense. Such savings are to be adjusted by (1) any fees paid by the insurer for administration and/or collection of premiums on wholesale life insurance policies, and (2) the anticipated increase in mortality or morbidity on such policies resulting from more liberal underwriting practices than for other individual life insurance policies on the same plan. In the event the insurer does not have the same or comparable plan, premium rates at least equal to those contained in Regulation 32 shall be deemed, a priori, to be self-supporting if it can be shown to the satisfaction of the Superintendent that (1) commissions or service fees paid to agents, (2) underwriting or issue costs, (3) administrative costs and (4) mortality or morbidity will not exceed those for group insurance. Savings with respect to underwriting and issue costs and administrative expense must be supported by functional cost studies consistent with the requirements of Insurance Department Regulation No. 33.

b. The premium shall be paid either solely by the association or union, or its members or jointly by the members and the association or union. In the case of suppliers, the premiums are to be deducted at the central point of collection from the payments for the materials supplied or delivered.

C. General

The following is applicable to both Employer-Employee and Association Wholesale insurance:

1. No wholesale life insurance policy shall be approved for delivery or for issuance for delivery in this state unless it conforms in substance to the provisions of Section 155 and of Section 158, if applicable thereto, or contains provisions which in the opinion of the Superintendent are more favorable to policyholders. Wholesale life insurance policies must be filed with the Department pursuant to Section 154.

2. An insurer may reserve the right to change the premium rates.

3. An insurer may experience rate a case if all wholesale cases of the same class are so rated by the insurer on an equitable basis, taking into consideration size, credibility and other relevant factors.

4. Except as provided in A.1.a. and B.1.a. of this section of the standards, wholesale life insurance

policies may not be issued in lieu of a group policy when such a group policy would be legally issuable. Wholesale life insurance policies may not be used to supplement group insurance on the same lives.

5. No separate agreement shall be entered into between the insurer and the employer or association or union which would change the terms and conditions of the policy delivered to an insured.

6. Premium rates shall be self-supporting on reasonable assumptions as to mortality, morbidity, interest and expense, and shall not unfairly discriminate between any class or classes of persons insured by wholesale life insurance policies.

7. Premiums may vary by age or age grouping, and in such case (a) premiums for ages up to and including age forty may be computed by quinquennial or decennial ages and (b) premiums for ages beyond forty may be computed by not more than quinquennial ages. Nothing herein shall be construed as prohibiting a policy provision for reduction in insurance in the event of attainment of a specified age or ages and in such case the computation of premiums shall take such an adjustment of insurance into account in an equitable manner, nor shall anything herein be construed as prohibiting a combination of a reduction in insurance pursuant to B.2.d. and step-rate premiums.

8. In lieu of termination of insurance pursuant to A.2.a.(7) or B.2.a.(6) provision may be made in the policy or by issuance of a rider to the policy for direct premium notice billing on an individual basis. The policy or rider shall set forth the additional premium, if any, required for such direct premium notice billing, which additional premium shall be reasonably related to the increase in the cost of collection and administration of the policy.

9. The insurer's underwriting rules with respect to wholesale life insurance shall be filed in duplicate with the Superintendent. Such rules shall not be open for public inspection.

10. The amount of insurance provided shall be based upon a plan which will preclude selection of disproportionate amounts of insurance by certain individuals. **

** See Insurance Department Circular Letter of July 19, 1962 for standards required to preclude individual selection.

VI. FRANCHISE ACCIDENT AND HEALTH INSURANCE *

* Effective January 27, 1965. For existing cases, see note in index.

The expression "franchise accident, health or accident and health insurance" as used herein shall mean that form of accident and health insurance, distributed on a mass merchandising basis and administered by group methods, provided, with or without evidence of insurability, by (1) individual policies which are made available to persons under a plan sponsored by: (a) an employer, or (b) an association consisting of persons having the same or similar occupation or profession, or (c) a union, or (d) two or more employers under common control, or (e) an association of civil service employees, or (2) individual policies which are made available to individuals supplying or delivering materials to a central point of collection; and under which the insured's right to renew his policy, with or without other permissible renewal conditions, may be contingent upon the continuing of such employment, membership, or supplier participation. Premium collection by payroll deduction shall not, in and of itself, cause a policy to be classified as franchise accident and health insurance. A plan may be administered by an agent or trustee.

