

**CHAPTER 90c. INDIVIDUAL APPLICATIONS—
STATEMENT OF POLICY**

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Source

The provisions of this Chapter 90c adopted January 18, 1991, effective January 19, 1991, 21 Pa.B. 235, unless otherwise noted.

§ 90c.1. Scope.

An individual life application filing complying with the standards in this chapter is acceptable.

§ 90c.2. General provisions.

An individual life application filing complying with the following is acceptable:

- (1) The submission letter for an application complies with applicable requirements of § 89b.5 (relating to letter of submission).
- (2) The application is submitted in duplicate. This complies with § 89b.4(a) (relating to general filing procedure).

(3) The application is submitted in the final printed form intended for actual field use, unless the company requests tentative approval under § 89.4(d). A form submitted for tentative approval is submitted in draft, printer's-proof, photocopied, "filer" or another legible form.

(4) The form number and the wording in the application are printed in easily readable type.

(5) Logos are or are not present and are more or less prominent than the company name.

(6) The company name is as follows:

(i) The full company name appears.

(ii) More than one licensed company name does or does not appear. If more than one name appears, provision is made for identifying the soliciting company, for example, by check-off box. Each company individually files for approval prior to that company's using the application.

(7) An administrative office address or the home office address is or is not shown. If an address is captioned as "home office," it is the official home office address of record.

(8) The form is captioned as an application near the top of the first page.

§ 90c.3. Replacement questions for life insurance.

The following is acceptable:

(1) The application contains a replacement question. This complies with § 81.5(b) (relating to duties of insurers).

(2) If the agent's replacement question is included in the application, the application does not provide for the use of one replacement question by both the applicant and the agent. This complies with Chapter 81 (relating to replacement of life insurance and annuities).

(3) A reinstatement, conversion, exchange or change application does or does not contain a replacement question.

(4) If the application is for both life or annuity and accident and health coverage, the replacement question is applicable to both coverages. This complies with § 81.5(b) and § 88.101 (relating to application form).

§ 90c.4. Automatic premium loan election.

An automatic premium loan election provides for either a positive or negative election.

§ 90c.5. Underwriting questions.

(a) *Information.*

(1) Information asked of the applicant to underwrite the coverage is in the form of a single direct question, not a compound question or declaratory statement, and permits a direct response of known fact. This complies with § 89.12(d) (relating to application forms).

(2) Additional information obtained by a telephone interview conducted after the application has been submitted to the company is not used to contest coverage, unless the additional information is agreed to in writing by the applicant.

(b) *“Good health” question.*

(1) An adult application does or does not contain a “good health” question if the application contains extensive health underwriting questions.

(2) An adult application does not contain a “good health” question if the application does not contain extensive health underwriting questions. Extensive health underwriting questions means questions concerning at least the common dread diseases and a broad range of common nonlife threatening health conditions.

(3) A juvenile application does or does not contain a “good health” question.

(c) *Serious health condition.*

(1) An adult application does or does not contain either of the following questions, or a similar question, if the application contains extensive health underwriting questions:

(i) “Had or been treated for any serious health condition?”

(ii) “Do you have any other impairment?”

(2) A juvenile application does or does not contain either of these questions, or a similar question, without extensive health underwriting questions.

(d) *Alcohol and drug use.*

(1) An application contains alcohol and drug use or dependency questions if the application clearly defines words such as “excessive,” “dependency,” “habitual,” “abuse,” “regular,” and the like. An application does not contain these questions if the application does not clearly define “excessive,” “dependency,” “habitual,” “abuse,” “regular,” and the like. In relation to alcohol, these words are defined in terms of number of drinks consumed per day or some similar measure. In relation to drugs, they are defined in terms of being treated by a doctor for drug use or dependency.

(2) Underwriting questions concerning treatment for alcohol or drug use or dependency are worded to permit responses of known fact.

(3) The following alcohol or drug questions do or do not appear:

(i) Have you been medically treated for or been medically advised to have treatment for alcoholism or drug use or dependency?

(ii) Have you been treated for alcohol or drug use or dependency?

(iii) Have you joined a treatment organization because of alcohol or drug use or dependency?

(iv) Have you ever sought medical treatment for alcohol or drug use or dependency?

(v) Have you ever been hospitalized for drug or alcohol use or dependency?

