

Regulatory Analysis Form

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REVIEW SUBMISSION

(1) Agency

Insurance Department

(2) I.D. Number (Governor's Office Use)

11-213

IRRC Number: 2250

(3) Short Title

Preparation of Forms

(4) PA Code Cite

31 Pa. Code, Chapter 89, §89.14

(5) Agency Contacts & Telephone Numbers

Primary Contact: Peter J. Salvatore, Regulatory Coordinator,
1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The amendments will bring the Department's regulation into compliance with the Pennsylvania Supreme Court's ruling on time period limitations on recovery of accidental death benefits.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411, and 412), the Pennsylvania Supreme Court decision in *Burne v. Franklin Life Insurance Company*, 451 Pa. 218, 301 A.2d 799 (1973) and the Attorney General's opinion No. 22, issued April 26, 1974 (4 Pa.B. 962, May 11, 1974).

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The Pennsylvania Supreme Court decision in *Burne v. Franklin Life Insurance Company*, 451 Pa. 218, 301 A.2d 799 (1973) and the Attorney General's opinion No. 22, issued April 26, 1974 (4 Pa.B. 962, May 11, 1974)

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The Insurance Department seeks to amend Chapter 89 to be consistent with the court ruling.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no public health, safety, environment or general welfare risks associated with this rulemaking.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Any person who purchases any insurance policy will benefit from the regulation to the extent that it will be consistent with the court ruling.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

There will be no adverse effects on any party because of the amendment of this regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The regulation applies to all insurers licensed to do business of insurance in the Commonwealth.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

No comments regarding the amendment of this regulation were solicited from the various trade associations representing the insurance industry.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures, which may be required.

The amendment of the regulation will not have any impact on costs associated with insurance companies.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures, which may be required.

There are no costs or savings to local governments associated with this rulemaking.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures, which may be required.

There are no costs or savings associated to state government as a result of this rulemaking.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. N/A

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

N/A.

Regulatory Analysis Form

(20b) Provide the past three-year expenditure history for programs affected by the regulation.
N/A.

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

No costs or adverse effects are anticipated as a result of this regulation.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Amending Chapter 89 is the most efficient method to achieve consistency with the court ruling. No other alternatives were considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No other regulatory schemes were considered. The amendment of the regulation is the most efficient method of updating the regulatory requirements.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The rulemaking will not put Pennsylvania at a competitive disadvantage with other states. It merely provides for consistency with the court ruling.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings are anticipated.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports, which will be required as a result of implementation, if available.

The amendment of the regulation imposes no additional paperwork requirements on the Department, insurers or the public.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The rulemaking will have no effect on special needs of affected parties.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The rulemaking will undergo a 30-day review by the legislative standing committees, the Office of the Attorney General, and the Independent Regulatory Review Commission and will take effect upon approval of the final form regulation and upon final publication in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

The Department reviews each of its regulations for continued effectiveness on a triennial basis.

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FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU

(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE REFERENCE BUREAU

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DO NOT WRITE IN THIS SPACE

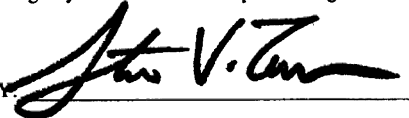
Copy below is hereby approved as to
form and legality. Attorney General

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated
by:

Copy below is hereby approved as to form and
legality. Executive or Independent Agencies

By _____
(Deputy Attorney General)

Insurance Department

BY: 

(AGENCY)

2/12/02

DOCUMENT/FISCAL NOTE NO. 11-213

DATE OF APPROVAL

Date of Approval

DATE OF ADOPTION: _____

(DEPUTY GENERAL COUNSEL)
(CHIEF COUNSEL, INDEPENDENT AGENCY)
(STRIKE INAPPLICABLE TITLE)

BY: 
M. Diane Koken

Insurance Commissioner

→ Check if applicable. No Attorney General
approval or objection within 30 days after
submission.

