

CERTAIN INSURANCE MATTERS

REPORT OF THE

THE VIRGINIA ADVISORY LEGISLATIVE COUNCIL

To

THE GOVERNOR

And

THE GENERAL ASSEMBLY OF VIRGINIA



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**REPORT OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL
On
CERTAIN INSURANCE MATTERS
To
THE GOVERNOR AND GENERAL ASSEMBLY OF VIRGINIA**

TO: Honorable Mills E. Godwin, Jr., Governor of Virginia

The General Assembly of Virginia

INTRODUCTION

This report is a result of the directive contained in House Joint Resolution No. 78 passed by the 1974 Session of The General Assembly as follows:

HOUSE JOINT RESOLUTION NO. 78

Directing the Virginia Advisory Legislative Council to continue its study of certain insurance matters.

Whereas, life, accident and health insurances are purchased by many citizens of this Commonwealth, and complaints of many groups representing the consumer led the 1973 General Assembly to direct the Virginia Advisory Legislative Council to make a study of certain insurance matters; and

Whereas, although the Committee designated by the Virginia Advisory Legislative Council to study these matters has spent considerable time and effort in this study and has made recommendations for improvements, there is much work still to be done; and

Whereas, the importance of such insurance, the intricacy and complexity of the subject matter involved, and the possibility of improvement for the benefit of the Virginia consumer are substantial reasons for continuing the work of the Committee; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring,

That the Virginia Advisory Legislative Council is hereby directed to continue its study of certain insurance matters. The Council shall continue to study all aspects of insurance involving contracts of life, health and accident insurance including the merchandising practices existing on such policies of insurance to the end that the consumer may purchase protection suitable to his need.

The Council shall solicit the cooperation and assistance of persons having knowledge in the insurance field to the end that an intensive and well-balanced study may be made. All agencies of the State shall assist the Council in its study.

The Council shall conclude its study and make its report to the Governor and General Assembly not later than November one, nineteen hundred seventy-four.

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Pursuant to the study directive the Virginia Advisory Legislative Council appointed Mr. Robert Ackerman, Esquire, Fredericksburg; Mr. Robert T. Barham, Jr., C.L.U., Roanoke; Mr. Harold Stanley Bourne, Richmond; Honorable Russell M. Carneal, Williamsburg; Mr. Robert S. Day, C.L.U., Alexandria; Mr. William M. Deemer, C.L.U., Blacksburg; Honorable William E. Fears, Accomac; Mr. Willis Jackson, C.L.U., Roanoke; Mr. Grayson M. Kirtland, Richmond; Dr. David R. Klock, Blacksburg; Honorable John L. Melnick, Arlington; Mr. Patrick Portway, Alexandria; Mr. Godfrey L. Smith, III, C.L.U., Newport News; Mr. Stanley D. Smith, C.L.U., Richmond; and Mr. C. William Waechter, Esquire, Richmond; to the membership of the Committee. Honorable Robert R. Gwathmey, III, of Mechanicsville was appointed Chairman of the Committee and Honorable Russell M. Carneal was elected Vice-Chairman.

The Virginia Advisory Legislative Council and the Division of Legislative Services made staff and facilities available to carry out the study directive, Mr. L. Willis Robertson, Jr. and Mrs. Janet C. Baker, being assigned to assist the members of the Committee.

At the initial meeting of the Committee it was agreed that subcommittees should be appointed to study and report on specific unresolved problem areas in the life, health and accident insurance industry, once these areas were clearly defined and an evaluation of the current status obtained. It was noted that while the National Association of Insurance Commissioners (N.A.I.C.) model rules and regulations on accident and health insurance are of great interest to the Committee, they need not be the area of a subcommittee study, as the State Corporation Commission expects to adopt them following a public hearing. In the event they are not adopted, they should be the subject of further consideration.

After careful examination of the issues, it was agreed that two areas of primary importance which the Committee should investigate thoroughly and attempt to resolve were (1) deceptive

sales and marketing practices (including specialty policies and the sale of life insurance to college students); and (2) agent licensing.

After further deliberation and the determination that the subject was germane to the study directive, a motion was passed that a subcommittee study the feasibility of establishing an Advisory Council to the State Corporation Commission and Bureau of Insurance.

A public hearing was held in Richmond, at which representatives of several domestic companies, the Virginia Association of Life Underwriters, the Bureau of Insurance and the general public expressed their views on the various aspects of health, accident and life insurance the Committee had been directed to study.

Subsequently the Chairman appointed to the Subcommittee to Study Agent Licensing, Honorable William E. Fears, Chairman, Mr. Harold Stanley Bourne, Mr. Robert S. Day, Dr. David R. Klock and Mr. C. William Waechter, Jr. The Subcommittee met in Richmond and after thoughtful consideration, discussion and review of several aspects of licensing, submitted its report to the Committee.

