

# COMMONWEALTH OF VIRGINIA



SCOTT A. WHITE  
COMMISSIONER OF INSURANCE  
STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE

P.O. BOX 1157  
RICHMOND, VIRGINIA 23218  
1300 E. MAIN STREET  
RICHMOND, VIRGINIA 23219  
TELEPHONE: (804) 371-9741  
scc.virginia.gov

231130225

May 15, 2023

**SENT VIA SECURE EMAIL**

Eric Mueller  
Sr. Regulatory Reporting & Compliance Analyst  
Colonial Penn Life Insurance Company  
11825 Pennsylvania Street  
Carmel, IN 46032-4555

RE: Colonial Penn Life Insurance Company (Colonial Penn), NAIC #62065

Dear Mr. Mueller,

INS-2023-00087

2023 NOV 29 A 9:34

REC'D - CIVIL RIGHTS  
DOCUMENT CONTROL CENTER

The Bureau of Insurance (Bureau) has performed a market analysis inquiry concerning Colonial Penn's operations in the Commonwealth of Virginia. During this inquiry, the review revealed violations of the Code of Virginia (hereinafter referred to as "the Code") and the Virginia Administrative Code, which are summarized below.

### Advertisements:

14 VAC 5-41-30 B states that an advertisement shall be truthful and not misleading in fact or by implication. The form and content of an advertisement shall be sufficiently accurate, complete, and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the commission from the overall impression that the advertisement may be reasonably expected to create within the segment of the public to which it is directed.

The review revealed 1 violation of 14 VAC 5-41-30 B due to an online application process that states, "You won't be charged until your first policy payment date" but does not state as long as your application is approved. The condition of the application being approved does not appear until much later in the process. Therefore, the advertisement was not complete and clear and has the capacity or tendency to mislead or deceive.

14 VAC 5-41-30 C states that an advertisement shall not omit material information or use words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving purchasers, prospective

purchasers or policyowners as to the nature of their relationship with the insurer, or the nature or extent of any policy benefit, loss covered, premium payable, or state or federal tax consequences. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale, or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

The review revealed 7 violations of 14 VAC 5-41-30 C due to the omission of material information by failing to include a disclaimer specifying that premium payments are required to maintain coverage when advertising the policy would provide "lifetime coverage", "permanent coverage", "permanent lifetime protection", "lifetime protection" or any such similar language.

14 VAC 5-41-40 A states that the information required to be disclosed by this chapter shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of an advertisement so as to confuse or mislead.

The review revealed 4 violations due to the minimization of required disclosures within the advertisement.

14 VAC 5-41-40 C states, an advertisement shall not contain figures, dollar amounts, or statistical information unless it accurately reflects recent and relevant facts. The source of any figures, dollar amounts, or statistics used in advertisements shall be identified therein.

The review revealed 5 violations due to the use of statistical information without identified sources and the use of statistics that did not accurately reflect recent and relevant facts.

14 VAC 5-41-80 B states, an advertisement of a particular policy shall not use the phrase "inexpensive," "low cost" or any similar term unless that fact is capable of being demonstrated to the satisfaction of the commission.

The review revealed 19 violations of 14 VAC 5-41-80 B due to the use of the term "affordable" for products that are marketed by direct response techniques or a life insurance policy containing graded or modified benefits.

14 VAC 5-41-110 B states that an advertisement shall not state or imply that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of a particular policy because of special advantages available in the policy.

The review revealed 1 violation due to the use of a fixed time frame to respond to an advertisement due to special advantages available in the policy.

14 VAC 5-41-150 C states that each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published, or prepared advertisement of its individual policies and specimen copies of typical printed, published, or prepared advertisements of its blanket, franchise, and group policies, disseminated in this Commonwealth, with a notation indicating the manner and extent of distribution and the form number of any policy referred to in any advertisement. The file shall be subject to inspection by the commission. All advertisements shall be maintained in the file for a period of five years after discontinuance of their use or publication.

The review revealed 1 violation for failing to maintain a complete file.

### **Policy Forms**

Sections 38.2-316 B and 38.2-316 C 1 of the Code set forth the requirements for the filing and approval of application forms prior to use.

The review revealed 14 violations due to the insertion of additional identification numbers in the lower left corner of the first page of each form altering the filed and approved form.

