

**DEPARTMENT OF INSURANCE LIFE INSURANCE  
VERIFICATION STUDY REPORT  
TO THE JOINT LEGISLATIVE COMMITTEE  
ON GOVERNMENTAL OPERATIONS**

**INTRODUCTION**

The 2007 General Assembly directed the Commissioner of Insurance to “study and make recommendations to the Joint Legislative Committee on Governmental Operations providing for timely and expeditious confirmation to life insurance beneficiaries by insurers of the beneficiaries’ status, the benefits payable, and provision of a claim form.” The report is to be submitted by the Department of Insurance (Department) no later than April 1, 2008.<sup>1</sup>

This study was required because of problems that funeral directors and funeral homes say they have encountered when they seek assignments by life insurance beneficiaries of proceeds from life insurance policies covering deceased persons to pay for funeral costs.

**INFORMATION GATHERED**

To get the study underway, the Department contacted persons who are interested in this matter. Namely, representatives of the funeral home and funeral directors industries, the life insurance industry, members of the General assembly who have expressed interest, and the State Attorney General’s Office with an interest from a consumer perspective of predatory funeral services sales, were invited to meet with numerous staff from the Department, including the Senior Deputy Commissioner and Deputy Commissioner responsible for life insurance matters and Legislative Counsel. The Department arranged meetings to assess the problem and gather information from the interested parties. Two meetings were held.<sup>2</sup>

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<sup>1</sup> Session Law 2007-507 (Senate Bill 1527), Section 16

<sup>2</sup> An October 4, 2007, meeting was attended by: The Honorable Larry M. Bell, N.C. House of Representatives; Funeral Directors and Morticians Association of N.C. representatives Mr. Tim Butler (President), Mr. Hubert Pope, and Mr. Joseph Cutchins, Jr.; North Carolina Board of Funeral Services representatives Mr. Paul Harris and Mr. Jonathan Carr; American Council of Life Insurers (ACLI) representative Mr. George Teague; Mr. Gary Govert of the Attorney General’s Office; and Department staff Senior Deputy Commissioner Louis Belo, Life and Health Division Deputy Commissioner Ted Hamby; Jean Holliday and Cara Shackelford of the Life and Health Division; Becky Thornton, Supervisor, Life & Health Section, Consumer Services Division; and Legislative Counsel Rose Vaughn Williams.

A December 20, 2007, meeting was attended by several attendees of the first meeting – Messrs. Butler, Pope and Cutchins of the Funeral Directors and Morticians Association of N.C., Mr. Carr, on behalf of the North Carolina Board of Funeral Services, Mr. Teague on behalf of the ACLI, Department staff Messrs. Belo and Hamby and Mes. Holliday, Shackelford, Thornton and Williams. Ms. Kim Wierzel of the Attorney General’s Office also attended.

Additionally, the Department made inquiries with five other states contiguous to North Carolina for information about what may have been their experience with this matter in those states. Specific commentary from the American Council of Life Insurers (ACLI)<sup>3</sup> that represents most life insurance carriers licensed in North Carolina and from a national funeral directors and morticians association. Finally, the Department's complaint records were researched and the knowledge from various of the Department employees' experience working as a life insurance company employee and as a regulator of life insurance was drawn upon.

#### *Funeral Industry Perspective*

At these meetings, the representatives from the funeral industry informed the other meeting participants that when a family lacks other resources to pay for a funeral, the funeral industry practice is to accept an assignment of proceeds from the deceased's life insurance policy to cover the payment for funeral goods and services that will be delivered. In these situations, one of two scenarios, described below, exists.

*Scenario 1:* The individual arranging the funeral does not have an actual life insurance policy but believes an insurance policy exists on the deceased. Such a belief may be based upon some recollection of premium payments paid to agents or companies or based upon the existence of some documents which indicate there may be a policy. Typically, these policies – when they do exist - are small face amount policies,<sup>4</sup> which are sold and serviced by what is known as “home service business.” This business has diminished over the years; the existing business has been assumed by other companies; and insureds have not maintained their personal records, thus making identification of the insurance, the insurer, and the beneficiary a tremendous challenge to overcome in a short period of time. The funeral industry's experience is that the older small face amount policies are generally the most difficult to verify because information from the family about the existence of a policy is sketchy at best and insurers have difficulty retrieving old records when they attempt to verify the existence of a policy. The Department's Consumer Services Division has been able to assist in some of these cases when it is contacted for assistance.

