IN THE MISSOURI DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

In Re: UNITED OF OMAHA LIFE INSURANCE COMPANY SERFF TRACKING NUMBER MUTM-129429375	))))	**Case No. 140404384C**

ORDER DISAPPROVING FORM FILING

Upon review and consideration of the filing of United of Omaha Life Insurance Company, SERFF Tracking Number MUTM-129429375, specifically Form ACC-CERT-14 MO, the Deputy Director DISAPPROVES said form for the reasons stated below.

FINDINGS OF FACT

1. John M. Huff is the Director of the Department of Insurance, Financial Institutions and Professional Registration, State of Missouri ("Director" of the "Department").

2. United of Omaha Life Insurance Company ("United of Omaha"), NAIC Number 69868, is a foreign life and health insurance company organized pursuant to the laws of the state of Nebraska and transacting insurance business in this state pursuant to a Certificate of Authority issued by the Director.

3. Pursuant to §376.405,[1] insurance companies licensed to transact business in this state may not deliver or issue for delivery in this state a policy of group accident or group health insurance unless the form has been approved.

4. The Division of Market Regulation (the "Division") is designated pursuant to §374.075 with the review of forms that are filed by insurance companies.

5. United of Omaha filed a form with the Director via the System for Electronic Rate and Form Filing ("SERFF") on March 31, 2014. The SERFF Tracking Number is MUTM-129429375 ("Filing").

6. The Filing contains form ACC-CERT-14 MO, identified as the Group Accident Certificate ("Certificate").

7. Brackets ([...]) within a form reviewed by the Division indicate that the language within the brackets may be included or excluded from the policy form, or the brackets may indicate a numeric range.

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[1] All statutory citations are to RSMo (Supp. 2013).

8. Potentially, all benefits, coverages, or terms in brackets could be included in an issued form.

9. Conversely, all benefits, coverages, or terms in brackets could be excluded from an issued form.

10. The Filing also contains a document titled "Memorandum of Variability" in which United of Omaha explains how it intends to utilize bracketed sections of the Certificate.

11. Within the Certificate, each bracketed section has a corresponding number (i.e., ***42***, ***43***, ***45***, etc.), which the Memorandum of Variability cites to for its explanation.

12. On April 3, 2014, United of Omaha amended the Filing and replaced the Certificate with an amended form. The replacement form is the subject of this Order.

13. United of Omaha filed the form within SERFF as Group Health-Accident Only insurance.

14. On page 42 of the Certificate under the section Standard Provisions and the subsection titled Incontestability, the form states "[w]e will not contest this Policy after it has been in force two years, except for nonpayment of premium." However, nowhere within the Certificate is there a provision notifying the insured:

> that no statement made by any person covered under the policy relating to insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by the person making such statement; except that, no such provision shall preclude the assertion at any time of defenses based upon the person's ineligibility for coverage under the policy or upon other provisions in the policy[.]

15. Nowhere within the Certificate is there a provision notifying the insured that the policy may not be terminated by United of Omaha before the first anniversary date of the effective date of coverage.

16. On page 45 of the Certificate under the section titled Definitions, United of Omaha defines Dependent in a bracketed section as:

> [A] citizen, permanent resident or lawful resident of the United States***42***[or Canada] who is***43***[:]

* * *

b) Your natural born or legally adopted child;
c) Your stepchild or child of Your domestic or civil union partner or equivalent;

* * *

A dependent does not include:

* * *

b) anyone who is a member of the Armed Forces, National Guard or Reserves of any state or country on active duty (except for temporary duty of ***45***[31] days or less);

* * *

e) a child who has reached the ***55***[Attained Age]***56***[age] of ***57***[21]***58***[, or the ***59***[Attained Age]***60***[age] of ***61***[25] if a Student,] unless the child is Incapacitated[.]

17. Within the Memorandum of Variability, United of Omaha states that the age range for when someone no longer qualifies as a dependent is from 18 to 30 years old.

CONCLUSIONS OF LAW

18. The Director shall approve only those policy forms that are in compliance with Missouri insurance laws, and "which contain such words, phraseology, conditions, and provisions which are specific, certain and unambiguous and reasonably adequate to meet needed requirements for the protection of those insured," pursuant to §376.405.

19. The Director may disapprove a form filed with the Department, and in doing so must state the reasons for the disapproval in writing, pursuant to §376.405.

