

**NEW YORK STATE
INSURANCE DEPARTMENT**

**FIRST AMENDMENT TO REGULATION NO. 22
(11 NYCRR 49)**

FRATERNAL BENEFIT SOCIETIES

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 3201, 3215, 3216, 3219, 4501, 4504, 4505, 4512, and 4513 of the Insurance Law, do hereby promulgate the following First Amendment to Part 49 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 22), to take effect upon publication in the State Register, to read as follows:

(Matter in brackets is deleted; new matter is underlined)

The statutory authority references for Part 49 are repealed and a new statutory authority is added to read as follows:

Insurance Law Sections 201, 301, 3201, 3215, 3216, 3219, 4501, 4504, 4505, 4512, and 4513

Sections 49.1, 49.2, and 49.3 are amended to read as follows:

§ 49.1 Accident and health certificates.

(a) Every authorized fraternal benefit society doing business in New York and which obligates itself for the payment of accident and health benefits is required to issue a certificate of insurance covering such benefits to each member who becomes insured [on and after July 1, 1943].

(b) The forms of accident and health insurance certificates issued or issued for delivery in this State by any fraternal benefit society providing benefits described in [paragraphs (b), (c), (d) or (h) of subsection 1, and/or accidental death benefits described in subsection 2 of section 453] subsections (i), (j), (k), (o), (p), or (q) of section 4501 of the Insurance Law shall conform in substance to the provisions of subsections [2, 3 and 5] (b), (c), (d) and (f) of section [164] 3216 of said Law, except as follows:

(1) Wherever required the word "certificate" or any appropriate designation may be substituted for "policy", the words "insured member" or any other appropriate designation may be substituted for "insured" and the word "assessment" or any other language appropriately indicating required payments by insured members may be substituted for "premium."

(2) It shall be a sufficient compliance with [paragraph (B)(1) of subsection 2 of said section 164] section 3216(c)(1) if the certificate indicates the amount of premium payable by the insured member provided that it contains the statement required by subsection [6] (g) of section [465] 4504 of the Insurance Law and that it is also recited that such insured member shall be obligated to pay any additional amounts required pursuant to the constitution and bylaws of such society

then in force or thereafter lawfully enacted, except that in the case of hospital, medical or surgical expense benefits or any combination thereof, any statement as to additional rates or assessments shall also conform to the requirements of section [459] 4512 of the Insurance Law.

(3) [Paragraph (B)(7) of subsection 2] Section 3216(c)(9) of the Insurance Law shall be inapplicable.

(4) (i) [The following words of paragraph (B) (3) of subsection 2] Section 3216(c)(3) of the Insurance Law shall be inapplicable[:].

[It purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed 19 years provided that an unmarried student at an accredited institution of learning may be considered a dependent until he becomes 23 years of age and any other person dependent upon the policyholder and provided further that.]

(ii) The persons coverable under a family certificate providing accidental death benefits issued pursuant to subsection [2] (i) of section [453] 4501 of the Insurance Law shall conform to those described in [paragraph (h) of] subsection [1] (b) of section [453] 4505 of the Insurance Law.

(iii) [The remainder of paragraph (B) (3) of subsection 2] Paragraphs (4) and (5) of section 3216(c) shall be applicable to certificates issued pursuant to [paragraph (h) of subsection 1 of section 453] section 4505(b) of the Insurance Law, provided that such person who is no longer within the definition of the family is otherwise eligible to become and does become an insurance member of the society.

(5) The following words:

“This certificate, together with any riders or endorsements attached hereto, the articles of incorporation, constitution and bylaws of the society, and the application and declaration of insurability, if any, attached hereto, shall constitute the entire contract of insurance, as of the date of issuance, between the society and the insured member, except as it may be lawfully modified by any changes, additions or amendments to said articles of incorporation, constitution or bylaws duly made or enacted subsequent to the issuance of this certificate and except that no change, addition or amendment shall destroy or diminish benefits which the society contracted to give the members as of the date of issuance.”

shall be substituted for [required] provision [A](1)] (1)(A) of subsection [3] (d) of section 3216:

“This policy including the endorsements and the attached papers, if any, constitutes the entire contract of insurance.” (as specified in [required] provision (1)(A) of subsection [3] (d)).

(6) [Required provision (2)] Provision (1)(B) of subsection [3] (d) of section 3216 shall be omitted in all certificates which are governed by section [459] 4512 of the Insurance Law.

(7) An appropriate rephrasing of [required] provision [(7)] (1)(I) of [subscription 3] subsection (d) of section 3216 in accordance with the constitution and bylaws of the society within the limits provided in section [454] 4508 of the Insurance Law, shall be permitted.

(8) [The words: Unless the insured makes an irrevocable designation of beneficiary, as contained in required provision (12) of subsection 3, shall be omitted.

(9) In all certificates using a provision as specified in [“Other provisions” 2(1) of subsection 3] section 3216(d)(2)(A), wherever a society requires a uniform payment from all insured members regardless of classification of occupation, and prorates benefits in event of change of occupation upon a basis of a percentage of the benefits payable, appropriate rephrasing of such provision will be permitted.

[10 Paragraph (E) of subsection 3 shall be inapplicable.]

(c) [Subsection 6] Section 3216(g)(1) shall be inapplicable.

(d) Approval will not be granted to any form in which the provisions do not appear in the following general order:

- (1) Insuring clause
- (2) Benefits
- (3) Exclusions and reductions
- (4) Required provisions
- (5) Other, additional, miscellaneous or general provisions

Note: The consideration clause may appear at the beginning or end of the certificate. The signature or attestation clause may be placed at the end of the certificate, or at the bottom of its first page.

(e) The provisions of section [459] 4512 pertaining to hospital, surgical or medical expense benefits shall be applicable to every certificate in which one-third or more of the total required payment by the insured member is allocable to hospital, surgical or medical expense benefits or any combination thereof.

§ 49.2 Total and permanent disability benefits.

The form of total and permanent disability benefit provisions contained in or supplemental to any life insurance or annuity certificate issued or issued for delivery in this State by any fraternal benefit society under [paragraph (f) of subsection 1 of section 453] sections 4501(m), 4505(a) and 4505(c) of the Insurance Law shall conform to the requirements and prohibitions of section [158] 3215 except that [subsection 4] subsections (d), (e) and (f) thereof shall not be applicable to total and permanent disability benefits payable in a lump sum.

§ 49.3 Annuity certificates.

The forms of annuity certificates issued or issued for delivery in this State by any fraternal benefit society transacting business under [paragraph (e) of subsection 1 of section 453] sections 4501(l) and 4505(a) of the Insurance Law, shall conform in all respects to section [159] 3219.

The section heading of Section 49.4 is amended to read as follows:

§ 49.4 Separability provisions.