*Scenario 2:* The individual arranging for the funeral provides documentation of or specific information about the deceased's life insurance policy and the beneficiary or beneficiaries under that policy. In this situation, the funeral director obtains the insurance policy information from the family and tries to confirm the validity, the face value, and the named beneficiary of the policy. Once this information is known and confirmed, the funeral director can, with the beneficiary's consent, execute an assignment of insurance benefits from the beneficiary to the funeral director. Some life insurance companies take the position that responding to these requests from funeral directors violates privacy laws and therefore refuse to confirm the information. The privacy law cited most frequently by these companies is the federal Gramm-Leach-Bliley Act (GLBA). In addition, representatives from the funeral industry explained that even when the specific

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<sup>3</sup> ACLI is a Washington D.C.-based trade association that represents 353 life insurance companies operating in the United States.

<sup>4</sup> Home service policies are policies with initial face amounts of \$15,000 or less.

information identifying the policy and the beneficiary is provided to the insurance companies, some companies are not responding at all or are not responding in a timely manner.

Representatives from the funeral industry said that funeral directors would like to expeditiously obtain the following information:

- Verification that a life insurance policy exists.
- The amount of the insurance.
- The beneficiary or beneficiaries.
- Any outstanding loans on the policy.
- If the policy has been assigned and if so to whom.
- Instructions on how to submit a claim.
- If there are any judgments against the policy.

This information would allow a funeral director to execute an assignment of policy proceeds as part of the agreement to provide the funeral goods and services for the deceased's family. The funeral director would be able to confirm with a high degree of certainty that the funeral director is going to be paid for those goods and services.

#### *Life Insurance Industry Perspective*

A life insurance company's interest, when it pays a claim due to the death of the insured, is to ensure that it pays the correct amount, to the beneficiary or beneficiaries named. This is necessary for the company to fulfill its legal obligations under the insurance contract. A claim erroneously paid to (or assigned by) an individual who was not a beneficiary at the time of the insured's death or paid in an incorrect amount due to failure to recognize other valid beneficiaries or take into account a loan or other valid claim against the policy, could likely result in the insurer having to double-pay or incur legal costs to recoup an erroneous claim payout. Therefore, insurance companies take steps to verify the existence of a policy in force on the deceased, the current beneficiaries, the existence of any prior assignment of policy benefits or a loan or judgment against a policy before paying a claim. At times, these activities prevent an insurer from being able to meet the demands of a funeral home for timely information.

The ACLI indicates that generally speaking, the life insurance benefits process is initiated when a claimant provides to the insurer a death certificate (or other proof of death under extraordinary circumstances) and a claim for the benefits to the insurer. If a person believes that the deceased had a life insurance policy but is unable to locate it, both the states' departments of insurance and the insurance industry, including ACLI's website, provide potential claimants with a number of recommendations and methodologies they can follow in order to attempt to locate the policy.

The ACLI further presents that each company maintains and applies its own operational protocols in the paying of a claim, but there is commonality in the various protocols, in that every company needs to review any contestability issues that may be in question, locate the original policy contract, make determinations regarding judgments, loans or

liens and determine if there are multiple beneficiaries. If there are multiple beneficiaries, several adult children for example, the company must locate or determine if the children are still alive to arrive at the benefit amount for each of the claimant(s). Over the past 20 to 30 years, there has been tremendous turnover within the insurance industry regarding the technological and administrative platforms companies use to manage and track life insurance policies. Companies relocate, merge and disappear altogether. As a result, particularly among older policies, policies remain or are referenced internally on paper, microfiche, carbon paper, and in every permutation of computer software and hardware one can imagine. As a result, in some cases physically locating the policy can take time and it varies from circumstance to circumstance. Despite all this, the ACLI states that companies make every effort to remit the benefits as quickly as possible to the claimant.

The ACLI also informed the Department that a small number of concerns similar to those raised by the North Carolina funeral industry had been expressed in other jurisdictions. These concerns were reported to be limited to verification only of beneficiary status and amount payable within the very narrow timeframe established by the circumstances of funeral and burial arrangements. The funeral industry represented that this time frame in North Carolina is typically three days. ACLI stated that because of technological and administrative improvements, the majority of insurers were able to provide the requested information within this narrow timeframe. This statement was acknowledged by representatives from the funeral industry at the study group's meetings.