→ Check if applicable.
Copy not approved. Objections
attached.

TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OR
SECRETARY)

FINAL OMITTED RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 89
§89.14

Requirements for All Policies and Forms, Preparation of Forms

2/12/02

PREAMBLE

By this notice the Insurance Department (Department) hereby amends 31 Pa. Code, Chapter 89, Subchapter A, Requirements for All Policies and Forms, Preparation of Forms, section 89.14 to read as set forth in Annex A. Sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411, and 412) provide the Insurance Commissioner with the authority and duty to promulgate regulations governing the enforcement of the laws relating to insurance.

Notice of the proposed rulemaking is omitted in accordance with section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) known as the Commonwealth Documents Law (CDL) (45 P.S. § 1204(3)). In accordance with section 204(3) of the CDL, notice of proposed rulemaking may be omitted when the agency for good cause finds that public notice of its intention to amend an administrative regulation is, under the circumstances, impracticable and unnecessary.

Purpose

The amendments will bring the Department's regulation into compliance with the Pennsylvania Supreme Court's ruling on time period limitations on recovery of accidental death benefits.

Explanation of Regulatory Requirements

The Pennsylvania Supreme Court decision in Burne v. Franklin Life Insurance Company, 451 Pa. 218, 301 A.2d 799 (1973), Attorney General's opinion No. 22, issued April 26, 1974 (4 Pa.B. 962, May 11, 1974) and Department Notice published at 4 Pa.B. 1933, September 7, 1974 prohibited the sale of certain life insurance policies. Specifically, the Court stated that accidental death benefit policies may not be sold or issued in Pennsylvania if death must occur during a specific time period limitation. This applies regardless of the line of insurance with which it is sold.

The Department has not permitted any policies sold or marketed in the Commonwealth to contain the provision found at §89.14(b), relating to dismemberment, death or surgical benefits. This final omitted rulemaking is to reconcile the Pennsylvania Code with the decision that was made by the Pennsylvania Supreme Court in 1973 and the Attorney General's opinion in 1974.

In addition, the provision found at §89.14(b) is in direct conflict with §89.43, relating to accidental death benefits.

Fiscal Impact

The insurance industry will likely not incur additional costs for complying with the requirement. Insurance companies have not been permitted to use this provision since 1974, therefore there is no fiscal impact on the insurance industry.

Effectiveness/Sunset Date

This order is effective upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

Paperwork

Adoption of these regulations should not require significant paperwork for insurance carriers.

Persons Regulated

This regulation applies to all insurance companies who issue insurance products in the Commonwealth.

Contact Person

Questions regarding the final omitted rulemaking may be addressed to Peter J. Salvatore, Regulatory Coordinator, Pennsylvania Insurance Department, 1326 Strawberry Square, Harrisburg, Pennsylvania 17120, phone number (717) 787-4429. Questions may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

Regulatory Review

Under section 5(a) of the Regulatory Review Act, Act 24 of 1997, the agency submitted a copy of the regulations with the proposed rulemaking omitted on February 21, 2002 to the Independent Regulatory Review Commission (the Commission) and to the Chairpersons of the House Committee on Insurance and the Senate Committee on Banking and Insurance. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101 - 732-506).

In accordance with section 5 (c) of the Regulatory Review Act, the regulations were deemed approved by the Senate Banking and Insurance Committee on _____, and deemed approved by the House Insurance Committee on _____. The Attorney General approved the regulation on _____. IRRC met on _____ and approved the regulation.

Findings

The Insurance Commissioner finds that:

- (1) There is good cause to amend Chapter 89, effective upon publication with the proposed rulemaking omitted. Deferral of the effective date of these regulations would be

impractical and not serve the public interest. Under section 204(3) (45 P.S. §1204(3)) of the CDL there is no purpose to be served by deferring the effective date.

(2) There is good cause to forego public notice of the intention to amend Chapter 89, because notice of the amendment under the circumstances is unnecessary and impractical for the following reasons:

(i) The changes mandated by the Pennsylvania Supreme Court ruling have been in effect since 1974.