No franchise accident, health or accident and health insurance policy shall be approved for delivery or for issuance for delivery in this State unless it conforms to the requirements listed below.

A. Employer-Employee Franchise

1. PERMISSIBLE CASES

Whether contributory or non-contributory, the following eligibility criteria shall be applicable at the effective date of the case. The insurer may require evidence of insurability.

a. Employees of an employer. The class or classes of persons to be insured shall consist of:

(1) Not less than two nor more than twenty-five employees of an employer except that in contributory cases 75% of the number of eligible employees may not exceed twenty-five. The term "employees" may include (a) directors and officers, if the employer is a corporation, (b) an individual proprietor or partners, if the employer is an individual proprietor or a partnership, and (c) retired employees.

(2) Two or more employees serving or employed in a governmental corporation, unit, department or agency, including elected or appointed officials.

(3) Groups of twenty-five or more employees where it has been demonstrated to the satisfaction of the Superintendent that the franchise insurance coverage actually supplements and does not substitute for group coverage (including self-insured coverage).

b. Participation Requirements. All of the employees or all of any class or classes thereof determined by conditions pertaining to employment or such conditions, together with age or family status, or both, or except those employees as to whom the evidence of insurability submitted is not satisfactory to the insurer. If part or all of the premium is contributed by the insured employees pursuant to payroll deduction, such insurance may be provided if not less than seventy-five per cent of all eligible employees or not less than seventy-five per cent of all eligible employees in any class or classes are insured. However, with respect to the class of persons insured under A.1.a.(2) hereof, where the employee pays all of the premium, such insurance may be provided if not less than (i) five hundred employees, or (ii) thirty per cent of the first five hundred eligible employees plus ten per cent of all eligible employees in excess of five hundred, whichever is the lesser, participate unless the insurer individually underwrites all applicants on the basis of either medical examination or a questionnaire concerning the applicant's present health and medical history.

2. POLICY PROVISIONS

a. The right to terminate or non-renew is limited to the following reasons:

(1) Non-payment of premium.

(2) The insured has attained the age limit, if any, prescribed in the policy or, has become eligible for any coverage under Title XVIII of the Social Security Amendments of 1965 (Medicare).

(3) The employee's employment in the eligible classes terminates.

(4) The insurer terminates or non-renews the insurance on all employees of the employer after sixty-days written notice.

(5) If the plan is terminated by the employer and the insurer terminates or non-renews all policies issued to all insured employees of the employer.

(6) Participation falls below the minimum stated in the policy and the insurer terminates or non-renews all policies issued to all insured employees of the employer of the same class or classes.

(7) If contributions are required of insureds at a rate greater than that agreed to by the insurer, and the insurer terminates or non-renews all policies issued to all insured employees of the employer.

(8) Any other termination or non-renewal condition priorly approved by the Superintendent, provided that the condition is specifically set forth in the policy at issue.

b. A policy of hospitalization or surgical or medical expense insurance or any other policy in which one-third or more of the total premium is allocable to hospital, surgical or medical expense benefits, or any combination thereof, must also contain a conversion privilege at least equal to that required under Section 162(5) of the Insurance Law should coverage be terminated pursuant to either (2), if the insured is not eligible for coverage under Title XVIII of the Social Security Amendments of 1965, or (3) of paragraph a. hereof.

c. The insurer's right to terminate or non-renew any policy of insurance subject to Section 164(6) of the Insurance Law, when terminated pursuant to either (4), (5), (6) or (7) of paragraph a. hereof, shall be as prescribed in and limited by Section 164(6) and an insurer desiring to terminate or non-renew for such reasons shall give at least thirty days notice of such intention to the Superintendent. Unless within such period the Superintendent objects, the termination or non-renewal shall be deemed for approved reasons.

d. Where the insurer reserves the right to change the premium rate, a statement to that effect shall be made on the face page or first page of the policy, either as part of the brief description or elsewhere.

e. Where step-rate premiums are charged, the policy shall include a schedule of premiums.

f. The policy shall specify the ages, if any there be, to which the insurance provided shall be limited.

3. PREMIUMS

The premium rates shall be self-supporting and shall be on a basis reasonably related to the mortality and morbidity assumptions used by the insurer for group accident and health insurance, unless some other basis is demonstrated to the satisfaction of the Superintendent of Insurance to be appropriate.

