CHAPTER 62

INSURANCE DIVISION; ACCIDENT AND HEALTH INSURANCE

GENERAL. The provisions of this chapter apply to accident or disability insurance when that form of insurance is contained in a policy which also carries life insurance. Joyce v N. Y. Life Ins. Co. 190 M 66, 250 NW 674, 252 NW 427.

62.01 POLICY, FORM, APPROVAL.

HISTORY. 1913 c. 156 s. 1; G.S. 1913 s. 3522; G.S. 1923 s. 3415; M.S. 1927 s. 3415; 1839 c. 146 s. 1.

Group insurance; construction of provision prescribing continuous employment for definite period as a prerequisite to recovery of benefits; effect of temporary lay-off. 24 MLR 701.

62.02 PROVISIONS OF POLICY.

HISTORY. 1913 c. 156 s. 2; G.S. 1913 s. 3523; G.S. 1923 s. 3416; M.S. 1927 s. 3416; 1939 c. 146 s. 2.

SCOPE. This section relates only to accident and health insurance, not to life insurance. Reagan v Phil. L. Ins. Co. 165 M 186, 206 NW 162.

VIOLATION, WHAT IS. A provision that after a policy has been in force for five years, the company will pay, in lieu of all other benefits, a sum equal to the amount of premiums paid violates this section since it is a limitation on the amount of indemnity to a sum less than that expressly stipulated. Commercial Accident Ins. Co. v Wells, 156 M 116, 194 NW 22.

VIOLATION, EFFECT OF. A policy containing a clause which has the effect of reducing the stipulated indemnity but which is not printed as prescribed by statute is to be read as though the clause were not in the policy at all. Thorne v. Aetna L. Ins. Co. 155 M 271, 193 NW 463.

62.03 STANDARD PROVISIONS.

HISTORY. 1913 c. 156 s. 3; G.S. 1913 s. 3524; G.S. 1923 s. 3417; M.S. 1927 s. 3417.

(3) This section modifies the rule of Mueller v Grand Grove, 69 M 236, 72 NW 48, and excludes liability for injuries suffered when the policy is suspended by default. Bienhoff v N. Am. Accident Ins. Co. 153 M 241, 190 NW 63.

With respect to accident or death occurring during a lapse, a new contract is in effect; the result of a subsequent payment of the premium. The old contract not having been in force as to such accident or death, there can be no recovery. It does not follow that an accident policy cannot be reinstated with respect to benefits other than those for accidents during the lapse. Jennings v Trav. Equit. Ins. Co. 173 M 547, 218 NW 104.

A mere acceptance of a premium tendered after lapse of a policy ipso facto reinstates it with the limited coverage named in the provision. Garber v Equit. L. Assur. Soc. 193 M 18, 257 NW 506.

See 23 MLR 687; 18 MLR 748.

(4) A provision for immediate notice of accidental death means reasonable notice. Clay v Aetna L. Ins. Co. 53 F(2d) 689.

The provisions covering notice to be given the insurer may be waived by the insurance company even though it is found in the statute. Kearns v N. Am. L. & Cas. Co. 150 M 486, 185 NW 659.

A denial of liability by the insurer on grounds other than failure to furnish notice of proof of loss is a waiver of such failure. Black v Cent. Bus. Men's Ass'n, 162 M 265, 202 NW 823.

If, at the time of the accident, there is no reasonable ground for believing that bodily injury would result, then the insured is allowed the specified time named in the contract for giving notice after he knows that bodily injury might follow as the result of the accident. Jensvold v Prov. L. & A. Ins. Co. 191 M 122, 253 NW 535; Jensvold v Minn. Comm. Men's Ass'n, 192 M 475, 257 NW 86.

(5) Where the beneficiary did not know of the existence of the policy for five years after the disability occurred but gave prompt notice upon learning of it, it was held that the question of whether notice of disability was given as soon as reasonably possible was for the jury. Joyce v N. Y. L. Ins. Co. 190 M 66, 250 NW 674, 252 NW 427.

The provision in the policy, that in case of insanity of the insured the indemnity is part to the beneficiary, nullifies the policy as not in accordance with provisions in section 62.03 (11). Joyce v New York Life, 190 M 77, 250 NW 427.

The mere acceptance of a premium tendered after the lapse of a policy, ipso facto reinstates the policy with the limited coverage named in the provision. Garber v Equitable, 193 M 22, 257 NW 506.