(e) *Subsequent application.* If an application is taken subsequent to the taking of an original application, it does not contain questions that require the applicant to agree that his health on the date of the application is the same as it was when the original application was taken, unless the applicant has a copy of the original application. In addition, a subsequent application that refers to the original application is not used more than 180 days after the original application.

(f) *AIDS questions.* The following AIDS questions do or do not appear:

(1) Have you ever been treated for or ever had Acquired Immune Deficiency Syndrome (AIDS) or AIDS Related Complex (ARC)?

(2) Have you ever had a condition which you were medically advised is related to AIDS?

(3) Have you ever tested positively for HIV, AIDS or ARC?

NOTE: The Department considers valid testing to be the HTLV-III test. A company uses a positive response to require additional testing to confirm AIDS. The additional testing includes the HTLV-III test twice and the Western Blot Test on the same sample of blood. The company does not deny coverage or rate the coverage on incomplete testing.

(4) Have you ever had an immune deficiency disorder or disease of the lymphatic system or immune mechanism? This appears only if the question in paragraph (1) or (2) or a similar question appears on the application.

(g) *Additional AIDS questions.* The following AIDS questions do not appear:

(1) Have you received counseling for, or advice concerning, AIDS?

NOTE: Questioning a proposed insured's history of counseling concerning AIDS is an invasion of the applicant's privacy. Counseling by itself would not reveal anything pertinent to the underwriting process.

(2) Are you homosexual?

NOTE: Questioning a proposed insured's life style is an invasion of the proposed insured's privacy.

(3) Have you ever had a known indication or symptom of AIDS or ARC or other health condition?

NOTE: Questions about whether a proposed insured has had a known indication or symptom do not appear on an application. Unless a condition has been previously diagnosed or treated, this question places the applicant in the position of making a self-diagnosis. Also, it is difficult to define what constitutes a "known indication or symptom of."

(4) Have you ever had an AIDS related condition?

NOTE: "AIDS"/"AIDS Related Complex" is definitive. Conversely, "related conditions" is vague and not in compliance with § 89.12(d).

(5) Have you ever had an AIDS Related Complex?

NOTE: "AIDS"/"AIDS Related Complex" is definitive. Conversely, "any AIDS related complex" erroneously suggests that there is more than one AIDS Related Complex.

(6) Have you ever had an AIDS related blood test?

NOTE: "AIDS related blood test" is vague and not in compliance with § 89.12.

(h) *Specific AIDS questions.* The following questions do or do not appear with or without specific AIDS questions:

(1) Have you ever had, experienced, been tested for, treated for or told you had any of the following: Kaposi's Sarcoma, infections from Pneumocystis Carinii, Cytomegalovirus (CMV), enlargement of lymph nodes or glands, chronic diarrhea, unusual or persistent skin lesions, unexplained infections or chronic fatigue?

(2) Have you ever had major surgery that necessitated a blood transfusion?

(i) *Blood transfusion.* The following question does not appear: Have you ever had major surgery that necessitated, or may have necessitated, a blood transfusion?

(j) *Medical consultation.* An application does or does not contain a general question about a medical consultation or a visit to a physician, for example, "Have you within the past 10 years had a consultation?" or "When did you last see a physician?" If it does, the company certifies in writing that information obtained on the application about a medical consultation or informational visit concerning AIDS or ARC, as opposed to the diagnosis or treatment of AIDS or ARC, will never be used to underwrite coverage on a proposed insured.

(k) *Church affiliation.* An application does not contain a question about the applicant's church affiliation. The agent's report does or does not contain a question concerning the applicant's church affiliation. If it does, the company certifies that the information is not used for underwriting purposes.

(l) *Smoker or nonsmoker.* Underwriting questions for the purpose of assigning a smoker or nonsmoker rating in determining the cash values of a fixed premium policy or rider and the cost of insurance rates of a flexible premium universal life policy or rider are limited to questions about the proposed insured's tobacco use habits. With respect to the cost of insurance rates, this does not prevent the company from classifying a proposed insured, not an existing insured, who does not smoke a substandard nonsmoker based on medical history.

(m) *Medical exam report.* When using another company's medical exam report the following apply:

(1) The report is provided to the new company only by the applicant or with specific authorization in writing from the applicant.

(2) The new application that incorporates the other company's medical exam report provides for the applicant to state that the medical condition as stated in the medical exam report is unchanged only if the applicant has a copy of the report.

