

Bulletin 74-2

Replacement of life insurance

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A matter of considerable concern to the South Dakota Division of Insurance is the lax approach taken by many agents in regard to our Replacement of Life Insurance Regulation No. 5. For example, Exhibit A, the comparison forms, of the regulation requires in Section 3(b) that the agent disclose whether or not the existing insurance can be changed to provide the benefits desired. Since this section requires no explanation in the case where the existing insurance cannot be changed, it is always indicated that the change is not possible. In most cases, this is not true. Therefore, before this section is answered in the future, the agent or the company providing the existing insurance will be contacted by the insured or the replacing agent in order to make this determination. If the company issuing the existing policy can provide a reasonably similar plan to the one proposed through a change in the existing policy, the addition of a rider, or in any manner, then Section 3(b) will be answered in a manner showing that a change is possible. Also, an explanation must appear in Section 3(b) regardless of the fact that the existing insurance can or cannot be changed. We, also, point out that Section 6(4)(c) of this regulation requires that the company whose insurance is subject to replacement be notified of such replacement *immediately*.

Another area of concern in regard to the Replacement Regulation is the manner in which the required questions are answered. For example, "None, except. . ." is often used to describe the advantage of maintaining the present insurance without listing any advantages other than the fact that the incontestability and suicide limitations have expired. This is misleading in most instances because there are very likely other advantages. We will treat seriously any comparison forms using the above approach or an approach of similar import. The response should list all of the significant advantages and not begin "None, except. . ." Please be responsible for distributing this information to your agents. The Division of Insurance will strictly enforce SDCL 58-33-8 whenever a violation comes to our attention.

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