United of Omaha's Filing Does Not Substantively Provide All Provisions Required In All Group Policies Under Section 376.426

20. Section 376.426 states in relevant part:

> ***No policy of group health insurance*** shall be delivered in this state unless it contains in substance the following provisions, or provisions which … are more favorable…:
>
> * * *
>
> (2) ***A provision*** that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue, and ***that no statement made by any person covered under the policy relating to insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the***

contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by the person making such statement; except that, no such provision shall preclude the assertion at any time of defenses based upon the person's ineligibility for coverage under the policy or upon other provisions in the policy;

* * *

(15) ***A provision specifying the conditions under which the policy may be terminated.*** Such provision shall state that except for nonpayment of the required premium or the failure to meet continued underwriting standards, ***the insurer may not terminate the policy prior to the first anniversary date of the effective date of the policy as specified therein,*** and a notice of any intention to terminate the policy by the insurer must be given to the policyholder at least thirty-one days prior to the effective date of the termination. Any termination by the insurer shall be without prejudice to any expenses originating prior to the effective date of termination. An expense will be considered incurred on the date the medical care or supply is received;

* * *

(17) ***A provision*** stating that if a policy provides that coverage of a dependent child terminates upon attainment of the limiting age for dependent children specified in the policy, such policy, so long as it remains in force, until the dependent child attains the limiting age, shall remain in force at the option of the certificate holder. ***Eligibility for continued coverage shall be established where the dependent child is:***

(a) ***Unmarried and no more than that twenty-five years of age;*** and
(b) A resident of this state; and
(c) Not provided coverage as a named subscriber, insured, enrollee, or covered person under any group or individual health benefit plan, or entitled to benefits under Title XVIII of the Social Security Act[.]

(Emphasis added.)

21. United of Omaha's Certificate is not compliant with Missouri insurance laws. Under the section titled Standard Provisions and the subsection Incontestability, the Certificate is missing a portion of a required notice provision from §376.426(2). The Certificate states "[w]e will not contest this Policy after it has been in force two years, except for nonpayment of premium" but does not contain the remainder of the required provision:

that no statement made by any person covered under the policy relating to insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by the person making such statement; except that, no such provision shall preclude the assertion at any time of defenses based upon the person's ineligibility for coverage under the policy or upon other provisions in the policy[.]

Therefore, the Certificate modifies the requirements of §376.426(2) by omitting a portion of the provision such that the provision is not substantially similar to or more favorable than the required provision. As such, the Certificate does not comply with the laws of this state as required by §376.405.

22. United of Omaha's Certificate is not compliant with Missouri insurance laws. Section 376.426(15) requires a provision substantively notifying the insured that the policy may not be terminated by United of Omaha before the first anniversary date of the effective date of coverage. The Certificate does not contain such a provision and, therefore, does not meet the substantive requirements of §376.426(15) provision. As such, the Certificate does not comply with the laws of this state as required by §376.405.

23. United of Omaha's Certificate is not compliant with Missouri insurance laws. Under the section titled Definitions, the form fails to substantively provide several of the required provisions from §376.426(17) and is, therefore, noncompliant for the following reasons:

    a. The Certificate defines a dependent as one who has not attained the age of [18-30]. Section 376.426(17) defines a dependent child as one not older than twenty-five. While a provision providing coverage for dependent children through age 25 would be compliant with §376.426(17), discontinuing coverage prior to such an age is not permissible. Because United of Omaha's Certificate has a dependent age range that could allow for someone to no longer qualify as a dependent prior to age 25, the language is not substantially similar to nor more favorable than that required by §376.426(17).

    b. The Certificate provides that a dependent does not include "anyone who is a member of the Armed Forces, National Guard or Reserves of any state or country on active duty." Nowhere within §376.426(17) is there the Certificate's limiting language regarding military service. Because the Certificate contains the additional requirement that the dependent child be not be an active member of the Armed Forces,

National Guard or Reserves, the language is not substantially similar to nor more favorable than that required by §376.426(17).

As such, the Certificate does not comply with the laws of this state as required by §376.405.

24. After review and consideration of the form included in the United of Omaha Filing, the company has failed to demonstrate its compliance with Missouri law as enumerated herein.

25. While there may be additional reasons as to why the form does not comply with Missouri's insurance laws, the reasons stated herein are sufficient to disapprove the form.

26. Each reason stated herein for disapproval of the form is a separate and sufficient cause to disapprove such form.

27. United of Omaha's Certificate does not comply with Missouri law. As such, said form is not in the public interest.

28. This Order is in the public interest.

IT IS THEREFORE ORDERED that form ACC-CERT-14 MO is hereby **DISAPPROVED.** United of Omaha Life Insurance Company is hereby prohibited from delivering or issuing for delivery any policies of group health insurance utilizing said form.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 16 day of May, 2014.

JAMES R. McADAMS
DEPUTY DIRECTOR

NOTICE

TO: United of Omaha Life Insurance Company and any unnamed persons aggrieved by this Order:

You may request a hearing on the disapproval of this form. You may do so by filing a pleading with the Director of the Department of Insurance, Financial Institutions and Professional Registration, P.O. Box 690, Jefferson City, MO 65102, within 30 days after the mailing of this notice pursuant to 20 CSR 800-1.030.

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of May, 2014, a copy of the foregoing Order and Notice was

1) Served via certified mail addressed to:

Daniel P. Neary
President
Mutual of Omaha
Mutual of Omaha Plaza
Omaha, NE 68175

Brandi Lashley
Product & Advertising Compliance Analyst
Mutual of Omaha
Mutual of Omaha Plaza
Omaha, NE 68175

Amy Feeler