(ii) Public comment cannot change the fact that this requirements has been required by the Pennsylvania Supreme Court ruling

Order

The Insurance Commissioner, acting under the authority in sections 206, 506, 1501 and 1502 of the Administrative Code of 1929, orders that:

(1) The Regulations of the Department at 31 Pa.Code, Chapter 89, are amended as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(2) The Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to form and legality as required by law.

(3) The Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) This order shall take effect upon its publication in the *Pennsylvania Bulletin*.

M. Diane Koken
Insurance Commissioner

CONTINUATION SHEET FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
Pursuant to Commonwealth Documents Law

ANNEX A

TITLE 31.—INSURANCE. PART IV.—LIFE INSURANCE. CHAPTER 89 - APPROVAL OF LIFE, ACCIDENT, AND HEALTH INSURANCE. Subchapter A. Requirements for All Policies and Forms

Sec

89.14	Dismemberment, death or surgical benefits.
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§89.14 Dismemberment, death or surgical benefits.

[(a)] In contracts providing specified benefits for dismemberment, death or surgical operations, if the insurer limits its liability to one such loss as a result of a single accident, the contract shall provide that the insured is entitled to receive the largest amount applicable.

[(b) Accidental death and dismemberment benefits shall be payable when the loss occurs within 90 days from the date of the accident, irrespective of total disability.]

* * * * *



COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT

OFFICE OF SPECIAL PROJECTS

1326 Strawberry Square
Harrisburg, PA 17120

Phone: (717) 787-4429
Fax: (717) 772-1969
E-Mail: psalvatore@state.pa.us

February 21, 2002

Mr. Robert Nyce
Executive Director
Independent Regulatory Review Comm.
333 Market Street
Harrisburg, PA 17101

Re: Insurance Department Final- Omitted Regulation No. 11-213, Preparation for All Policies and Forms, Preparation of Forms.

Dear Mr. Nyce:

Pursuant to Section 5a(c) of the Regulatory Review Act, enclosed for your information and review is final-omitted regulation 31 Pa. Code, Chapter 89, Preparation for All Policies and Forms, Preparation of Forms.

The Pennsylvania Supreme Court decision in Burne v. Franklin Life Insurance Company, 451 Pa. 218, 301 A.2d 799 (1973), Attorney General's opinion No. 22, issued April 26, 1974 (4 Pa.B. 962, May 11, 1974) and Department Notice published at 4 Pa.B. 1933, September 7, 1974 prohibited the sale of certain life insurance policies. Specifically, the Court stated that accidental death benefit policies may not be sold or issued in Pennsylvania if death must occur during a specific time period limitation. This applies regardless of the line of insurance with which it is sold. The Department has not permitted any policies sold or marketed in the Commonwealth to contain the provision found at §89.14(b), relating to dismemberment, death or surgical benefits. This final omitted rulemaking is to reconcile the Pennsylvania Code with the decision that was made by the Pennsylvania Supreme Court in 1973 and the Attorney General's opinion in 1974.

In addition, the provision found at §89.14(b) is in direct conflict with §89.43, relating to accidental death benefits.

If you have any questions regarding this matter, please contact me at (717) 787-4429.

Sincerely yours,

A handwritten signature in cursive script that reads "Peter J. Salvatore".

Peter J. Salvatore
Regulatory Coordinator

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 11-213
 SUBJECT: Requirements for All Policies and Forms, Preparation of Forms
 AGENCY: DEPARTMENT OF INSURANCE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
2/21	<i>M. Saphagen</i>	HOUSE COMMITTEE ON INSURANCE
2/21	<i>Diane Hain</i>	
2/21/02	<i>Verise Patton</i>	SENATE COMMITTEE ON BANKING & INSURANCE
2/21/02	<i>J. McDaniel</i>	
2/21/02	<i>E. Pagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
2-21-02	<i>Pam Lubold</i>	ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU