B. If the department disapproves a plan submitted by the fund or determines that a fund is not implementing a plan in accordance with the plan terms, the department shall notify the fund in writing of such decision or determination.

C. If the fund fails to file a plan to eliminate an insolvency, or should the department notify a fund that a plan has been disapproved or that the fund is not implementing the plan according to the plan, the department shall have the following powers and authority in addition to any other powers and authority granted under law:

1. The department may order the fund to immediately levy an assessment upon its members that will eliminate the insolvency.

2. If the fund fails or refuses to assess its members, the department may levy an assessment upon fund members in the name of the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1200.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1403 (December 1992), LR 49:269 (February 2023).

§1129. Review of Rate Determination

A. Funds shall provide reasonable means whereby any member aggrieved by the application of the fund's rating system may, in writing, request a review of the manner in which such rating system has been applied in connection with the coverage afforded. The fund shall have 30 days from receipt to grant or deny the request, in writing. If the fund rejects such request or fails to grant or reject such request within such 30-day period, the member may, within 30 days following the expiration of such 30-day period, appeal to the commissioner, who, after a hearing held upon not less than 10 days' written notice to the member and to the fund, may affirm, modify, or reverse such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1200.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1403 (December 1992), LR 49:269 (February 2023).

§1131. Cease and Desist Orders and Other Penalties

A.1. The department shall have authority to issue cease and desist orders and suspend or revoke the certificate of authority of any fund which the department determines is not in compliance.

2. Upon finding, after notice and opportunity for a hearing, that any person or group has violated any cease and desist order, the commissioner may revoke the group's certificate of authority.

B. Upon the determination that a fund failed to comply with any provision of R.S. 23:1195-1200.17, any rule or regulation promulgated by the department or orders or directives issued by the commissioner, the department may levy a fine of up to $2,000 for each violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1200.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1403 (December 1992), amended LR 49:270 (February 2023).

§1133. Revocation of Certificate of Authority

A. After notice and opportunity for a hearing, the commissioner may revoke a group's certificate of authority if:

1. the group is found to be insolvent;

2. the group fails to pay any premium tax, regulatory fee, or assessment, or special fund contribution imposed upon it;

3. the group fails to comply with any of the provisions of this regulation, or with any lawful order of the commissioner within the time prescribed;

4. the certificate of authority issued to the group was obtained by fraud;

5. there was a material misrepresentation in the application for the certificate of authority; or

6. the group or its administrator has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any monies held in a fiduciary capacity that belong to a member, an employee of a member, or another person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1193.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1403 (December 1992).

§1135. Examinations

A. The commissioner shall examine, not less frequently than once every five years, and at any other time when an examination is necessary in the opinion of the commissioner, all group self-insurance funds established pursuant to R.S. 23:1191 et seq. The expenses of such examinations shall be paid by the fund being examined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1200.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1403 (December 1992), amended LR 49:270 (February 2023).

Chapter 13. Regulation Number 43—Companies in Hazardous Financial Condition

§1301. Purpose

A. The purpose of Regulation 43 is to set forth the standards which the commissioner of insurance ("commissioner") may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors, or the general public.

B. Regulation 43 shall not be interpreted to limit the powers granted the commissioner by any laws or parts of laws of this state, nor shall Regulation 43 be interpreted to supersede any laws or parts of laws of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and 22:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1408 (December 1992), amended LR 39:3302 (December 2013).

§1303. Definitions

A. As used in Regulation 43, the following terms shall have the respective meaning hereinafter set forth.

Control—as defined in R.S. 22:691.2(3).

Person—as defined in R.S. 22:691.2(7).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and 22:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1408 (December 1992), amended LR 39:3302 (December 2013).

§1305. Standards

A. The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to their policyholders, creditors, or the general public. The commissioner may consider:

1. adverse findings reported in financial condition and market conduct examination reports, audit reports, and actuarial opinions, reports or summaries;

2. the National Association of Insurance Commissioners insurance regulatory information system and its other financial analysis solvency tools and reports;

3. the ratios of commission expense, general insurance expense, policy benefits, and reserve increases as to annual premium and net investment income which could lead to an impairment of capital and surplus;

4. the ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the insurer's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

5. whether the insurer's operating loss in the last 12-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than 50 percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

6. whether the insurer's operating loss in the last 12-month period or any shorter period of time, excluding net capital gains, is greater than 20 percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

7. whether a reinsurer, obligor or any entity within the insurer's insurance holding company system, is insolvent, threatened with insolvency or delinquent in payment of its monetary or other obligations, and which in the opinion of the commissioner may affect the solvency of the insurer;

8. contingent liabilities, pledges or guaranties which either individually or collectively involve a total amount which in the opinion of the commissioner may affect the solvency of the insurer;

9. whether any "person" in "control" of an insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer;

10. the age and collectibility of receivables;

11. whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of such insurer, fails to possess and demonstrate the competence, fitness, and reputation deemed necessary to serve the insurer in such position;

12. whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;

13. whether management of an insurer either has filed any false or misleading sworn financial statement, or has released any false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;

14. whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner; or

15. whether management has established reserves that do not comply with minimum standards established by state insurance laws, regulations, statutory accounting standards, sound actuarial principles and standards of practice;

16. whether management persistently engages in material under reserving that results in adverse development;

17. whether transactions among affiliates, subsidiaries or controlling persons for which the insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity or diversity to assure the insurer's ability to meet its outstanding obligations as they mature;

18. whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts;

19. whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the commissioner;

20. any other finding determined by the commissioner to be hazardous to the insurer's policyholders, creditors, or the general public;

21. whether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and 22.220 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1408 (December 1992), amended LR 39:3303 (December 2013), amended by the Department of Insurance, Office of the Commissioner, LR 50:1498 (October 2024).