The Chairman appointed to the Subcommittee on Deceptive Sales and Marketing Practices the Honorable John L. Melnick, Chairman, Mr. Patrick Portway, Mr. Godfrey L. Smith, III, Mr. William M. Deemer and Mr. Willis Jackson. After meetings in Richmond at which specialty policies and marketing of policies to college students, disclosure statements, and the present statutes and rules and regulations were thoroughly discussed and various recommendations examined, the Subcommittee submitted its report to the Committee.

The Subcommittee to Investigate the Feasibility of Establishing an Insurance Advisory Council to the State Corporation Commission and Bureau of Insurance was chaired by the Honorable Russell M. Carneal. Its members were Mr. Robert Ackerman, Mr. Robert T. Barham, Jr., Mr. Grayson M. Kirtland and Mr. Stanley D. Smith.

The Subcommittee met several times to explore the desirability of creating an Advisory Council and reviewed information from several outside sources and studied the types of such Councils in effect in other states. After serious deliberations on all aspects of this question, the Subcommittee submitted proposed legislation to the Committee.

The Chairman and Committee wish to express their appreciation for the assistance and cooperation rendered by Commissioner Bradshaw, Harwood and Shannon of the State Corporation Commission, and by Mr. Everette S. Francis, Commissioner of Insurance and Mr. William G. Flourney, Assistant Commissioner of Insurance.

After a careful review of the Committee's work the Council now makes its recommendations.

COUNCIL RECOMMENDATIONS

I. That there be no change in the actual licensing law at this time; that a resolution be drafted, directing the State Corporation Commission to make a study and report on the effect of Chapter 500 of the 1974 Acts of Assembly to the Governor and General Assembly in 1975. (See proposed resolution in Appendix I of this report.)

II. That the Council submit a request to the State Corporation Commission to study the feasibility of a uniform examination as proposed by the N.A.I.C. and in conjunction with this same proposal that they study the feasibility of a more meaningful testing program for licensing of agents.

III. That separate licensing of insurance brokers and consultants not be recommended at this time.

IV. That a resolution be drafted, directing the State Corporation Commission to promulgate and/or update its rules and regulations governing certain problem areas and requiring it to consult with appropriate representatives of the insurance consuming public and the insurance industry in this procedure. The State Corporation Commission is directed to report to the General Assembly on their status in 1975. (See proposed resolution in Appendix II of this report.)

REASONS FOR COUNCIL RECOMMENDATIONS

I. That there be no change in the actual licensing law at this time; that a resolution be drafted, directing the State Corporation Commission to make a study and report on the effect of Chapter 500 of the 1974 Acts of Assembly to the Governor and General Assembly in 1975.

The Council reviewed the bill which was enacted in the 1974 Session of the General Assembly with respect to temporary licenses. This bill provided more specific requirements for the training programs of insurance companies. It also empowered the Commission to refuse the issuance of temporary licenses to applicants for companies where, during the preceding twelve months, more than twenty-five percent of the temporary licensees have failed to take the examination. The bill further provided a temporary licensee must be under the supervision, direction and responsibility of a licensed agent.

However, the Council felt concern as to whether this measure would achieve the desired results without some supplementary action, as the consensus was that this was still a problem area in the insurance industry. Therefore the Council proposed a resolution be drafted, directing the State Corporation Commission to study and report on the effectiveness of the 1974 legislation in curbing the abuse of temporary licensing procedures for life insurance agents.

II. That the Council request the State Corporation Commission to study the feasibility of a uniform examination as proposed by the N.A.I.C. and in conjunction with this same proposal that they study the feasibility of a more meaningful testing program for licensing of agents.

The Council, being cognizant of the fact that the N.A.I.C. has been studying the merits of a uniform insurance agents' examination for all states, feels further exploration in this area should be delegated to the State Corporation Commission for its further study. The State Corporation Commission presently is responsible for the preparation, scheduling, and grading of the examination and the Council feels that it should be delegated the responsibility of a more extensive study of the N.A.I.C. proposal, as well as possible alternative methods of upgrading the present examination procedure.

III. That separate licensing of insurance brokers and consultants not be recommended at this time.

The Council, during the course of its deliberations, considered the merits of regulating the occupation of insurance consultant and broker by statute as recommended in the N.A.I.C. Model Uniform Agents and Brokers Licensing Act, with specific criteria established for agent, broker and consultant. However, the Council members feel this area requires further study before action is taken.

IV. That a resolution be drafted, directing the State Corporation Commission to promulgate and/or update its rules and regulations governing certain problem areas and requiring it to consult with appropriate representatives of the insurance consuming public and the insurance industry in this procedure. The State Corporation Commission is directed to report to the General Assembly on their status in 1975.