(3) The medical exam is no older than 180 days.

§ 90c.6. Home office endorsements/corrections provision.

An application does or does not contain a home office endorsements/ corrections provision. If it does, the provision does or does not comply with § 89.12(c) (relating to application forms). If the provision does not comply with this section, the entire provision is rubberstamped or overprinted with "Not Applicable in Pennsylvania" or "Not Applicable in any state where written consent is required by law" or similar wording. An application for an annuity does or does not comply with the § 89.12(c) reference to "benefits applied for."

§ 90c.7. Assignment of proxy vote.

If the application provides for assignment of a proxy vote, both the life insurance or annuity and accident and health portion of a combined life or annuity and accident and health application contain separate places to indicate the assignment. A combined application does not contain one common place to indicate the assignment for both coverages.

§ 90c.8. Prohibited terminology.

The following terminology is not present:

(1) The term "warrant" or "certify," unless used in reference to a tax identification or social security number, or a lost policy. This complies with § 89.12(d) (relating to application forms).

(2) The term "special," unless used in reference to or to designate one or more of the following: a premium payment mode, a premium rating class, a settlement option or options under a policy, an empty box on the application within which applicant requests may be recorded. This complies with § 89.13(c) (relating to use of certain words and terms).

(3) The term "deposit," unless used in conjunction with the word "premium" or the payment establishes a debtor-creditor relationship. This complies with § 87.28 (relating to reference to payment as "deposit").

(4) The term "legal reserve", the absence of which complies with Chapter 139 (relating to prohibited phrases).

(5) The term "franchise," unless used in reference to accident and health insurance.

(6) The term "sponsor" unless used in reference to an entity which pays all or part of the premium or is a pension or welfare plan sponsor under ERISA.

§ 90c.9. Representation/agreement section.

(a) Applications contain a representation/agreement section. Applications that are supplemental to the initial application do or do not contain such a section.

(b) A basic life insurance application discloses when coverage will be effective. If the first premium is paid in cash, or by payroll deduction authorization, automatic bank draft authorization, or by authorization to increase loan repayments or to charge to a credit card, and immediate binding or unconditional insurance coverage is not provided, then the disclosure as to when coverage is effective is prominent—for example, in bold print—unless a receipt is given.

(c) For purposes of review, a basic life insurance application is an application for a new policy that is not taken pursuant to a provision of an existing policy or group contract. Applications of the following types are not considered basic applications: conversion, exchange, requalification, change, rider or endorsement, increase in existing coverage and reinstatement.

§ 90c.10. Authorization to obtain medical information.

The application does or does not contain an authorization to obtain medical information from sources other than the insurance company. If it does, the authorization is valid for no longer than 30 months.

§ 90c.11. Signatures.

(a) *Basic application.*

(1) A basic application for life insurance makes provision for signatures of the following, if applicable: proposed insured; applicant; spouse; children age 18 or over; payor; and owner.

(2) If children age 18 or over are to be insured, provision is made for their signatures since insurance is being applied for on their lives.

(3) If a spouse is to be insured, provision is made for the spouse's signature since insurance is being applied for on the spouse's life.

(b) *Annuity application.* An annuity application makes provision for signatures of the following: annuitant; owner, if other than the annuitant; and payor, if other than the owner.

(c) *New life insurance.*

(1) An application for new life insurance coverage provides for the signatures of all adults on whom new coverage could be applied for. The exception to this is an application by a person, copartnership, association or corporation, for life insurance on an officer, director, principal, partner or employe, if the beneficiary has an insurable interest in the life of the insured. This complies with section 412 of The Insurance Company Law of 1921 (40 P. S. § 512).

(2) For purposes of review, an application for new life insurance coverage is any of the following: basic application, application for extra benefit riders, conversion application, exchange application and application for increase in existing coverage.

(d) *Signatures of adults.* An application having health questions provides for the signatures of all adults about whom the health questions could be asked.

(e) *Insurance coverage on juvenile.* An application designed to be an application for new life insurance coverage on only a juvenile provides for the signature of the person liable for the support of the juvenile. This complies with section 412 of The Insurance Company Law of 1921. Accordingly, an application having an applicant signature line labeled other than "Parent," "Parent or Guardian" or "Person Liable for Support of the Proposed Insured" also has a signature line labeled "Parent," "Parent or Guardian" or "Person Liable for Support of the Proposed Insured." As an alternative to revising the form, the company provides a certification in writing that the applicant will always be the person liable for the support of the proposed insured.

