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INSURANCE — SECTION 9426-2 G. C. PROHIBITS ISSUANCE OF POLICY TO INSURE LIVES OF SEVERAL MEMBERS OF FAMILY — GROUP LIFE INSURANCE LAW.

SYLLABUS:

*The issuance of a policy of insurance whereby the lives of several members of a family are insured is prohibited by Section 9426-2, General Code.*

Columbus, Ohio, September 5, 1940.

Hon. John A. Lloyd, Superintendent of Insurance,  
Columbus, Ohio.

Dear Sir:

This will acknowledge your request for my opinion with respect to so-called "family policies". With your communication you have enclosed sample forms of such policies and also correspondence which has taken place between you and one of the companies proposing to issue these policies. You ask whether the issuance of these policies in Ohio is prohibited by the provisions of Sections 9403, 9404, 9426-2 and 12956, General Code. From an examination of the forms submitted with your communication, it appears that it is proposed by means of a family policy to insure the life of somebody designated as the "primary insured" and other members of his immediate family. It is further provided in the form submitted that other members of the immediate family may be added to the list of those insured under the contract, provided suitable application, evidence of insurability satisfactory to the company, endorsement of such addition on the policy, and payment of the required additional premium be made. The proportionate premium charged on the lives of each of the various persons insured thereunder is set forth and it is provided that of any of such persons die the premium due on the policy shall be reduced in such proportionate amount. It is further provided that, except in the event of death of one of the persons insured thereunder or the withdrawal of an insured in accordance with the conversion or reinstatement provisions therein, the payment of premium for any one of the insurers shall be contingent upon the payment of the corresponding premium for all of the persons insured thereunder then living. In other words, it is not permitted that one of the persons insured thereunder discontinue his insurance and that the others continue to pay premiums and maintain their insurance.

It also appears that the premiums charged for insurance under this plan are the same as those charged for individual policies, that is to say, the total premium charged for a family policy is the sum of the premiums which would be charged if individual policies of the same kind and in the same amounts had been issued to the various persons insured thereunder. Although the company will insure a child in a family policy for an amount as low as \$250.00, provided the total amount of the policy is not less than \$1500.00,

the company will not issue individual policies in an amount less than \$500.00. Neither of the parents may be insured for an amount less than \$500.00.

In view of the conclusion which I have reached with respect to the prohibition contained in Section 9426-2, General Code, and its application to the proposed form of policy, I have found it unnecessary to consider what effect, if any, Sections 9403, 9404 and 12956, General Code, might have with reference thereto.

The so-called "Group Life Insurance Law" in its original form is found in 116 O. L. 414 and has been codified as Sections 9426-1 to 9426-4, General Code, inclusive. In the proposed form of policy, the lives of various members of a family who are named therein, are insured thereby. In other words, there is but one contract or policy insuring the lives of several members of a family. Section 9426-1, General Code, provides in part as follows:

"(1) Group life insurance is hereby declared to be that form of life insurance covering not less than fifty employees with or without medical examination, written under a policy issued to the employer, the premium on which is to be paid by the employer or by the employer and employees jointly, and insuring only all of his employees, or all of any class or classes thereof, determined by conditions pertaining to the employment, for amounts of insurance based upon some plan which will preclude individual selection, for the benefit of persons other than the employer; provided, however, that when the premium is to be paid by the employer and employee jointly and the benefits of the policy are offered to all eligible employees, not less than seventy-five per centum of such employees may be so insured. Such group policy may provide that the term 'employees', shall include the officers, managers and employees of subsidiary or affiliated corporations and the individual proprietors, partners and employees of affiliated individuals and firms, when the business of such subsidiary or affiliated corporations, firms or individuals is controlled by the common employer through stock ownership, contract or otherwise. \* \* \*"

The section then proceeds to declare that seven forms of life insurance are group life insurance within the meaning of the act, viz., (a) life insurance covering certain units of the national guard or naval militia of any state; (b) life insurance covering certain units of state troopers or state police of any state; (c) life insurance covering the members of any labor union; (d) life insurance covering all the members of a group of persons who become borrowers from one financial institution; (e) life insurance covering members of any duly organized group or association of veterans; (f) life insurance covering the members of any organization of agriculturists or horticulturists

organized under the cooperative laws of the state of Ohio; and (g) life insurance covering employes of political subdivisions or districts of the state of Ohio and certain other institutions supported in whole or in part by public funds.

Section 9426-2, General Code, sets forth certain provisions and restrictions which must be contained in the policies issued under authority of the "Group Life Insurance Act" and provides that no such policy shall be issued or delivered in this state until a copy of the form thereof has been filed with the Superintendent of Insurance and formally approved by him. This section further provides as follows:

"Except as provided in this act, it shall be unlawful to make a contract of life insurance covering a group in this state."

This language absolutely forbids the making of a contract of life insurance covering a group except as specifically provided in the "Group Life Insurance Law", and appears to me to be so clear and unambiguous as to present no opportunity for construction.

Among other definitions of the word "group" contained in Webster's New International Dictionary, I find the following:

"An assemblage of persons or things regarded as a unit because of their comparative segregation from others; aggregation; as, a *group* of trees or of islands."

Tested by this definition it becomes at once apparent that the persons who would be insured under the proposed form of policy would constitute a group.

It has been suggested that the word "group" as used in the quoted portion of Section 9426-2, General Code, applies only to employee groups and has no applicability to family groups, and that the prohibition contained in this section relates only to group life insurance as defined by the Act and does not include family groups. However, there is nothing in the language used by the General Assembly to indicate that there was any such legislative intention, and I know of no principle of statutory construction which would justify restricting or limiting the meaning of the word "group" as used in Section 9426-2, General Code, to employee groups.

The General Assembly has absolutely prohibited the making of any contract of insurance in this State covering a group, except as provided in the Group Life Insurance Law. In the form of policy submitted, it is pro-

posed to insure several members of a family, and it therefore falls within the scope of the prohibition contained in the language quoted from Section 9426-2, General Code.

You are, therefore, advised that the issuance of the proposed form of family policy which you have submitted to me for examination is prohibited by Section 9426-2, General Code.

Respectfully,

THOMAS J. HERBERT,  
Attorney General.