



25 October 2011

Dr Warren Young
Deputy President
Law Commission
P O Box 2590
Wellington

wyoung@lawcom.govt.nz

Dear Dr Young

Death Certification

Thank you for the opportunity for the Investment Savings and Insurance Association to comment on proposals regarding death certification, including replacement of the current Medical Certificate of Cause of Death ("MCCD") with a new pre-coded, web based death certificate.

As requested, following our preliminary comments on the importance of the death certificates for life insurance companies, we have also consulted with our member companies on the proposal to include a "cause of death unknown" category within a death certificate and we would like to make the following additional points.

Pre-coded death certificates

The proposal to replace the MCCD with pre-coded, web based death certificates would be welcomed as a means of expediting the certification process, provided the pre-coded options are sufficient to enable doctors to complete the certificates accurately. Care would need to be taken in ensuring all possible causes of death were included in the pre-coded certificates to prevent 'cause of death unknown' becoming a default option.

Based on the provisions of the Coroner's Act, if a medical practitioner cannot easily determine the cause of death, or is not satisfied it was as a natural consequence of an already diagnosed condition, the death can be referred to the coroner. One of our member companies estimates that in up to 25% of Life Cover claims the death certificate refers to the cause of death being "subject to coroner's findings". While these are predominantly for accidental deaths a number are for natural cause deaths. Unfortunately in all these instances a decision on whether or not to accept liability can be delayed due to the need to obtain the coroner's report. These reports can take from several weeks to many months to be provided and, despite the best efforts of staff of life insurance companies and the coroner's office(s), these delays can have a significant impact, causing undue anxiety and financial pressure to claimants at an already difficult time.

Investment Savings and Insurance Association of New Zealand Inc

Level 12, City Chambers, Cnr Johnston & Featherston Sts, Wellington, PO Box 1514, Wellington 6140, Telephone 64 4 473-8730
Fax 64 4 471-1881, Email isi@isi.org.nz, Web www.isi.org.nz

Accordingly, from a claims management perspective we would support any effort to improve the system of certification to enable speedy settlement of life insurance claims, subject to maintaining the accuracy of the information on the certificates.

Specifying the exact cause of death

For cases that are not referred to the coroner life insurance companies assessing claims rely on the MCCD providing the cause, or causes, of death. This is an important indicator in helping them decide whether the person insured had disclosed all material information at the time of applying for the policy. To that end it is important to know the exact cause of death and we would not support a proposal to remove the exact cause of death from the death certificate. There are policies which pay a death benefit only if death is from a specific cause so it is essential that this is identified. Without that information life insurers would have to rely on the information about underlying disease/illness which may or may not have been responsible for the death, a point likely to be argued by the claimant if there is a dispute.

To further clarify, life insurance companies will only accept liability under a policy where the condition causing or contributing to the death is not, *or would not have been*, excluded from the specific insurance cover. It is relatively rare for life insurance policies to have exclusions, although there is generally a standard exclusion for death by suicide within 13 months of the policy commencing. If the actual, underlying, proximate or contributory cause of death is excluded, either under the specific policy wordings or for the individual life assured, *or would have been excluded* there is no claim. The proposal by medical practitioners that the cause of death be able to be recorded as “unknown” would have a detrimental effect on life insurers’ ability to accurately assess claims.

When applying for cover, the person to be insured must disclose all pre-existing conditions. The cause of death is needed at the point of claim to identify cases where there has been material non-disclosure of these pre-existing conditions. In these cases the provisions of the law and policy wordings allow a life insurer to apply retrospective exclusions or loadings to a policy. If the actual, underlying, proximate or contributory cause of death is not recorded there would be no opportunity for the insurer to accurately determine liability. An example of material non-disclosure would be where the MCCD states the disease or condition directly leading to death to be acute liver failure with a duration of weeks and the antecedent cause to be alcoholism with a duration of years and the history of alcoholism had not been disclosed at the commencement of the policy.

Members of the ISI maintain that the cause of death must be recorded on the MCCD or any replacement certificates and that the underlying, proximate or contributory cause of death must also continue to be recorded. We also recommend that certification of the cause of death continue to be restricted to medical doctors and not extended to nurse practitioners or nurse managers.

Statistical information

As well as its importance in population health information, as noted in the issues paper, the cause of death information on the MCCD is also important to life insurers from a marketing, actuarial and reinsurance perspective as it feeds into claims experience analysis, pricing, evidence-based underwriting and risk profile.

We look forward to the opportunity to review the draft death certificate being developed by the working group and would be happy to provide more detail on any of the points in this letter if that would be helpful. We would also be keen to discuss any other options you may consider to achieve your objectives while still meeting our information needs.

Yours sincerely,

Peter Neilson
CHIEF EXECUTIVE