(f) *Agent's signature.* If the application is completed by an agent, provision is made for the agent's signature. If the application is not completed by an agent, the form does not provide for an agent's signature. Reference to a licensed resident agent or witness does or does not appear.

(g) *Proposed insured or annuitant signature.*

(1) If the proposed insured or annuitant signature line on an application is labeled to require the signature of a proposed insured or annuitant under age 18, the application also has an applicant signature line and the company provides a certification that the applicant will always be 18 years of age or older. This is necessary because an application signed by a proposed insured or annuitant under 18 should always be signed by an applicant 18 or over, since the age of majority for contracting for insurance in this Commonwealth is 18.

(2) The applicant signature line on a life application is not labeled to indicate that an applicant's signature is required only if the proposed insured is under a specified age less than 18. This recognizes that the age of majority for contracting for insurance in this Commonwealth is 18 and that an application should be signed by an applicant 18 or over whenever the proposed insured is under 18.

(3) The owner's signature line on an annuity application is not labeled to indicate that an owner's signature is required only if the proposed annuitant is under a specified age less than 18. This recognizes that the age of majority for contracting insurance in this Commonwealth is 18 and that an application should be signed by an owner 18 years or over whenever the proposed annuitant is under 18.

§ 90c.12. Form number.

The application contains a form number. This complies with § 89b.11(b) (relating to general contents of forms).

§ 90c.13. Conditional receipt.

A company does or does not ask different questions in the conditional receipt from the questions asked in the application.

§ 90c.14. Rating of insurance company.

The application does not contain any rating of the insurance company by A. M. Best Company or another rating system or organization.

§ 90c.15. Statistics.

The application does not contain statistics about the insurance company from a source other than the insurance company unless the source is clearly identified.

§ 90c.16. Death benefit dollar amounts.

The life insurance application does not show policy death benefit dollar amounts that do not comply with § 87.12 (relating to limited benefit life policies). This complies with § 87.12.

§ 90c.17. Enrollment period.

If an application provides for the use of an enrollment period during which coverage must be applied for, the company provides a certification from a company officer that any authorized enrollment period during which coverage may be applied for on the application will not be offered in this Commonwealth unless there has been a lapse of at least 90 days between the close of the immediately preceding enrollment period for the same product and the opening of the new enrollment period. This complies with § 51.30(c) (relating to enrollment periods).

§ 90c.18. Applications intended for use in mail order solicitations of life insurance.

(a) A submission of an application intended for use in mail order solicitation of life insurance contains a detailed explanation of how the company will comply in the solicitation with Chapter 83 (relating to disclosures in solicitation of life insurance).

(b) Disclosures required by Chapter 83, Subchapter A (relating to required disclosures in the solicitation of life insurance) are provided in the sales material, in a separate individualized form or in a composite disclosure for applicable ages, amounts of insurance, and the like. This is pursuant to § 83.3(a) (relating to disclosure statement).

(c) Disclosures required by Chapter 83, Subchapter B (relating to cost disclosures in the solicitation of life insurance) are provided in a separate individualized form pursuant to § 83.55 (relating to delivery).

§ 90c.19. Applications for life insurance providing a “no money down” offer.

The application does not provide for the payment of the initial premium within a period of time after policy delivery. This complies with section 410(a) of The Insurance Company Law of 1921 (40 P. S. § 510(a)).

§ 90c.20. Applications for life insurance and annuities sold in connection with a financial institution.

(a) The application does not permit a financial institution to apply for insurance on the life of an individual.

(b) If an application contains wording indicating that a financial institution is involved in the solicitation of insurance, the company provides a detailed explanation of the solicitation and the financial institution’s involvement, including involvement with an insurance agent. The financial institution’s renting or leasing of office space to an agent would constitute involvement with an agent.

(c) The application does not contain wording automatically naming a financial institution the assignee or beneficiary of insurance proceeds. The insurer does or does not permit assignment of the proceeds or naming the financial institution the beneficiary to the extent of that institution’s interest, using the company’s normal assignment and beneficiary designation procedures.

(d) If the application automatically provides for the payment of premiums through the financial institution, there is a statement on the application whereby the applicant acknowledges that this is the way premium payment is to be made.