§1307. Commissioner's Authority

A. For the purposes of making a determination of an insurer's financial condition under this regulation, the commissioner may:

1. disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired, or otherwise subject to a delinquency proceeding;

2. make appropriate adjustments including disallowance to asset values attributable to investments in or transactions with parents, subsidiaries or affiliates consistent with the NAIC Accounting Practices And Procedures Manual, state laws and regulations;

3. refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

4. increase the insurer’s liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12 month period.

B. If the commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to its policyholders, creditors, or the general public, then the commissioner may, upon such determination, issue an order requiring the insurer to:

1. reduce the total amount of present and potential liability for policy benefits by reinsurance;

2. reduce, suspend, or limit the volume of business being accepted or renewed;

3. reduce general insurance and commission expenses by specified methods;

4. increase the insurer's capital and surplus;

5. suspend or limit the declaration and payment of dividends by an insurer to its stockholders or to its policyholders;

6. file reports in a form acceptable to the commissioner concerning the market value of an insurer's assets;

7. limit or withdraw from certain investments or discontinue certain investment practices to the extent the commissioner deems necessary;

8. document the adequacy of premium rates in relation to the risks insured; or

9. file, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or on such format as promulgated by the commissioner;

10. correct corporate governance practice deficiencies, and adopt and utilize governance practices acceptable to the commissioner.

11. provide a business plan to the commissioner in order to continue to transact business in the state.

12. notwithstanding any other provision of law limiting the frequency or amount of premium rate adjustments, adjust rates for any non-life insurance product written by the insurer that the commissioner considers necessary to improve the financial condition of the insurer.

C. If the insurer is a foreign insurer the order issued by the commissioner may be limited to the extent provided by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1408 (December 1992), amended LR 39:3303 (December 2013).

§1309. Administrative Review

A. An insurer subject to an order under Subsection 1307.B may request an administrative hearing to review that order pursuant to R.S. 22:2191.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 39:3303 (December 2013).

§1311. Judicial Review

A. An insurer aggrieved by a final decision pursuant to an administrative hearing under R.S.22:2191 shall be entitled to judicial review in accordance with the applicable provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

B. Notwithstanding the provisions of Subsections 1309.A and 1311.A, nothing shall preclude the commissioner from initiating judicial proceedings in conservation, rehabilitation, or liquidation proceedings or any other delinquency proceedings, however designated under the laws of the state, regardless of whether the commissioner has previously initiated any regulatory action against the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 39:3304 (December 2013).

§1313. Severability

A. If any Section or provision of Regulation 43 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 43 to any persons or circumstances that can be given effect

without the invalid section or provision or application, and for these purposes the Sections and provisions of Regulation 43 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 39:3304 (December 2013).

§1315. Effective Date

A. Regulation 43 shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(H).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 39:3304 (December 2013).

Chapter 15. Regulation 44—Accelerated Benefits

§1501. Purpose

A. The purpose of this regulation is to regulate accelerated benefit provisions of individual and group life insurance policies and to provide required standards of disclosure. This regulation shall apply to all accelerated benefits provisions of individual and group life insurance policies except those subject to the Long-Term Care Insurance Model Act, issued or delivered in this state, on or after the effective date of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:644.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1409 (December 1992).

§1503. Definitions

Accelerated Benefits covered under this regulation—benefits payable under a life insurance contract:

1. to a policy owner or certificate holder, during the lifetime of the insured, in anticipation of death or upon the occurrence of specified life-threatening or catastrophic conditions, as defined by the policy or rider; and

2. which reduce the death benefit otherwise payable under the life insurance contract; and

3. which are payable upon the occurrence of a single qualifying event which results in the payment of a benefit amount fixed at the time of acceleration.

Qualifying Event—includes one or more of the following:

1. a medical condition which would result in a drastically limited life span as specified in the contract, for example, 24 months or less; or

2. a medical condition which has required or requires extraordinary medical intervention, such as, but not limited to, major organ transplant or continuous artificial life support, without which the insured would die; or

3. any condition which usually requires continuous confinement in an eligible institution, as defined in the contract, if the insured is expected to remain there for the rest of his or her life; or

4. a medical condition which would, in the absence of extensive or extraordinary medical treatment, result in a drastically limited life span. Such conditions may include, but are not limited to, one or more of he following:

a. coronary artery disease resulting in an acute infarction or requiring surgery;

b. permanent neurological deficit resulting from cerebral vascular accident;

c. end stage renal failure;

d. Acquired Immune Deficiency Syndrome; or

e. other medical conditions which the commissioner shall approve for any particular filing; or

5. other qualifying events which the commissioner shall approve for any particular filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:644.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1409 (December 1992).

§1505. Type of Product

A. Accelerated benefit riders and life insurance policies with accelerated benefit provisions are primarily mortality risks rather than morbidity risks. They are life insurance benefits subject to R.S. 22:161-181; 22:191-197; and the applicable portions of Part XIV, (22:611-672).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:644.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1409 (December 1992).

§1507. Assignee/Beneficiary

A. Prior to the payment of the accelerated benefit, the insurer is required to obtain from any assignee or irrevocable beneficiary a signed acknowledgment of concurrence for payout. If the insurer making the accelerated benefit is itself the assignee under the policy, no such acknowledgment is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:644.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1409 (December 1992).

§1509. Criteria for Payment

A. Lump Sum Settlement Option Required. Contract payment options shall include the option to take the benefit as a lump sum. The benefit shall not be made available as an annuity contingent upon the life of the insured.

B. Restrictions on Use of Proceeds. No restrictions are permitted on the use of the proceeds.

C. Accidental Death Benefit Provision. If any death benefit remains after payment of an accelerated benefit, the accidental death benefit provision, if any, in the policy or rider shall not be affected by the payment of the accelerated