



The State of New Hampshire Insurance Department

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WAIVER APPLICATION DECISION **PERTAINING TO LINCOLN HERITAGE LIFE INSURANCE COMPANY'S** **MAY 7, 2019 REQUEST FOR A WAIVER PURSUANT TO INS 312.05** **FROM INS 312.04(c)(1)(e) ANNUAL DISCLOSURE**

I. Introduction

On May 7, 2019 Lincoln Heritage Life Insurance Company (hereinafter referred to as "Lincoln Heritage") submitted a request to the NH Department of Insurance (hereinafter referred to as "Department") for a waiver per Ins 312.05. The request is for relief from Ins 312.04(c)(1)(e), which requires annual disclosure to a policyholder that action on the application of accumulated dividends toward payment of premium related to a life insurance policy may have significant future financial, tax or other implications.

II. Legal Authority

New Hampshire recently adopted an amendment to Ins 312 permitting an insurer to request and the Insurance Commissioner to consider a waiver application. Specifically, Ins 312.05 Waiver of Rules was adopted on April 30, 2019.¹ The effective date of this rule is June 6, 2019. The waiver application submitted by Lincoln Heritage Life Insurance Company, therefore, is now eligible for consideration pursuant to that legal authority.

III. Discussion

Lincoln Heritage has requested a waiver of the application of Ins 312.04(c)(1)(e) in its annual disclosure statement to life policyholders. As grounds for its request, Lincoln Heritage asserts that it

¹ Ins 312.05 Waiver or Suspension of Rules.

- (a) The commissioner, upon the commissioner's own initiative or upon request by an insurer, shall waive any requirement of Ins 312 if such waiver does not contradict the objective or intent of the rule and;
 - (1) Applying the rule provision would cause confusion or would be misleading to consumers;
 - (2) The rule provision is in whole or in part inapplicable to the given circumstances;
 - (3) There are specific circumstances unique to the situation such that strict compliance with the rule would be onerous without promoting the objective or intent of the rule provision; or
 - (4) Any other similar extenuating circumstances exist such that application of an alternative standard or procedure better promotes the objective or intent of the rule provision. #12772, eff 6-6-19
- (b) No requirement prescribed by statute shall be waived unless expressly authorized by law.
- (c) Any person or entity seeking a waiver shall make a request in writing.
- (d) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any. #12521, eff 4-28-18

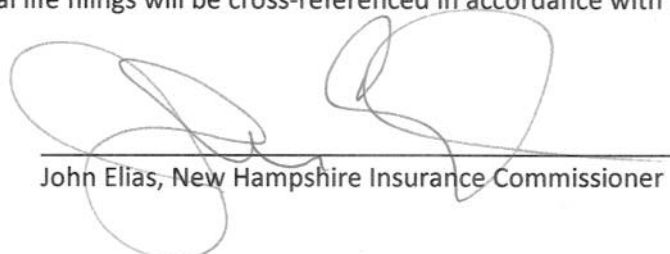
does not offer or pay dividends and that making reference to the same in the annual disclosure could result in confusion on the part of the consumer or be interpreted as misleading. Lincoln Heritage proposes to issue an annual disclosure that mirrors the rule requirements with the only exception being the deletion of "Application of accumulated dividends toward payment of premium".

The purpose of the annual disclosure statement is to provide policyholders with notice of potential implications if certain acts were to be undertaken with regard to their policy.² In this instance, including a reference as to the application of dividends, where such dividends are *not* offered, would raise questions and confusion rather than provide the necessary notice and clarity that the rule is intended to promote. As such, the Department agrees that Ins 312.04(c)(1)(e) inapplicable to the specific situation and application of the rule would cause confusion or would be misleading to consumers.

IV. Conclusion

In light of the foregoing, a waiver of Ins 312(c)(1)(e) as it pertains to Heritage Lincoln's non-dividend paying policies is appropriate because such waiver would not contradict the objective or intent of the annual disclosure requirement. In addition, applying that specific rule provision would cause confusion or would be misleading to consumers. The Department hereby approves Lincoln Heritage's waiver application. The Department directs Lincoln Heritage to file the proposed amended version of the annual disclosure notice with the Department via SERFF and include a copy of this decision. Thereafter, the individual life filings will be cross-referenced in accordance with Ins 401.13(k).

Dated: 6/13/19



John Elias, New Hampshire Insurance Commissioner

² Ins 312.04 Life Insurer Disclosures to Policyholders.

(c) The life insurer disclosure to policyholders shall be in writing and shall clearly state the following:

(1) Any of the following actions related to a policyholder's life insurance policy may have significant future financial, tax, or other implications:

- a. Surrender of the policy;
- b. Lapse of the policy;
- c. Failure to pay premium;
- d. Application of the equity of the policy toward payment of premium;
- e. Application of accumulated dividends toward payment of premium;
- f. Financing premium payments;
- g. Sale of the policy; and
- h. Assignment of the policy or any right under the policy; and

(2) A notice to the policyholder advising:

"Before you act, you need to consider all options carefully and seek advice from a licensed financial advisor, attorney, or other professional who can explain all available options and consequences. If you have questions about this notice or your policy, please contact customer service at [insert 1-800-xxx-xxxx]."