The Department asked the ACLI for its interpretation about how GLBA applies to these situations. ACLI informed the Department that it was ACLI's position that GLBA does not prohibit insurance companies from verifying information about whether or not someone is a beneficiary of a life insurance policy or that the amount of the life insurance payable under a policy is sufficient to cover proposed funeral expenses. GLBA establishes minimum standards that must be met for privacy requirements, but does not prohibit the states from setting higher standards than those set by GLBA.

In most of these situations, the privacy laws of North Carolina, specifically N.C. General Statute §§ 58-39-75(1), 58-39-75(2)(b), and 58-39-75(18), permit an insurer to provide this type of information.

#### Other Information

In addition to the funeral and insurance industry perspectives obtained in its fact-finding meetings, the Department considered the following information.

- Because the ACLI asserted that only a few companies do not provide funeral homes with the information that they seek, and the representatives from the funeral industry concurred with this assertion, the Department asked for a list of the insurers who were denying these requests in order to understand the scope of this problem in North Carolina. The funeral directors provided the Department with the names of twenty-two insurers that they say have previously denied these information requests from the funeral directors.

- The information provided by the National Funeral Directors and Morticians Association stated the concerns expressed in North Carolina about the verification process has caused many problems for funeral homes across the country. Also, the National Funeral Directors and Morticians Association stated that the Privacy Act and HIPPA have changed the way they serve families and that the amount of information requested of the insurance companies will enable them to continue offering the professional service that they are charged to do.
- The Department contacted the consumer services division and the forms and rates division of the Insurance Departments in South Carolina, Virginia, Tennessee, Georgia and Mississippi to discuss what experience those states had related to the issue of life insurance verification. None of those states had experienced any activity related to the issue which rose to a level similar to the level the topic generated in North Carolina. None of the states had performed any type of study or research on the issue, nor had any legislation been proposed addressing the issue. Most of the states responded that the issue had come up on a few isolated complaint cases which were handled on a case-by-case basis.
- The funeral and life insurance industry representatives took the opportunity to confer with each other during the Department's fact-finding meetings, and this appeared to have some good exchange of ideas. The Department understands the private discussions between these parties to identify voluntary operational changes that insurers or funeral homes could make to facilitate assignment situations.
- When the Department is contacted for assistance in identifying suspected life insurance on a deceased (i.e., Scenario number 1 described on page 2 of this report), the Department advises the consumer to contact a service bureau with which the Department is not affiliated. The Medical Information Bureau (MIB) has the capabilities to search their data to possibly identify the deceased as insured by one of their member companies. The data is accumulated from applications for life insurance reported from the MIB member insurance companies. The consumer is advised there is a \$75 charge for the MIB to do a search and the MIB website is provided to the consumer.
- The Department's consumer complaint records for the twenty-two companies identified by the funeral directors as having previously refused to provide information to funeral homes did not reveal any indication of beneficiaries complaining that claims were not settled on a timely basis. Nor did complaint records for life insurers in general reveal such a pattern. Additionally, the market conduct examination reports produced by the Department's Market Regulation Division did not reveal any pattern of delays in payment of life insurance claims.

## **DEPARTMENT FINDINGS AND CONCLUSIONS**

In consideration of the information obtained through its fact-finding activities, the Department's findings and conclusions are as follow.

1. The funeral and life insurance industries each have business needs which relate to the issue that is the subject of this study. While the representatives of the funeral industry stated that industry's need to quickly assure payment for its goods and services, the life insurance industry, through ACLI, stated its need to assure that an insurer pays a valid death benefit only once, and to the appropriate beneficiary. These needs have opposing time lines for completion: the funeral industry needs require expeditious payment; the insurance industry needs require correct payment, which involves a longer time line due to the need to perform research on a policy.
2. The Department's consumer complaint records and market conduct examination reports do not provide any basis to indicate that insurance companies are failing to make timely payment to beneficiaries of life insurance policies and others to whom the policies are assigned. Therefore, it appears that the time that insurance companies take to verify certain necessary information for a party to decide whether to accept assignment of a benefit is a problem unique to the funeral industry. This is understandable, given the time urgency that individuals responsible for making funeral arrangements may feel.
3. The funeral industry's desire for certain information to be quickly provided by insurers when benefits are assigned to a funeral home must be viewed in the larger context of the total universe of life insurance claims. That is, the claims assigned to parties other than funeral homes, as well as the many claims where benefits are not assigned must also be taken into consideration. The question of whether a law should be enacted to impose requirements on insurers when they receive inquiries from funeral homes necessarily poses the question of whether some beneficiaries and their assignees (i.e., those who assign benefits to funeral homes) should receive preferential treatment by life insurers compared to all other beneficiaries and assignees. Although the difficult financial circumstances which may lead some to assign benefits to pay for funeral expenses may provide a basis for a public policy to grant such a preference, such a precedent would be significant. Furthermore – and more significantly - if the requirement to provide preferential treatment would place insurers at greater risk of providing inaccurate information and potentially of paying invalid claims due to insufficient time to research information, there could be an unintended negative financial effect on life insurance companies and on the cost of the types of policies that are most frequently assigned.
4. The Department was informed that there are twenty-two insurance companies that have denied verification requests. The Department has no reliable way otherwise to know how many of the 458 insurance companies licensed to sell life insurance in North Carolina are receiving these requests for information, so it cannot be said how many companies would satisfy funeral homes' request for verification *if asked*.

