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INSURANCE—GROUP LIFE POLICY; MEMBERS AND EMPLOYEES OF ORGANIZATIONS, PROFESSIONS NAMED §3917.01 (B) (8) R.C.—MEMBER OF PROFESSIONAL ORGANIZATION ELIGIBLE FOR INCLUSION, NO DUTY TO HAVE EMPLOYEES INCLUDED.

SYLLABUS:

1. Under the provisions of Section 3917.01 (B) (8), Revised Code, a group life insurance policy may be issued, covering the members and the employees of members of any duly organized association composed of members of the professions therein named, but such policy may not be limited to the members of such association to the exclusion of their employees.

2. If, pursuant to Section 3917.01 (B) (8), Revised Code, a policy of group insurance is issued, a member of a professional organization who is eligible for inclusion therein is under no obligation to see to it that his employees or any of them are included in the protection of such policy.

Columbus, Ohio, April 8, 1958

Hon. Arthur I. Vorys, Superintendent of Insurance
Columbus, Ohio

Dear Sir:

I have before me your communication in which you request my opinion on the construction of that portion of Section 3917.01, Revised Code, which relates to a group insurance policy covering the members and employees of members of any duly organized association composed of the medical, dental, accounting or legal professions. Your specific questions are, to quote from your letter:

“A professional group in Ohio, which qualifies under division (8) for group life insurance, desires to have issued to it a policy which will cover only the members of the association and none of the employees of members. May a policy, pursuant to division (8) above, be issued to an association which will cover members of the association only and exclude coverage to any employees of members?”

“If a policy is issued which includes provision for members’ employees, does a member who has any employees have to insure the lives of such employees to be eligible for coverage himself?”

Section 3917.01, Revised Code, forms a part of Chapter 3917., Revised Code, relating to group life insurance. Section 3917.01, *supra*, underwent amendments by the 102nd General Assembly.

Division (B) of this section sets forth various organizations and groups that are to be included within the definition of "group life insurance". Under its amended form, this section provides, *inter alia*:

"(B) As used in sections 3917.01 to 3917.06, inclusive, of the Revised Code, the following forms of life insurance are group life insurance:

"(8) Life insurance covering *the members and the employees of members* of any duly organized association composed of members of the medical, dental, accounting or legal professions which shall have been in existence for at least two years immediately preceding the purchase of such insurance, written under a policy issued to such association, which association is the employer for the purpose of such sections, the premium on which is *to be paid by the insured members or their employees, insuring members and their employees* for amounts of insurance based upon some plan which will preclude individual selection except as hereinafter provided, for the benefit of persons other than the association; provided that there must be at least fifty insured *members in any group*; and provided further that unless at least fifty per cent of all members or one thousand members, whichever is the lesser number, are insured, each member must pass a satisfactory medical examination in order to be insured; and provided that when members apply and pay for additional amounts of insurance, they may be insured for such additional amounts if they pass satisfactory medical examination." (Emphasis added)

As this provision is entirely new, we must find its meaning in the language used. I know of no precedent that can be of material assistance. It will be noted that under the provision quoted, "group life insurance" for the purpose of said chapter is to include "life insurance covering the members *and* the employees of members of any duly organized association composed of the medical, dental, accounting or legal profession." The coupling of the words "members *and* the employees of members" appears to me to make it very clear that the legislature intended that a group covered under this provision is to be open not merely to members of the profession but also to their employees, and the language used excludes the idea that such group could contain either the members of the profession to the exclusion of the employees, or the employees to the exclusion of the members of the profession.

In the provision that there must be "at least fifty insured members in any group," the word "members," in my opinion means not "members of the profession" but rather, members of the eligible group who desire to participate in the plan.

In any association, such as those mentioned, it is obvious that the members of the profession would in general constitute a much more advanced group than the employees. I think we may also assume that the employees, to-wit, the secretaries and clerks of members of such profession as a body would lack the permanency that would characterize the professional members. Both of these factors, it appears to me, would have something to do with the risk that an insurance company would assume in writing a group policy under the provision in question. There would manifestly be a greater probability of death in the older group, and the frequent changes and withdrawals in the younger element would appear to have the effect of producing an influx of young blood into the insured group, thereby affecting the risk and presumably the rate of premiums.

I am influenced in the conclusion, which I have indicated, by a comparison with that portion of said Section 3917.01, Revised Code, which is contained in paragraph (7). This provision reads in part as follows:

"(7) Life insurance covering employees of a political subdivision or district of this state, or of an educational or other institution supported in whole or in part by public funds, *or of any classes thereof, determined by conditions pertaining to employment*, or of this state or any department or division thereof, * * *"
(Emphasis added)

Plainly, it is here contemplated that a policy may cover only a particular class of employees in any department or division of the state or any of its subdivisions. This privilege of including only a "class" of the persons coming within the purview of the law is wholly absent from the provisions found in paragraph (8) above quoted.

As to your second inquiry, it appears to me that the privilege or obligation resting in or upon any member of the profession, or any of his employees referred to in paragraph (8) of the section under consideration, is individual and personal, and there is nothing in the law that suggests that any or all of the employees of any particular member of an association must join in a group plan, and certainly no obligation

on the part of the employer to be responsible either for their joining or for the payment of their share of the premium.

Accordingly, in specific answer to your questions, it is my opinion:

1. Under the provisions of Section 3917.01 (B) (8), Revised Code, a group life insurance policy may be issued, covering the members and the employees of members of any duly organized association composed of members of the professions therein named, but such policy may not be limited to the members of such association to the exclusion of their employees.

2. If, pursuant to Section 3917.01 (B) (8), Revised Code, a policy of group insurance is issued, a member of a professional organization who is eligible for inclusion therein is under no obligation to see to it that his employees or any of them are included in the protection of each policy.

Respectfully,

WILLIAM SAXBE

Attorney General