The provisions of the policy that it shall not cover "injuries of which there is no visible contusion or wound on the exterior of the body of the insured", being an exception to the coverage clause, should be given a reasonable and practical, but liberal, construction as to the insured. Cavallero v Travelers, 197 M 418, 267 NW 370.

Recovery on policy of accident insurance denied for failure to give timely notice of loss which was prerequisite to right of recovery. Lepak v Commercial Casualty, 198 M 34, 269 NW 89.

See 7 MLR 505, 14 MLR 97.

(7) Subdivisions 7(B)7 and 7(C)7 merely fix the ultimate time within which proof of loss must be furnished regardless of the failure of the insurer to supply proper forms for the proof. It has no effect on the inception of the period for which the insurer is liable. Lindskog v Equit. L. Assur. Soc. 209 M 13, 295 NW 70.

(8) The company's right to an autopsy is conditioned upon its making a reasonable and seasonal demand. When such demand is made and refused, there is a breach of contract which defeats the beneficiary's right of recovery. Clay v Aetna L. Ins. Co. 53 F(2d) 689, discussed in 16 MLR 713.

As a matter of law, a demand for an autopsy shortly before the time set for the funeral and after relatives had arrived was not a reasonable demand under all the circumstances. Johnson v Bankers Mut. Cas. Co. 129 M 18, 151 NW 413, Ann. Cas. 1916A 154; LRA 1915D 1199.

Where the insurance company, with knowledge of the death, delayed demanding an autopsy for a month after burial, the delay was unreasonable as a matter of law. Cavallero v Trav. Ins. Co. 197 M 417, 267 NW 370.

(14) When, in a statute relating to a remedy upon contracts touching public interests, a limitation of time to bring suit is fixed at a less period than the general statute of limitations, it should be regarded as prohibiting the parties from contracting for a shorter period, the one prescribed being the shortest reasonable time to which such actions should be limited. Smith & Wyman Co. v Carlsted, 165 M 313, 206 NW 450.

In a suit brought under the disability provisions of a life insurance policy where notice of disability was not given until 38 days after total disability ceased, the insured may recover under section 62.03 as if he had furnished notice in accordance therewith if it was not reasonably possible to furnish notice earlier and notice was furnished as soon as it was reasonably possible. Whether it was reasonably possible to furnish notice earlier and whether notice was furnished as soon as was reasonably possible was properly for the jury. Wheeler v Equit. L. Assur. Co. 211 M 474, 1 NW(2d) 593.

Equity had jurisdiction of insurer's suit to cancel for fraud total and permanent disability endorsements on three life policies, where insured was claiming that such disability existed. Penn Mutual v Joseph, 5 F. Supp. 1006.

Terms of insurance contract. 17 MLR 575.

Reinstatement of lapsed policy; length of period of coverage. 23 MLR 689.

Impossibility as an excuse for failure to furnish proof of disability of insurer. 25 MLR 387.

62.04 PROVISIONS FORBIDDEN; OPTIONAL FEATURES.

HISTORY. 1913 c. 156 c. 4; G.S. 1913 s. 3525; G.S. 1923 s. 3418; M.S. 1927 s. 3418.

(1) 16. Athough sickness is contracted within the term of a policy, there can be no recovery for disability resulting therefrom but beginning after cancellation. A claim originates with the disability, not the illness. Davern v Trav. Equit. Ins. Co. 172 M 19, 214 NW 468.

(2) 17. The insured has a reasonable time within which to give the written notice and, until this time has expired, the insurance company has no right to take advantage of the pro rata provision of the statute. Aaberg v Minneapolis Comm. Men's Ass'n, 161 M 384, 201 NW 626.

62.05 CONTRADICTORY PROVISIONS PROHIBITED.

HISTORY. 1913 c. 156 s. 5; G.S. 1913 s. 3526; G.S. 1923 s. 3419; M.S. 1927 s. 3419.

62.06 FALSE STATEMENTS.

HISTORY. 1913 c. 156 s. 6; G.S. 1913 s. 3527; G.S. 1923 s. 3420; M.S. 1927 s. 3420.

CONSTRUCTION. The plaintiff cannot recover if the insured made any of the representations falsely with intent to deceive or, regardless of such intent, if such false representations affected either the acceptance of such risk or the hazard assumed. Olsson v Midland Ins. Co. 138 M 424, 165 NW 474.