§ 90c.21. Premiums paid by credit card.

A program for premium payment by credit card that complies with the following is acceptable:

(1) Applications provide automatically for the payment of premiums by credit card or they provide for the election of a credit card payment method.

(2) Life insurance applications providing for the payment of premiums by credit card contain specific wording as to when the insurance coverage is effective. If immediate coverage is not provided, the disclosure as to when coverage is effective is in prominent type, unless a receipt is given. Prominent type means, for example, all capital letters, contrasting color, underlined or otherwise differentiated from the other type in the application.

(3) If the life insurance application is for use in direct response sales and the disclosure as to when coverage is effective specifies premium payment as a condition of coverage, then the disclosure as to when coverage is effective, indicates when the first premium is considered to be paid if it is paid by credit

card. This indication as to when the first premium is considered to be paid does not indicate that it is considered to be paid after policy delivery unless the first page of the policy contains an express disclosure in prominent type that there is no insurance coverage until the effective date. Prominent type means, for example, all capital letters, contrasting color, underlined or otherwise differentiated from the other type in the policy.

(4) Individuals paying premiums through credit cards are provided with the same treatment as individuals paying premiums directly to the company, except with respect to the premium payment mode periods, and with respect to the amount of premium if the different premium amount is due to the establishment of a separate class for contracts paid through credit cards.

(5) The insurance contract provides that premiums billed on a credit card account statement are considered to have been paid to the insurer on the premium due date.

(6) The insurance company provides a certification with the submission letter that it has established procedures whereby insureds whose premium charges are not accepted by the card issuer are given the opportunity to change to a direct premium payment mode on a basis that will afford continuity of coverage.

(7) The insurance contract provides that the policyowner has the right to pay premiums directly to the insurer if the credit card used for billing is canceled, if the insurer cancels the credit card billing arrangement, or if the policyowner cancels the credit card billing arrangement.

§ 90c.22. Assignment or surrender of existing insurance policies as consideration for the insurance being applied for.

If the application contains a statement in the declaration section or elsewhere that existing contracts are being assigned or surrendered as consideration for the insurance being applied for, the company sends a detailed explanation of this arrangement and copies of additional forms used prior to approval of the application. Additionally, the company certifies that there will not be any lapse of coverage under existing insurance until new coverage is issued.

§ 90c.23. Applications of fraternal benefit societies.

(a) *Application form.* The words “A Fraternal Benefit Society” appear in conspicuous type on the application form. This complies with § 89.102(d)(6) (relating to guidelines for approval of forms).

(b) *Separation of applications.* Membership and insurance applications are not combined. Questions relating to membership are not included in the insurance application. This complies with § 89.102(d)(1).

(c) *Indication of membership.* Each application, except an exchange or conversion application, for insurance on the life of an adult contains the following: “Is the applicant a member of (_____)?”

“Yes _____ No _____ ”

“If not, apply for membership.” This complies with § 89.102(d)(5).

(d) *Signatures.*

(1) Signatures on life insurance applications are as follows:

(i) If the proposed insured is an adult (18 or over), a member and is the applicant, the application for insurance contains:

“Proposed Insured’s Signature _____ ”

(ii) If the proposed insured is an adult and not a member, the application for insurance contains:

“Proposed Insured’s Signature _____ ”

“Member Applicant’s Signature _____ ”

(iii) If the proposed insured is a child, the application for insurance contains:

“Adult Applicant’s Signature _____ ”

(2) This complies with § 89.102(d)(2)—(4).

§ 90c.24. Filing procedures for combination life or annuity and accident and health applications and combination group and individual applications.

In the case of a combination application, a single submission or two separate submissions are made. If a single submission is made, the submission letter is in triplicate. If two separate submissions are made, one is made for life and the other for accident and health, or one for group and the other for individual, as appropriate.

§ 90c.25. AIDS.

Insurer practices that comply with the following are acceptable:

(1) For underwriting purposes, AIDS is considered to be the same as other medical conditions, such as cancer or heart disease.

(2) Information obtained through the underwriting process is confidential.

(3) Proposed insureds who are determined to have AIDS or ARC are insured at standard premiums, at higher than standard premiums, or rejected as insureds based on underwriting and any complete test results.

(4) An individual life insurance policy or annuity contract does not include a provision applicable to all life insureds or annuitants that excludes claims from any specific condition, such as AIDS.

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