### **Corrective Action Plan**

Based on the findings Colonial Penn shall:

1. Review all advertisements in use in Virginia to verify compliance with 14 VAC 5-41-30 B, 14 VAC 5-41-30 C, 14 VAC 5-41-40 A, 14 VAC 5-41-40 C, 14 VAC 5-41-80 B, and 14 VAC 5-41-110 B. Use of any advertisements that are not in compliance with 14 VAC 5-41-10 et seq. should be discontinued immediately and agents should be promptly notified of such;
2. Establish procedures and a system of control to ensure that all advertisements used in the Commonwealth to market Colonial Penn's life insurance products going forward comply with 14 VAC 5-41-10 et seq. prior to use;
3. Review and strengthen procedures to ensure that Colonial Penn's advertising file contains a specimen copy of every advertisement to include the manner and extent of distribution and the form number of any policy referred to in the advertisement to comply with 14 VAC 5-41-110 B;
4. Immediately review all application forms currently in force and currently being marketed in Virginia and identify any application form, including those referenced during the course of this inquiry, to ensure that they have not been altered from the filed and approved application form as required by §§ 38.2-316 B and 38.2-316 C 1 of

the Code. Immediately cease using any application form that has been altered from the filed and approved application form until they have been filed and approved by the Commission. Prior to taking any action, submit a remediation plan to the Forms section of the Life and Health Market Regulation division. The Company should clearly indicate in the letter(s) of transmittal that the submission is a result of Colonial Penn's efforts to comply with this inquiry's corrective action plan.

Upon receipt of this letter, please review the examiners' findings and the corrective action plan and send written acknowledgment that Colonial Penn will complete all corrective action items within 60 days of the date of the acknowledgement. Include a detailed outline of the steps that Colonial Penn will take to comply with each corrective action item and the timeline for completion. If Colonial Penn determines that the 60-day timeframe is unreasonable, send a written explanation as to why additional time is needed and propose a reasonable completion date. Once a completion date is agreed upon, Colonial Penn should begin taking corrective action.

Upon completion of each corrective action item, Colonial Penn shall provide the examiners with copies of any changes to processes, procedures, and advertising materials. Once the examiners determine that Colonial Penn has sufficiently complied with all corrective action items, the Bureau will proceed with making an offer to settle this matter.

Please note that this letter will become part of the public case file at such time as a Commission Order in this matter is entered.

If you have any additional questions regarding the examiners' findings, the corrective action plan or the process outlined above, please feel free to contact me via email at [melissa.gerachis@scc.virginia.gov](mailto:melissa.gerachis@scc.virginia.gov). We will look forward to receiving your written acknowledgement on or before May 30, 2023.

Very truly yours,

Melissa Gerachis, FLMI, AIE, AIRC, AMCM  
Manager, Market Analysis and Life, Annuity and Other A&H Market Conduct  
Life and Health Market Regulation Division  
Bureau of Insurance  
(804) 371-9880

# COMMONWEALTH OF VIRGINIA



SCOTT A. WHITE  
COMMISSIONER OF INSURANCE  
STATE CORPORATION COMMISSION  
BUREAU OF INSURANCE

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1300 E. MAIN STREET  
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TELEPHONE: (804) 371-9741  
scc.virginia.gov

231130225

September 19, 2023

## SENT VIA ELECTRONIC MAIL

Eric Mueller  
Sr. Regulatory Reporting & Compliance Analyst  
Colonial Penn Life Insurance Company  
11825 Pennsylvania Street  
Carmel, IN 46032-4555

**Re: Alleged Violations of §§ 38.2-316 B and 38.2-316 C 1 of the Code of Virginia, as well as 14 VAC 5-41-30 B, 14 VAC 5-41-30 C, 14 VAC 5-41-40 A, 14 VAC 5-41-40 C, 14 VAC 5-41-80 B, 14 VAC 5-41-110 B, and 14 VAC 5-41-150 C.  
Case No. INS-2023-00087**

Dear Mr. Mueller:

The Bureau of Insurance ("Bureau") conducted a market analysis inquiry of Colonial Penn Life Insurance Company ("Colonial Penn").

Based on the Bureau's findings, it is alleged that Colonial Penn violated the following insurance laws and regulations: §§ 38.2-316 B and 38.2-316 C 1 of the Code of Virginia, as well as 14 VAC 5-41-30 B, 14 VAC 5-41-30 C, 14 VAC 5-41-40 A, 14 VAC 5-41-40 C, 14 VAC 5-41-80 B, 14 VAC 5-41-110 B, and 14 VAC 5-41-150 C.