An applicant who makes qualified answers should be held to warrant only his belief in the truthfulness of his answers and unless there was bad faith or the intentional suppression of facts, the applicant should not be charged with the consequences of fraud or of innocent misrepresentations which materially affect the acceptance of the application or risk of loss. Ranta v Sup. Tent K. of M. 97 M 454, 107 NW 156; Schmitt v U. S. F. & G. Co. 169 M 106, 210 NW 846.

BLANKS FILLED BY AGENT. If the insured made to the agent a full and truthful statement of the facts but the latter incorrectly filled out the application, the error would not avoid the policy even though the insured looked over the application if he was of the honest opinion that it had been filled out properly. If he knew of the errors, this would avoid the policy. Zimmerman v Bankers Cas. Co. 138 M 442, 165 NW 271.

Plaintiff is not chargeable with notice of the falsity of the answers written in by the agent merely because he accepted the policies with the incorrect applications attached. Schmitt v U. S. F. & G. Co. 169 M 106, 210 NW 846; Olsson v Midland Ins. Co. 138 M 424, 165 NW 474.

WAIVER. A false representation does not make the policy absolutely void, but voidable at the election of the company. It may be waived and to constitute a waiver there need be no new agreement nor the elements of technical estoppel. If the insured chooses, with full knowledge of the grounds of forfeiture, to consider the policy in force and makes an election accordingly, it cannot insist upon a forfeiture. Madden v Interstate Bus. Men's Acc. Ass'n, 139 M 6, 165 NW 482.

JURY QUESTION. Whether a false statement materially affects either the acceptance of the risk or the hazards assumed is ordinarily a jury question with the burden of proof on the insurer. Ivanesovich v N. Am. L. & Cas. Co. 145 M 175, 176 NW 502.

Misrepresentation by applicant. 28 MLR 156.

62.07 DEFENSES, WHEN NOT WAIVED.

HISTORY. 1913 c. 156 s. 7; G.S. 1913 s. 3528; G.S. 1923 s. 3421; M.S. 1927 s. 3421.

62.08 ALTERATION OF APPLICATION.

HISTORY. 1913 c. 156 s. 8; G.S. 1913 s. 3529; G.S. 1923 s. 3422; M.S. 1927 s. 3422.

62.09 POLICY ISSUED IN VIOLATION OF CHAPTER.

HISTORY. 1913 c. 156 s. 9; G.S. 1913 s. 3530; G.S. 1923 s. 3423; M.S. 1927 s. 3423.

SCOPE. The policy contained the provisions of section 62.03 (1) that the amount of indemnity may be modified by the insured's change of occupation but this was not printed as required in section 62.02. This provision will not be reinstated through the operation of section 62.09 for although the purpose of the latter section is to preserve the policy, it does not go to the extent of making valid those parts inserted without authority of law. Thorné v Aetna L. Ins. Co. 155 M 271, 193 NW 463.

Provisions of policy must be construed in accordance with the health and accident code, sections 62.01 to 62.13. Joyce v New York Life, 190 M 66, 72, 250 NW 674, 252 NW 427.

62.10 RECIPROCAL PROVISIONS.

HISTORY. 1913 c. 156 s. 10; G.S. 1913 s. 3531; G.S. 1923 s. 3424; M.S. 1927 s. 3424.

62.11 DISCRIMINATION PROHIBITED.

HISTORY. 1913 c. 156 s. 11; G.S. 1913 s. 3532; G.S. 1923 s. 3425; M.S. 1927 s. 3425.

62.12 APPLICATION.

HISTORY. 1913 c. 156 s. 12; G.S. 1913 s. 3533; G.S. 1923 s. 3426; 1925 c. 74 s. 1; M.S. 1927 s. 3426.

Summary as to policies and policy requirements in the health and accident code; construction of its provisions. Lindskog v Equitable, 209 M 16, 295 NW 70; Wheeler v Equitable, 211 M 477, 1 NW(2d) 593.

Impossibility as an excuse for failure to furnish proof of disability to insurer. 25 MLR 387.

62.13 VIOLATIONS; PENALTIES.

HISTORY. 1913 c. 156 s. 13; G.S. 1913 s. 3534; G.S. 1923 s. 3427; M.S. 1927 s. 3427.