The Council noted that there are some broad existing statutes governing some of the problem areas but no regulations to complement the present statutory authority. It was felt that such regulations were necessary to properly control the problem areas identified by the Council. Problem areas identified by the Council included unethical sales practices and deceptive advertising and sales material. During the course of its deliberations the Council received evidence of marketing techniques used by certain insurers to lead a prospective purchaser to believe he was buying something other than insurance. The Council feels that updated regulations are necessary to curb this practice in the Commonwealth. Therefore the Council members felt a resolution should be drafted, directing the State Corporation Commission to promulgate and/or update its rules and regulations in specific areas of concern to the Council. The members felt this was necessary to insure that the insurance consumer is able to purchase the insurance protection that he needs and to remove practices and policies from the marketplace which are contrary to public policy.

CONCLUSION

The members of the Council sought to define the specific problems with which the Virginia consumer is confronted in the purchase of accident, health and life insurance and after these problems were clearly delineated, to resolve them in the most effective and practicable manner possible.

Considerable evidence was received from diverse sources, knowledgeable in the various intricacies of the insurance industry. The Council gave considerable time and thought to numerous proposals for alleviating the existing problems and after a thorough and concerted study, the Council feels that the recommendations offered in this report, if enacted, will be of substantial benefit to the Virginia consumer in the purchase of accident, health and life insurance.

Respectfully submitted,

Willard J. Moody
Edward E. Lane
George E. Allen, Jr.
Vincent F. Callahan, Jr.
Archibald A. Campbell
Joseph V. Gartlan, Jr.
Jerry H. Geisler
Robert R. Gwathmey, III
C. Hardaway Marks
Lewis A. McMurrin, Jr.
William V. Rawlings
James M. Thomson
Lawrence Douglas Wilder
Edward E. Willey

Appendix I

HOUSE JOINT RESOLUTION NO.....

Directing the State Corporation Commission to make a study and report on the effect of Chapter 500 of the 1974 Acts of Assembly on the abuse of temporary license procedures for life insurance agents.

Whereas, the Virginia Advisory Legislative Council's Committee studying certain insurance matters received evidence during the course of its 1973 study that certain insurers were abusing the temporary licensing procedures for life insurance agents by obtaining temporary licenses for individuals who had no intention of becoming licensed insurance agents; and

Whereas, relying on this evidence the Virginia Advisory Legislative Council's Committee studying certain insurance matters recommended extensive revision of the temporary licensing law to the 1974 Session of the General Assembly; and

Whereas, the proposed revisions were substantially amended during the legislative process and as a result Chapter 500 of the 1974 Acts of Assembly was enacted; and

Whereas, the Virginia Advisory Legislative Council's present Committee studying certain insurance matters feels that the effect of the enactment of Chapter 500 of the 1974 Acts of Assembly should be studied to determine the necessity for further revision of the temporary insurance agent licensing law; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the State Corporation Commission is hereby directed to make a study and report on the effect of Chapter 500 of the 1974 Acts of Assembly in curbing the abuse of the temporary licensing procedures for life insurance agents.

The State Corporation Commission shall complete its study and make its report to the Governor and General Assembly not later than November one, nineteen hundred seventy-five.

Appendix II

HOUSE JOINT RESOLUTION NO.....

Directing the State Corporation Commission to promulgate rules and regulations to curb certain harmful practices existing in the life, health and accident insurance fields.

Whereas, life, health and accident insurance is purchased by many citizens of the Commonwealth; and

Whereas, as a result of consumer complaints, the General Assembly directed the Virginia Advisory Legislative Council to make a study of certain insurance matters; and

Whereas, the Virginia Advisory Legislative Council has recommended the promulgation of rules and regulations to help curb harmful practices existing in the insurance market place in the Commonwealth; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the State Corporation Commission is hereby directed to promulgate and/or update its rules and regulations governing the business of life, health and accident insurance in the following areas:

1. Unethical sales practices, including required identification of life insurance agents as agents representing a life insurance company and the use of deceptive terminology in oral sales presentations.

2. Deceptive advertising and sales materials.

3. Use of any indication of policy contents or policy provisions which are likely to encourage misrepresentation or are misleading, deceptive or contrary to the public policy of the Commonwealth.

4. All rules and regulations necessary to effectively carry out the provisions of §§ 38.1-49 through 38.1-57 and § 38.1-342.1 of the Code of Virginia.

5. Any additional rules and regulations which the Commission feels will advance the public policy of the Commonwealth in insuring that the insurance consumer is able to purchase protection suitable to his needs and in removing from the market practices and policies which are contrary to the public policy of the Commonwealth.

The State Corporation Commission shall seek the assistance of the insurance consuming public and representatives of the insurance industry in its rule and regulation making procedures and report back to the General Assembly on or before December one, nineteen hundred seventy-five.

