11 NCAC 12 .1007 PROHIBITION OF POST-CLAIMS UNDERWRITING

(a) All applications for policies except those that are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant.

(b) If an application for a policy contains a questions that asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the medication that has been prescribed.

(c) If, at the time of the application, the medications listed in the application were known or should have been known by the insurer or by the insurer's agent or representative to be directly related to a medical condition for which coverage would otherwise be limited or denied, the policy shall not be rescinded nor shall coverage be denied or limited for that condition.

(d) Except for policies that are guaranteed issue:

(1) The following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a policy:

"Caution: If your answers on this application are incorrect or untrue, [name of company] has the right to deny benefits or rescind your policy".

(2) The following language, or language substantially similar to the following, shall be set out conspicuously on the policy at the time of delivery:

"Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, [name of company] has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises. If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]"

(3) Prior to issuance of a policy to an applicant age 80 years or older, the insurer shall obtain one of the following: A report of a physical examination; an assessment of functional capacity; an attending physician's statements; or copies of medical records.

(e) A copy of the completed application or enrollment form shall be delivered to the insured no later than at the time of delivery of the policy unless it was retained by the applicant at the time of application.

(f) Every insurer selling or issuing policies shall maintain a record of all policy rescissions, both in North Carolina and countrywide, except those that insureds voluntarily effectuated; and shall annually furnish this information to the commissioner in the format prescribed by the National Association of Insurance Commissioners.

History Note: *Authority G.S. 58-2-40(1); 58-55-30(a);*
Eff. September 1, 1990.