The provisions of §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code may result in monetary penalties up to \$5,000 per violation, a cease and desist order, and/or a suspension or revocation of your license to engage in the business of insurance in Virginia.

In correspondence dated May 30, 2023, Colonial Penn acknowledged the inquiry findings and agreed to comply with the Corrective Action Plan outlined in the Bureau's letter dated May 15, 2023. Based on documentation provided on July 7, 2023, August 4, 2023, and August 31, 2023, Colonial Penn has successfully completed all corrective action items.

All outstanding issues related to the market analysis inquiry have been resolved. The Bureau is ready to conclude this matter.

In view of the above alleged violations, and in recognition of Colonial Penn's willingness to take corrective action, the Bureau is willing to recommend a favorable settlement of this matter to the State Corporation Commission ("Commission"). This settlement offer is subject to the following conditions:

1. Colonial Penn submits a certified or cashier's check or money order made payable to the Treasurer of Virginia in the amount of \$30,300;
2. Colonial Penn submits a written statement that it has complied with, and will continue to comply with, the Corrective Action Plan contained in the Bureau's letter dated May 15, 2023; and
3. Colonial Penn understands it is entitled to a hearing in this matter and waives that right by offering this settlement.

For your convenience, we have enclosed a prepared settlement offer for your signature.

Should you decide to accept our recommendation for settlement, please have an authorized representative of the company sign, date and return the enclosed letter written on the company's letterhead, along with a check in the amount of \$30,300 made payable to the Treasurer of Virginia. These items should be sent to Julie Blauvelt, Deputy Commissioner, at 1300 East Main Street, Richmond, Virginia 23219. Please send an electronic copy of these items to [melissa.hayes@scc.virginia.gov](mailto:melissa.hayes@scc.virginia.gov).

If the Bureau does not receive your settlement offer by October 10, 2023, the Bureau will recommend to the Commission that a proceeding be initiated against Colonial Penn to show cause why its license authority in the Commonwealth of Virginia should not be suspended or revoked; why a Cease and Desist Order should not be entered against Colonial Penn; and why Colonial Penn should not be penalized by the imposition of a fine.

Please note that this letter and any attachments hereto will become part of the public case file at such time as a Commission Order in this matter is entered.

Any questions or concerns regarding the proposed settlement should be communicated to Mel Gerachis at [melissa.gerachis@scc.virginia.gov](mailto:melissa.gerachis@scc.virginia.gov) or at (804) 371-9880.

Very truly yours,



Julie Blauvelt  
Deputy Commissioner

Enclosure

231130225



399 Market Street  
Philadelphia PA, 19181  
ColonialPenn.com

Julie Blauvelt  
Deputy Commissioner  
Bureau of Insurance  
1300 East Main Street  
Richmond, VA 23219

**RE: Alleged violation of Code of Virginia §§ 38.2-316 B and 38.2-316 C 1 of the Code of Virginia, as well as 14 VAC 5-41-30 B, 14 VAC 5-41-30 C, 14 VAC 5-41-40 A, 14 VAC 5-41-40 C, 14 VAC 5-41-80 B, 14 VAC 5-41-110 B, and 14 VAC 5-41-150 C.  
Case No. INS-2023-00087**

Dear Ms. Blauvelt

This will acknowledge receipt of the Bureau of Insurance's letter dated September 19, 2023, concerning the above-referenced matter.

Colonial Penn wishes to make a settlement offer for the alleged violations cited above.

1. A certified check, cashier's check or money order payable to the Treasurer of Virginia in the amount of \$30,300 is enclosed.
2. We confirm that we have complied with and will continue to comply with, the corrective action plan set forth in the Bureau of Insurance's letter[s] dated May 15, 2023.
3. We further acknowledge Colonial Penn's right to a hearing before the State Corporation Commission in this matter and waive that right if the State Corporation Commission accepts this offer of settlement.

This offer is being made solely for the purpose of a settlement and does not constitute, nor should it be construed as, an admission of any violation of law.

Sincerely,

Colonial Penn Life Insurance Company

(Signed)

Christopher B. Rigsbee

(Type or Print Name)

VP. & Deputy General Counsel

(Title)

9/28/23

(Date)