



NORTH CAROLINA DEPARTMENT OF INSURANCE

Jim Long, Commissioner

LIFE AND HEALTH DIVISION

1201 Mail Service Center • Raleigh, NC 27699-1201 • (919)733-5060 • (919)715-3547 (Fax)

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

ADVISORY MEMORANDUM

TO: All Life Insurers Licensed in North Carolina

FROM: Ted Hamby, Deputy Commissioner

DATE: March 25, 2008

RE: North Carolina law does not prohibit an insurance company from releasing certain limited information about a life insurance policy and any beneficiary of the life insurance policy when satisfactory authorization has been provided to the insurance company.

In 2007 it was brought to the attention of the North Carolina Department of Insurance (Department) that a number of life insurance companies are denying requests from funeral homes for life insurance policy information. Funeral homes want to use this information to facilitate a proper assignment of life insurance policy proceeds as part of an arrangement to pay for funeral goods and services for an insured who has died. When these requests are denied, the reason most often given by insurers is “privacy laws.” The privacy law cited most frequently by these insurance companies is the federal Gramm-Leach-Bliley Act (GLBA).

Protecting the privacy of individual consumer personal information has been an important issue for many years. Federal and state laws have been enacted to ensure that such information is appropriately handled and protected from misuse. North Carolina’s Insurance Information and Privacy Protection Act was enacted in 1981 and has been amended over the years to comport with federal laws and changes in the NAIC model act, on which it is based.

When other resources are not available to pay for a funeral, it is a funeral industry practice to accept an assignment of the proceeds of a deceased’s life insurance policy as a guarantee of future payment for the funeral goods and services to be provided presently. Frequently the ability of a family member to initiate a proper assignment of the policy proceeds is hindered by the inability of the family member to provide sufficient information to identify the existence of life insurance or show that the family member is the named beneficiary. It is the custom of funeral directors to help the family in contacting the life insurance company for this purpose. Further, the Department has been informed that even when the specific information identifying the life insurance policy and the beneficiary is provided to life insurance companies, the companies are not providing the requesting funeral directors with confirmation of coverage and a beneficiary or beneficiaries or are not providing the information in a timely manner.

The Department understands that in most situations, GLBA does not prohibit insurance companies from verifying information about whether or not someone is a beneficiary or that the amount of the life insurance benefit is sufficient to cover proposed funeral expenses. The federal law sets minimum standards for privacy requirements, but does not prohibit the states from setting higher standards than those provided by GLBA. In most of these situations, **the privacy laws of North Carolina, specifically N.C. General Statutes §§ 58-39-75(1), 58-39-75(2)(b), and 58-39-75(18), permit an insurer to provide this information, but do not require an insurer to provide this information.** The Department recognizes that while privacy requirements are relevant to this issue, denying these requests may raise unfair trade practice issues.

Therefore, insurance companies are advised that in situations where the beneficiaries have authorized disclosure to funeral homes, insurance companies should respond to these informational requests to the best of their abilities and in timely manners. Failure to respond to these requests will result in further scrutiny by the Department.

If you have questions about this advisory you may contact Jean Holliday at Jholliday@ncdoi.net .