4. NOTICE OF CONVERSION

Whenever a conversion privilege is available, the insured individual shall be given written notice of the right to convert not more than fifteen days after termination of insurance. If such notice is given more than fifteen days but less than ninety days after termination of insurance, the time allowed for the exercise of the privilege of conversion shall be extended for fifteen days after the giving of such notice. If such notice be not given within ninety days after the termination of insurance, the time allowed for the exercise of such conversion privilege shall expire at the end of such ninety days. Written notice given to the insured individual by the employer or written notice mailed either by such employer or the insurer, to the insured individual at his last known address shall be deemed full compliance with the above.

B. Association Franchise

1. PERMISSIBLE CASES

The following eligibility criteria shall be applicable on the effective date of the case. The insurer may require evidence of insurability:

require evidence of insurability:

a. The class or classes of persons to be insured shall consist of:

(1) Twenty-five or more members of an incorporated or unincorporated association having a constitution or by-laws where such association (a) was formed and is maintained in good faith for purposes other than that of obtaining insurance for its members, (b) has been in active existence for at least two years prior to the inception of the insurance of its members, and (c) consists of persons, having the same or similar occupation or profession.

(2) Not less than four nor more than twenty-five members of a labor union.

(3) An association of civil service employees.

(4) Groups of individuals, such as dairy farmers, who supply or deliver materials, e.g., milk, to a central point of collection.

b. Participation Requirements.

(1) Eligible members shall be informed in writing of the sponsorship of the plan by the sponsoring organization or by its representative, agent or trustee.

(2) Not less than (a) five hundred members of an association of civil service employees, or (b) thirty per cent of the first five hundred eligible members thereof plus ten per cent of all eligible members in excess of five hundred, whichever is the lesser, unless the insurer individually underwrites all applicants on the basis of either medical examination or a questionnaire concerning the applicant's present health and medical history. However, in no event shall the number of persons insured be less than twenty-five.

(3) Not less than 30% of the first 500 eligible suppliers plus 10% of the next 3500 eligible suppliers, unless the insurer individually underwrites all applicants on the basis of either medical examination or a questionnaire concerning the applicant's present health and medical history. However, in no event shall the number of persons insured be less than twenty-five.

2. POLICY PROVISIONS

a. The right to terminate or non-renew is limited to the following reasons:

(1) Non-payment of premium.

(2) The insured has attained the age limit, if any, prescribed in the policy or, has become eligible for any coverage under Title XVIII of the Social Security Amendments of 1965 (Medicare.)

(3) (a) The insured retires, or (b) ceases to be (i) engaged in a profession or occupation with respect to which the franchise policies were issued, or (ii) a member of the

association or union, or (iii) a supplier.

(4) The insurer terminates or non-renews the insurance on all members of the union or association or all suppliers after sixty days written notice.

(5) If the plan is terminated by the sponsor, and the insurer terminates or non-renews all policies issued to all insured members of the association, union or all suppliers.

(6) Participation falls below the minimum stated in the policy, and the insurer terminates or non-renews all policies issued to all insured members of the association or union or all suppliers.

(7) Any other termination or non-renewal condition priorly approved by the Superintendent, provided that the condition is specifically set forth in the policy at issue.

b. A policy of hospitalization or surgical or medical expense insurance or any other policy in which one-third or more of the total premium is allocable to hospital, surgical or medical expense benefits, or any combination thereof, must also contain a conversion privilege at least equal to that required under Section 162(5) of the Insurance Law should coverage be terminated pursuant to either (2), if the insured is not eligible for coverage under Title XVIII of the Social Security Amendments of 1965, (3), (4), (5), (6) or (7) of paragraph a. hereof.

c. The insurer's right to terminate or non-renew any policy of insurance subject to Section 164(6) of the Insurance Law, when terminated pursuant to either (4), (5), (6) or (7) of paragraph a, hereof, shall be as prescribed in and limited by Section 164(6) and an insurer desiring to terminate or non-renew for such reasons shall give at least thirty days notice of such intention to the Superintendent. Unless within such period the Superintendent objects, the termination or non-renewal shall be deemed for approved reasons.

d. Where the insurer reserves the right to change the premium rate, a statement to that effect shall be made on the face page or first page of the policy, either as part of the brief description or elsewhere.

e. Where step-rate premiums are charged, the policy shall include a schedule of premiums.

f. The policy may specify the ages, if any there be, to which the insurance provided shall be limited.