However, the information known at this time indicates that the source of the funeral industry's inability to obtain the information that they seek is not widespread.

5. To require all life insurance companies to provide the information that representatives of the funeral industry stated that they would like to receive - on demand and in the specific fashion desired by the funeral industry - would be an administrative burden on those companies, especially in light of the understanding that the majority of life insurance companies are already complying with a request made by a beneficiary who has information sufficient to identify a deceased's policy (i.e., in a situation that falls under Scenario number 2). Furthermore, to the Department's knowledge, absent directly contacting each of the 450 plus insurance companies, the MIB, (with its ability to mass search information from the majority of the life insurance companies by personal identifying information) is the only viable means to attempt to verify possible insurance on the deceased in a situation that falls under Scenario number 1.
6. 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. While life insurers may lawfully deny requests for information from funeral directors if the proper authorization from the beneficiary has not been received, state and federal laws should not be cited by insurance companies as the basis for such denials.

Taking all of these findings into account, the Department does not believe that changes to the laws governing insurance is necessary.

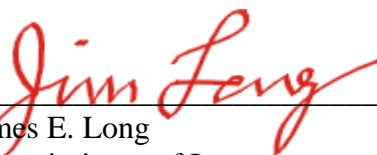
## **RECOMMENDATIONS**

1. Insurance companies licensed to write life insurance in North Carolina need to correctly understand that North Carolina law does not prohibit the practice of releasing certain information about the policy and the beneficiaries when proper authorization to receive that information has been provided to the funeral director by the beneficiaries, and should not communicate to others that the law prohibits the insurance company from verifying such information. The Department has taken steps to address the issue through an advisory memorandum to all insurers authorized to write life insurance in our State. This advisory memorandum was sent on March 25, 2008 and a copy is appended to this report.
2. The funeral and insurance industries should continue their attempt to reach an "operational solution" that is acceptable to both industries and that could ameliorate the situation.
3. The Department believes that the circumstances which cause funeral homes to have difficulties in obtaining information that they seek are not widespread and,

furthermore, does not believe that a legislative remedy is needed. However, if the General Assembly believes differently and takes up legislation on this subject, the Department recommends consideration of the following for any proposed legislation:

- a. Funeral directors should not be given preferential treatment in assignments of benefits. All potential assignees should be allowed access to the verification process.
- b. Any new requirements placed on insurers should create the least possible administrative costs and operational disruption necessary, since costs are ultimately born by policyholders.
- c. The Department believes the General Assembly should not attempt to legislate the development of a state or national database or other mechanism to address the issue described in Scenario number 1. The Medical Information Bureau provides an existing mechanism for identifying the possible existence of insurance on a deceased without having specific insurance policy identifying information.
- d. Careful consideration should be given to the need to protect the public from predatory business practices in the sale of funeral goods and services at a time of emotional distress for the party responsible for the funeral cost. Information required to be provided by a life insurance company should be limited to that which is sufficient to verify that the beneficiary is the family member as represented to the insurance company requesting the verification, that the policy is not contestable, and that the net amount of insurance (face amount less any outstanding loans, liens, or other encumbrances) is sufficient to cover a specified dollar amount for the funeral expenses. The funeral director would then have enough reliable information to either accept an assignment from the beneficiary or conclude that some other financial arrangements must be made for the funeral expenses.

Respectfully submitted to the Joint Legislative Committee on Governmental Operations on this the 25<sup>th</sup> day of March, 2008.

  
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James E. Long  
Commissioner of Insurance