3. PREMIUMS

a. The premium rates shall be self-supporting and shall be on a basis reasonably related to the mortality and morbidity assumptions used by the insurer for individual accident and health insurance, unless some other basis is demonstrated to the satisfaction of the Superintendent of Insurance to be appropriate. Such premium rates may differ from the premium rates otherwise charged for the same or comparable individual accident and health policies, on showing to the satisfaction of the Superintendent that such differences result from demonstrable savings in expenses not only in commission or service fees paid to agents, but also savings in underwriting and issue costs and/or administrative expenses. If the insurer does not have the same or comparable plan, premiums at least equal to those used by the insurer for group accident and health insurance shall be deemed to be self-supporting if it can be shown to the satisfaction of the Superintendent that (1) commissions or service fees paid to agents, (2) underwriting or issue costs, (3) administrative costs and (4) mortality or morbidity will not exceed these for such group insurance.

b. The premium shall be paid either solely by the association or union, or its members or jointly by the members and the association or union. In the case of suppliers, the premiums are to be deducted by the central point of collection from the payments for the materials supplied or delivered.

c. The insurer shall, in accordance with the provisions of Sections 154, 164 and 209 of the Insurance Law, have the right to change the premium rate for all association franchise policies.

4. NOTICE OF CONVERSION

Whenever a conversion privilege is available, the insured individual shall be given written notice of the right to convert not more than fifteen days after termination of insurance. If such notice is given more than fifteen days after termination of insurance, the time allowed for the exercise of the privilege of conversion shall be extended for fifteen days after the giving of such notice. If such notice be not given, the time allowed for the exercise of such conversion privilege shall expire at the end of one year from the date of termination. Written notice given to the insured individual by the sponsor of the plan, or written notice mailed, either by such sponsor or the insurer, to the insured individual at his last known address shall be deemed full compliance with the above. If application for the conversion policy is made to the insurer more than thirty-one days after termination, the effective date of the conversion policy will be the date the application is received by the insurer.

C. General

The following is applicable to both Employer-Employee and Association Franchise insurance:

1. The premium rates shall not unfairly discriminate between franchise cases of the same class. Rates may recognize age, sex, occupation, location, industry, marital status, family composition and other factors affecting utilization.
2. The filing of the premium rates shall include a commitment by it that:
 - a. In the event the scale of premiums should be changed at some future date, the new rates, before becoming effective, will, in accordance with the provisions of Sections 154, 164 and 209 of the Insurance Law, first be submitted to the Superintendent of Insurance with supporting data, and their acceptance obtained.
 - b. Adequate records of experience will be maintained and any filing of a change in rates will be accompanied by the experience data and ether pertinent information to support it.
3. In lieu of termination of insurance pursuant to either A.2.a.(6) or B.2.a.(6), provision may be made in the policy or by issuance of a rider to the policy for direct premium notice billing on an individual basis. The policy or rider shall set forth the additional premium, if any, required for such direct premium notice billing, which additional premium shall be reasonably related to the increase in the cost of collection and administration of the policy.
4. The insurer shall submit a statement as to its rule, if any, with respect to the minimum participation requirement for insuring all applicants without a statement of good health.
5. The insurer's underwriting rules with respect to franchise accident and health insurance shall be filed in duplicate with the Superintendent. Such rules shall not be open for public inspection.
6. No franchise accident and health insurance policy shall be approved for delivery or for issuance for delivery in this

state unless it conforms in substance to the provisions of Section 164, or contains provisions which in the opinion of the Superintendent are more favorable to policyholders. Franchise accident and health insurance policies must be filed with the Department pursuant to Section 154.

7. The amount of benefits provided shall be based upon a plan which will preclude selection of disproportionate amounts of insurance by certain individuals. *

* See Insurance Department Circular Letter of July 19, 1962 for standards required to preclude individual selection.

VII SUPERSEDEAS PROVISION

A. Nothing in these rules shall supersede or affect any other rule or regulation of this Department except the following rules which are hereby superseded and replaced:

1. Rules for filing individual life forms dated March 1, 1928.
2. Rules for group forms dated March 3, 1953 as amended August 20, 1953 and August 16, 1955.
3. Rules for individual and blanket A & H forms dated January 20, 1954.
4. Circular Letter dated May 7, 1957, in relation to specific applicable sections of the Insurance Law.

B. These rules and requirements will take effect immediately with respect to the filing of all forms and rates on and after this date.